

BILL ANALYSIS

Senate Research Center

S.B. 155
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Natural Resources
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As Filed

DIGEST AND PURPOSE

Currently, the number of recreational motor vehicles entering Texas rivers has reached a critical mass. According to the Texas Parks and Wildlife Department, the frequently traveled areas of Texas rivers have shown signs of erosion and decreased fish and vegetation. As proposed, S.B. 155 prohibits the operation of a motor vehicle in or on the beds or banks of Texas rivers, with certain exceptions, and provides penalties.

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 Title 5, Parks and Wildlife Code, by adding Subtitle I, as follows:

SUBTITLE I. PROTECTED FRESHWATER AREAS CHAPTER 90. ACCESS TO PROTECTED FRESHWATER AREAS

Sec. 90.001. DEFINITIONS. Defines “emergency,” “motor vehicle,” and “protected freshwater area.”

Sec. 90.002. OPERATION OF MOTOR VEHICLE IN PROTECTED FRESHWATER AREA PROHIBITED. Provides that no person may operate a motor vehicle in or on a protected freshwater area.

Sec. 90.003. EXEMPTIONS. Provides that Section 90.002 does not apply under certain conditions and to certain individuals. Requires a person exempt under this section who operates a motor vehicle in or on a protected freshwater area to proceed in a manner that avoids, to the extent reasonably possible, harming or disturbing vegetation, wildlife, or wildlife habitat within the protected freshwater area. Requires a person exempt under this section who is crossing a protected freshwater to cross by the most direct feasible route.

Sec. 90.004. LANDOWNER RIGHTS. Provides that a prescriptive easement over private property cannot be created by recreational use of a protected freshwater area, including by portage over or around barriers, scouting of obstructions, or crossing of a private property to or from a protected freshwater area. Requires nothing in this section to limit the right of a person to navigate in, on, or around a protected freshwater area.

Sec. 90.005. PUBLIC ACCESS. Prohibits a person from restricting, obstructing, interfering with, or limiting public recreational use of a protected freshwater area, except as otherwise allowed by law. Provides that this section does not allow the public to use private property to gain access to a protected freshwater area without permission of the landowner.

Sec. 90.006. ENFORCEMENT. Requires all peace officers of this state to enforce the provisions of this Act.

Sec. 90.007. PENALTY. (a) Provides that a person commits an offense if the person violates Section 90.002 or 90.005.

(b) Provides that an offense under Subsection (a) is a Class C misdemeanor, except as provided by Subsection (c).

(c) Requires the defendant to be punished for a Class B misdemeanor, if it is shown on the trial of an offense under this section that the defendant was previously convicted two or more times under Section 90.002 or 90.005, or Sections 90.002 and 90.005.

(d) Provides that each day of a violation under this section is a separate offense.

SECTION 2. Effective date: September 1, 2003.