

## BILL ANALYSIS

Senate Research Center  
7810488 KCR-F

C.S.S.B. 155  
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Natural Resources  
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Committee Report (Substituted)

### 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. C.S.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

Rulemaking authority is expressly granted to the Texas Department of Parks and Wildlife in SECTION 1 (Section 90.005, Parks and Wildlife Code) of this bill.

### 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. STATEMENT OF POLICY. Sets forth legislative findings and the purpose of this chapter.

Sec. 90.003. OPERATION OF MOTOR VEHICLE IN PROTECTED FRESHWATER AREA PROHIBITED. Provides that on or after January 1, 2004, no person may operate a motor vehicle in or on a protected freshwater area.

Sec. 90.004. EXEMPTIONS. (a) Provides that Section 90.003 does not apply under certain conditions and to certain individuals.

(b) 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.

(c) Provides that this chapter does not apply to any river with headwaters in New Mexico or Colorado and a confluence in Oklahoma.

Sec. 90.005. LOCAL RIVER ACCESS PLANS. (a) Authorizes a county, municipality, or river authority to adopt a local plan that applies to the protected freshwater areas within its jurisdiction.

(b) Authorizes a local plan adopted under this section to contain certain elements.

(c) Provides that a local plan adopted under this section is not effective until approved in writing by the Texas Parks and Wildlife Department (TPWD).

(d) Requires TPWD, in determining whether to approve, disapprove, or modify a local plan, to consider whether the plan meets certain requirements.

(e) Authorizes TPWD by rule to adopt additional criteria or procedures to govern approval of local plans. Provides that a lack of rules adopted under this authority is not a basis for rejecting a local plan.

(f) Requires TPWD to revoke its approval of a local plan if it finds, as the result of a periodic review, that the plan as implemented fails to meet any of the criteria for approval established under this section.

Sec. 90.006. ASSISTANCE FROM THE DEPARTMENT. (a) Requires TPWD to assist counties, municipalities, and river authorities in developing local plans.

(b) Authorizes TPWD to conduct studies as necessary to implement its duties under this chapter.

(c) Requires TPWD to prioritize the use of grant funds under Chapter 24 to achieve the objectives of this chapter.

(d) Requires a jurisdiction operating under a local plan to remit to TPWD 20 percent of its gross receipts, if any, from the fees charged under Section 90.005(b) to offset the department's administrative costs associated with implementing this chapter.

(e) Requires TPWD to seek and use available federal and other funds and to work with governmental entities, landowners, nonprofit groups, and other interested parties to identify and facilitate development of sites for motor vehicle recreation other than protected freshwater areas.

(f) Requires TPWD to provide a report to the legislature regarding its activities under Subsection (e) by September 1, 2004.

Sec. 90.007. LANDOWNER RIGHTS. (a) 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 or by scouting of obstructions, or crossing of a private property to or from a protected freshwater area.

(b) Requires nothing in this section to limit the right of a person to navigate in, on, or around a protected freshwater area.

Sec. 90.008. 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.

Sec. 90.009. ENFORCEMENT. Requires all peace officers of this state to enforce the provisions of this chapter.

Sec. 90.010. PENALTY. (a) Provides that a person commits an offense if the person violates Section 90.003 or 90.008.

(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 90.003 or 90.008.

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

SECTION 2. Effective date: September 1, 2003.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1. Differs from the original bill by amending the definitions of “protected freshwater area.”

Differs from original bill by creating a new Section 90.002.

Differs from original by redesignating proposed Section 90.002 as Section 90.003 and by adding the phrase “on or after January 1, 2004.”

Differs from original bill by redesignating Section 90.003 as Section 90.004 and making a conforming change.

Differs from original bill in newly designated Section 90.004 by creating new text for Subdivisions (C) and (D), and by adding Subdivision (H).

Differs from original bill in newly designated Section 90.004 by designating Subdivisions (C), (D), and (E) as (E), (F), and (G) and by adding a new Subsection (c).

Differs from original bill in newly designated Section 90.008 by deleting Subsection (b).

Differs from original bill creating new Sections 90.005 and 90.006.

Differs from original bill in proposed text of new designated Section 90.007 by making a nonsubstantive change.

Differs from original bill in proposed text of newly designated Section 90.009 by replacing the word “Act” with “chapter.”

Differs from the original bill in text of newly designated Section 90.010(a) by replacing “Sections 90.002 and 90.005” with “ Sections 90.003 or 90.008” to making a conforming change.

Differs from the original bill in text of newly designated Section 90.010(c) by replacing “Section 90.002 and 90.005 with “Section 90.003 or 90.008” and makes a nonsubstantive change.

Differs from original bill by renumbering proposed Sections 90.004- 90.007 as Sections 90.007- 90.010.