

By: Shapleigh

S.B. No. 970

A BILL TO BE ENTITLED

AN ACT

relating to the sale of cacti; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 5, Agriculture Code, is amended by adding Chapter 122 to read as follows:

CHAPTER 122. SALE OF CACTI

Sec. 122.001. DEFINITION. In this chapter, "cactus" includes a yucca, agave, and ocotillo plant.

Sec. 122.002. ADMINISTRATION. The department shall administer this chapter and adopt rules necessary for its enforcement.

Sec. 122.003. REQUIREMENTS FOR SALE. A person may not sell or offer for sale a cactus unless:

(1) the plant is marked as inspected under Section 122.004; and

(2) the person selling or offering the cactus for sale:

(A) harvested the cactus from the person's property;

(B) provides written documentation from the owner of the property from which the cactus was harvested granting the person selling or offering to sell the cactus the authority to harvest the cactus; or

(C) provides evidence to demonstrate that the

1 person obtained the cactus from a person described by Paragraph (A)
2 or (B).

3 Sec. 122.004. INSPECTION. (a) The department shall
4 inspect a cactus that is offered for sale in this state to ensure
5 compliance with Section 122.003(2).

6 (b) An inspector conducting an inspection under this
7 section shall mark each plant that complies with Section
8 122.003(2).

9 (c) The department may charge a fee for an inspection
10 conducted under this section.

11 Sec. 122.005. ENTRY POWER. In enforcing this chapter, the
12 department is entitled to enter during normal business hours any
13 place of business, farm, shed, or other location in this state where
14 cacti are grown, sold, offered for sale, or displayed.

15 Sec. 122.006. STOP-SALE ORDER. In enforcing this chapter,
16 the department may issue and enforce a written or printed order to
17 stop the sale of a cactus or a shipment of cacti that is not marked
18 as inspected under Section 122.004. If an order is issued, a person
19 may not sell the plant or shipment until it has been properly
20 inspected and marked.

21 Sec. 122.007. PENALTY. (a) A person commits an offense if
22 the person advertises, sells, or offers for sale a cactus or a
23 shipment of cacti that is not clearly and distinctly marked as
24 inspected under Section 122.004.

25 (b) An offense under this section is punishable by:

26 (1) a fine not to exceed \$1,000;

27 (2) imprisonment for a term not to exceed 180 days; or

1 (3) both fine and imprisonment under this subsection.

2 SECTION 2. Not later than December 1, 2003, the Texas
3 Department of Agriculture shall adopt rules to administer Chapter
4 122, Agriculture Code, as added by this Act.

5 SECTION 3. This Act takes effect January 1, 2004.