

BILL ANALYSIS

H.B. 1349
By: Sherman, Sr.
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Swai and other foreign fish are often marketed and sold as American catfish in restaurants and other food establishments. Under current regulations, various fish may be labeled as American catfish, despite their different origins. Consumers and constituents are concerned by the lack of labeling transparency of these fish in Texas restaurants. Additionally, Texas fishermen are concerned by the importation of various foreign fish that is labeled as American catfish at restaurant establishments, which may negatively affect these local businesspeople. H.B. 1349 seeks to increase consumer transparency and support the Texas fish industry while ensuring food safety for consumers by establishing appropriate labeling and enforcement mechanisms.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1349 amends the Health and Safety Code to establish provisions relating to the marketing and sale of catfish and other fish similar to catfish by a food service establishment. The bill provides the following:

- an establishment that offers a food product for sale may represent and identify the product as catfish only if the product contains catfish and does not contain another fish similar to catfish; and
- an establishment that offers for sale a food product containing a fish similar to catfish that is not catfish:
 - may not represent the offered food product as catfish; and
 - must conspicuously identify the type of fish contained in the product in the product's description on the establishment's menu or menu board.

The bill defines "catfish" as any species of the scientific family Ictaluridae and specifically excludes from the term any species of the scientific genus Pangasius, family Clariidae or family Siluridae, including Swai fish. In addition, "food service establishment" is defined by reference to the meaning assigned that term by the applicable rules adopted under state law to regulate food service establishments, retail food stores, mobile food units, and roadside food vendors.

H.B. 1349 authorizes the Department of State Health Services, or a public health district or county that requires a food service establishment to obtain a permit under applicable state law, to impose an administrative penalty against a food service establishment that violates the bill's provisions or a rule adopted under those provisions. The bill makes such an establishment liable

to the state or the permitting authority for a civil penalty. For both of the penalties, each day a violation continues or occurs is considered a separate violation for purposes of imposing the applicable penalty. The attorney general or the appropriate district, county, or municipal attorney may bring an action to recover the civil penalty. The administrative penalty and the civil penalty each may not exceed the following, based on the establishment's gross annual food sales:

- \$250, sales of less than \$50,000;
- \$500, sales of at least \$50,000 but less than \$145,000; and
- \$750, sales of at least \$145,000.

EFFECTIVE DATE

September 1, 2023.