

BILL ANALYSIS

Senate Research Center

H.B. 928
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Water, Agriculture & Rural Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Consumers may unknowingly consume Swai fish, as the fish is often used as a replacement for more expensive types of fish, such as catfish. The methods used for farming Swai fish have brought many environmental concerns regarding pollutants and mercury levels present at the fisheries, and the fish has previously been the subject of a USDA recall. H.B. 928 seeks to address the mislabeling of Swai fish as catfish and prevent consumers from being misled about the product they are consuming by establishing regulations for the marketing and sale of catfish and similar fish by food service establishments.

There will be a committee substitute that merely names the bill the "Hattie Mae Sherman Act."

H.B. 928 amends current law relating to the marketing and sale of catfish and similar fish by food service establishments and provides administrative and civil 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 Chapter 436, Health and Safety Code, by adding Subchapter J, as follows:

SUBCHAPTER J. MARKETING AND SALE OF CATFISH AND FISH SIMILAR TO CATFISH

Sec. 436.121. DEFINITIONS. Defines "catfish," "food service establishment," and "menu board" for this subchapter.

Sec. 436.122. REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS. (a) Authorizes a food service establishment that offers a food product for sale to represent and identify the product as catfish only if the product contains catfish and does not contain another fish similar to catfish.

(b) Provides that a food service establishment that offers for sale a food product containing a fish similar to catfish that is not catfish:

(1) is prohibited from representing the product as catfish; and

(2) is required to conspicuously identify the type of fish contained in the product in the description of the product on the establishment's menu or menu board.

Sec. 436.123. ADMINISTRATIVE PENALTY. (a) Authorizes the Department of State Health Services, or a public health district or county that requires a food service establishment to hold a permit under Chapter 437 (Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors), to

impose an administrative penalty against a food service establishment that violates this subchapter or a rule adopted under this subchapter.

(b) Authorizes the penalty for a violation to be in an amount not to exceed:

(1) \$250 for a food service establishment with gross annual food sales of less than \$50,000;

(2) \$500 for a food service establishment with gross annual food sales of at least \$50,000 but less than \$145,000; and

(3) \$750 for a food service establishment with gross annual food sales of at least \$145,000.

(c) Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

Sec. 436.124. CIVIL PENALTY. (a) Provides that a food service establishment that violates this subchapter or a rule adopted under this subchapter is liable to this state, or a public health district or county that requires the food service establishment to hold a permit under Chapter 437, for a civil penalty in an amount not to exceed:

(1) \$250 for a food service establishment with gross annual food sales of less than \$50,000;

(2) \$500 for a food service establishment with gross annual food sales of at least \$50,000 but less than \$145,000; and

(3) \$750 for a food service establishment with gross annual food sales of at least \$145,000.

(b) Provides that each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) Authorizes the attorney general, the district or county attorney for the county, or the municipal attorney of the municipality in which the violation is alleged to have occurred to bring an action to recover a civil penalty under this section.

SECTION 2. Effective date: September 1, 2021.