AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas averages roughly 200 reportable boating incidents every year. For an incident to be reportable to the Texas Parks and Wildlife Department (TPWD), there must be, as a result of the incident, $2,000 or more in damages, injuries sustained that are beyond what can be treated by simple first aid, and/or the death or disappearance of one or more individuals. A 2022 Attorney General Opinion determined that current statute only permits TPWD to release incident reports to the operator of a vessel involved in the incident. This leaves many parties without necessary information, including affected individuals, their families, insurance, and courts investigating the incident who are in need of evidence.

S.B. 1670 expands what parties can receive incident reports and incident report information. Under this legislation, TPWD (and any other government entity with authorized access to incident reports) may release incident reports to an individual involved in or affected by the incident, the parent, guardian, employer, lawyer, or insurance provider of an involved or affected individual, and a court that has subpoenaed the report. Incident reports can also be released to news media in some circumstances, provided that sensitive and personal information in the report is redacted.

S.B. 1670 also amends definitional and procedural language relating to boating incidents and how they are to be reported, both for the sake of clarity and for matching nationally recognized nomenclature used by the United States Coast Guard.

As proposed, S.B. 1670 amends current law relating to required boating incident reports.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.105, Parks and Wildlife Code, as follows:

> Sec. 31.105 New heading: INCIDENT REPORTS. (a) Provides that this section applies only to an incident that is a collision, accident, or other casualty that results in:
>
> > (1) the death of a person;
> >
> > (2) injury to a person that requires medical treatment beyond the provision of first aid; or
> >
> > (3) creates this subdivision from existing text.
>
> Deletes existing text requiring the operator of a vessel involved in a collision, accident, or other casualty that results in death or injury to a person or damage to property in excess of an amount set by the Texas Parks and Wildlife Commission of not less than $2,000 to report to the Texas Parks and Wildlife Department (TPWD) on or before the expiration of 30 days after the incident a full description

of the collision, accident, or casualty in accordance with regulations established by TPWD.

(b) Requires the operator of a vessel involved in the incident, not later than the 30th day after the date of an incident to which this section applies, to provide to a marine safety enforcement officer or game warden commissioned by TPWD a full description of the incident in accordance with regulations established by TPWD. Deletes existing text providing that the accident reports are confidential and are inadmissible in court as evidence.

(c) Requires a marine safety enforcement officer who in the regular course of duty investigates an incident to which this section applies to electronically file a written report of the incident with TPWD:

    (1) in a form prescribed by TPWD; and

    (2) not later than the 15th day after the date the officer initially became aware of the incident.

(d) Redesignates existing Subsection (c) as Subsection (d) and makes a conforming change.

SECTION 2. Amends Subchapter D, Chapter 31, Parks and Wildlife Code, by adding Section 31.1055, as follows:

    Sec. 31.1055. RELEASE OF INCIDENT REPORTS. (a) Provides that this section applies only to an incident report that is held by TPWD or another governmental entity.

    (b) Defines "incident" and "incident report."

    (c) Provides that an incident report, except as otherwise provided by this section, is confidential and for the use of:

        (1) TPWD; and

        (2) an authorized official or agency of the United States or a state or local governmental entity.

    (d) Requires TPWD or the governmental entity, on written request, to release an incident report to:

        (1) an entity described by Subsection (c);

        (2) the law enforcement agency that employs the marine safety enforcement officer who investigated the incident and filed the incident report with TPWD, including an agent of the law enforcement agency authorized by contract to obtain the information;

        (3) the court in which a case involving a person involved in the incident is pending if the incident report is subpoenaed; or

        (4) a person directly concerned in the incident or having an interest in the incident as:

            (A) a person involved in the incident;

            (B) the authorized representative of a person involved in the incident;

            (C) a vessel operator involved in the incident;

(D) an employer, parent, or legal guardian of a vessel operator involved in the incident;

(E) the owner of a vessel or property damaged in the incident;

(F) a person who has established financial responsibility for a vessel involved in the incident, including a policyholder of a liability insurance policy covering the vessel;

(G) an insurance company that issued an insurance policy covering a vessel involved in the incident;

(H) an insurance company that issued a policy covering any person involved in the incident;

(I) a person under contract to provide claims or underwriting information to a person described by Paragraph (F), (G), or (H);

(J) a radio or television station that holds a license issued by the Federal Communications Commission;

(K) a newspaper that is:

(i) a free newspaper of general circulation or qualified under Section 2051.044 (Type of Newspaper Required), Government Code, to publish legal notices;

(ii) published at least once a week; and

(iii) available and of interest to the general public in connection with the dissemination of news; or

(L) a person who is authorized to sue because of death resulting from the incident.

(e) Requires TPWD, in addition to the information required to be released under Subsection (d), to publish at least annually statistics derived from incident reports that relate to the number, cause, and location of the reported incidents.

(f) Provides that TPWD when releasing information under Subsection (d)(4)(J) or (K):

(1) is prohibited from releasing the personal identifying information, as defined by Section 521.002(a) (relating to certain definitions, including "personal identifying information"), Business and Commerce Code, of an individual included in an incident report; and

(2) is required to withhold or redact:

(A) the address, other than zip code, and telephone number of a person included in an incident report;

(B) the registration or hull identification number of a vessel included in an incident report;

(C) the badge number or identification number of the investigating officer;

(D) the date of death of a person who died as a result of the incident; and

(E) the location to which a person injured or killed in the incident was transported or the person that provided the transportation.

(g) Requires that the amount that is authorized to be charged for information provided under Subsection (d) to be calculated in the manner specified by Chapter 552 (Public Information), Government Code, for public information provided by a governmental body under that chapter.

SECTION 3. Amends Section 31.132, Parks and Wildlife Code, as follows:

Sec. 31.132. REPORTING PROCEDURES FOR ENFORCEMENT OFFICERS. (a) Creates this subsection from existing text. Creates an exception under Subsection (b).

(b) Provides that this section does not apply to incident that is required to be reported under Section 31.105(c).

SECTION 4. Makes application of Section 31.105, Parks and Wildlife Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2023.