

BILL ANALYSIS

Senate Research Center

S.B. 2379
By: Jackson, Mike
Agriculture & Rural Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When illnesses associated with oyster consumption occur, the National Shellfish Sanitation Program (NSSP) requires that states take immediate action to stop the outbreak. The first line of defense for the consumer is making sure that oysters are harvested from areas that meet NSSP requirements. Illegal harvesting from a closed area represents a major health threat to consumers. If two or more individuals become ill from oyster consumption, the NSSP requires that states immediately close the growing area and recall all of the product produced from that growing area during the period in question. It is important to public health and the oyster industry that the Texas Parks and Wildlife Department (TPWD) enforce closure lines and keep oysters from closed areas from entering the marketplace.

S.B. 2379 amends current law relating to responsibility and criminal penalties for certain violations committed by commercial oyster boat crews.

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 76.001, Parks and Wildlife Code, as follows:

Sec. 76.001. New heading: DEFINITIONS. Defines "barrel of oysters" and "open season" and redefines "natural oyster bed." Deletes existing designation of Subsection (a). Deletes existing Subsection (b) relating to a certain quantity of oysters in a certain container.

SECTION 2. Amends Section 76.116(a), Parks and Wildlife Code, to provide that there is no open season for taking oysters from areas closed by the Department of State Health Services, rather than the Texas Department of Health.

SECTION 3. Amends Section 76.118, Parks and Wildlife Code, by amending Subsections (b), (c), and (e) and adding Subsection (e-1), as follows:

(b) Provides that a person who violates Section 76.101 (Oyster Licenses Required), 76.107 (Sale of Sport Oysters Prohibited), or 76.109 (Night Dredging Prohibited), rather than Section 76.101, 76.107, 76.109, or 76.116 of this code, or a regulation of the Parks and Wildlife Commission issued under one of those sections commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) Provides that a person who violates Section 76.116, or at the same time violates Sections 76.109 and 76.116, rather than Section 76.109 and either Section 76.116 or Section 76.205 [*repealed*] of this code, commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(e) Provides that if it is shown at the trial of a defendant for a violation of Section 76.101, 76.107, or 76.109, rather than Section 76.101, 76.107, 76.109, or 76.116 of this code, that the defendant has been convicted once within five years before the trial date of a violation of Section 76.101, 76.107, or 76.109, rather than Section 76.101, 76.107,

76.109, or 76.116 of this code, the defendant is guilty of a Class A Parks and Wildlife Code misdemeanor.

(e-1) Provides that if it is shown at the trial of a defendant for a violation of Section 76.116 that the defendant has been convicted once within five years before the trial date of a violation of Section 76.116, the defendant is guilty of a Parks and Wildlife Code state jail felony.

SECTION 4. Amends Section 76.119(a), Parks and Wildlife Code, to provide that a member of the crew of a vessel licensed as a commercial oyster boat is not guilty of a violation unless the member of the crew committed the violation against the captain's orders, except for a violation of Section 76.109 or 76.116, rather than 76.109 of this subchapter, in which case each person on the vessel is responsible for the violation.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2009.