

## **BILL ANALYSIS**

C.S.H.B. 1300  
By: Hunter  
Culture, Recreation & Tourism  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

It has been noted that, while the Texas commercial oyster industry has primarily relied upon the harvest of oysters from natural reefs, interest in cultivated oysters has grown as the value of oysters in general has increased. C.S.H.B. 1300 seeks to address this issue by providing for a cultivated oyster mariculture program.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Parks and Wildlife Commission in SECTION 4 of this bill.

### **ANALYSIS**

C.S.H.B. 1300 amends the Parks and Wildlife Code to require the Parks and Wildlife Commission to adopt rules to establish a program governing cultivated oyster mariculture. The bill defines, among other terms, "cultivated oyster mariculture" as the process of growing cultivated oysters, "cultivated oyster" as an oyster grown at any point in the life cycle of the oyster in or on an artificial structure suspended in the water or resting on the bottom, and "oyster" as the Eastern oyster and the subspecies of the Eastern oyster. The bill requires the Parks and Wildlife Department (TPWD) to coordinate with the Department of Agriculture, the Department of State Health Services, the General Land Office, and the Texas Commission on Environmental Quality in the adoption of the rules and authorizes rules adopted under the program to establish requirements for the following:

- the location and size of a cultivated oyster mariculture operation;
- the taking, possession, transport, movement, and sale of cultivated oysters;
- the taking, possession, transport, and movement of broodstock oysters;
- marking structures for the cultivation of oysters in a cultivated oyster mariculture operation;
- fees and conditions for use of public resources, including broodstock oysters and public water; and
- any other matter necessary to implement and administer the bill's cultivated oyster mariculture provisions.

C.S.H.B. 1300 prohibits a person from engaging in cultivated oyster mariculture without first

having acquired a cultivated oyster mariculture permit. The bill requires the commission to adopt rules to implement this permit requirement and authorizes the rules to establish requirements for permit applications and application fees; criteria for the approval, transfer, revocation, and suspension of permits; and procedures for hearings related to a permit.

C.S.H.B. 1300 requires fees collected under the bill's cultivated oyster mariculture provisions to be deposited to the credit of the game, fish, and water safety account. The bill establishes the cultivated oyster mariculture cleanup subaccount as a subaccount in that account, requires 20 percent of those fees to be set aside by TPWD and deposited to the credit of the subaccount, and restricts the use of that money to the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water.

C.S.H.B. 1300 prohibits a person from selling or bartering, or offering to sell or barter, a cultivated oyster except as authorized by the bill's cultivated oyster mariculture provisions. The bill prohibits a person from placing a cultivated oyster in a natural oyster bed or private oyster bed. The bill prohibits a person from placing a structure related to cultivated oyster mariculture on coastal public land unless the person first obtains a lease or easement under the Coastal Public Lands Management Act of 1973 or under Natural Resources Code provisions relating to land, timber, and surface resources, regardless of whether the person holds a permit under the bill's cultivated oyster mariculture provisions. The bill provides for the meaning of "coastal public land" by reference to that act.

C.S.H.B. 1300 creates a Class B Parks and Wildlife Code misdemeanor offense for a person who violates the bill's requirement to acquire a cultivated oyster mariculture permit before engaging in cultivated oyster mariculture, violates the bill's provisions relating to prohibited actions, or violates a rule adopted under the bill's cultivated oyster mariculture provisions. If conduct constituting an offense also constitutes an offense under the Coastal Public Lands Management Act of 1973 relating to the failure to obtain an easement for the construction, fixing, or placement on coastal public land of a structure, the actor may be prosecuted under the bill's cultivated oyster mariculture penalties provisions, applicable provisions of the act, or both. The bill sets out provisions relating to the applicability of and conflict with other laws. The bill requires the commission, not later than August 31, 2020, to adopt rules to implement the bill's cultivated oyster mariculture provisions.

C.S.H.B. 1300 includes a holder of a cultivated oyster mariculture permit as an entity from whom a wholesale fish dealer may purchase an aquatic product for resale or receive an aquatic product for any commercial purpose.

### **EFFECTIVE DATE**

September 1, 2019.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1300 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces a provision authorizing rules adopted under a cultivated oyster mariculture program to establish requirements for marking requirements for cultivated oyster beds with a provision authorizing such rules to establish requirements for marking structures for the cultivation of oysters in a cultivated oyster mariculture operation.

The substitute includes a provision prohibiting a person from placing a structure related to cultivated oyster mariculture on coastal public land unless the person first obtains a certain lease or easement.

The substitute does not include an enhancement provision for an offense under the bill's provisions, but increases from a Class C Parks and Wildlife Code misdemeanor to a Class B Parks and Wildlife Code misdemeanor the penalty for such an offense. The substitute includes a provision relating to the prosecution of an offense relating to the failure to obtain an easement for the construction, fixing, or placement on coastal public land of a structure.

The substitute changes the deadline by which the commission is required to adopt rules to implement the bill's cultivated oyster mariculture provisions.