

## **BILL ANALYSIS**

Senate Research Center  
78R14058 PAM-D

C.S.S.B. 970  
By: Shapleigh  
Natural Resources  
4/30/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, the West Texas desert area is a prime target for the illegal harvesting of cacti and other succulents, which may damage the desert ecosystem if certain actions are not taken. C.S.S.B. 970 directs the Texas Department of Agriculture to administer and adopt rules necessary to enforce a system of inspections to ensure that each desert plant sold in or leaving Texas has been legally harvested.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 1 (Section 122.002, Agriculture Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle F, Title 5, Agriculture Code, by adding Chapter 122, as follows:

#### **CHAPTER 122. SALE OF DESERT PLANTS**

Sec. 122.001. DEFINITION. Defines "desert plant."

Sec. 122.002. ADMINISTRATION. Requires the Texas Department of Agriculture (TDA) to administer this chapter and adopt rules necessary for its enforcement.

Sec. 122.003. REQUIREMENTS FOR SALE OR TRANSPORT. Prohibits a person, unless a desert plant is marked as provided by Section 122.005, from certain acts.

Sec. 122.004. REGISTRATION REQUIRED. (a) Requires a person who grows or harvests a desert plant for sale to register with TDA.

(b) Requires a person described by Subsection (a) to include certain information with the registration information provided to TDA.

Sec. 122.005. MARKING OF DESERT PLANTS. (a) Requires a person subject to Section 122.004 to mark each desert plant harvested for sale under this chapter with an identification mark prescribed by TDA.

(b) Authorizes TDA to charge a fee for providing an identification mark under this section.

Sec. 122.006. STOP-SALE ORDER. Authorizes TDA, in enforcing this chapter, to issue and enforce a written or printed order to stop the sale of a desert plant or a shipment of desert plants that is not marked as provided by Section 122.005. Prohibits a person, if an order is issued, from selling the plant or shipment until it has been properly inspected and marked.

Sec. 122.007. AUTHORITY TO SEIZE PLANTS. Authorizes TDA with or without process, in enforcing this chapter, to seize a certain desert plant or a certain shipment of desert plants.

Sec. 122.008. PENALTY. (a) Provides that a person commits an offense if the person advertises, sells, or offers for sale a desert plant or a shipment of desert plants that is not clearly and distinctly marked as inspected under Section 122.005.

(b) Provides that an offense under this section is punishable under certain guidelines, including fines and imprisonment.

SECTION 2. Amends Section 12.020, Agriculture Code, by amending Subsections (a) and (b) and adding Subsection (c-1), as follows:

(a) Authorizes TDA, if a person violates a provision of this code described by Subsection (c) or (c-1) of this section or a rule or order adopted by TDA under a provision of this code described by Subsection (c) or (c-1) of this section, to assess an administrative penalty against the person as provided by this section.

(b) Makes a conforming change.

(c-1) Provides that in addition to provisions described by Subsection (c), Chapter 122 is subject to this section, and the applicable penalty amount is \$500.

SECTION 3. Requires TDA, not later than December 1, 2003, to adopt rules to administer Chapter 122, Agriculture Code, as added by this Act.

SECTION 4. Effective date: January 1, 2004.