

1-1 By: Hunter, et al. H.B. No. 1300
1-2 (Senate Sponsor - Kolckhorst, Hinojosa)
1-3 (In the Senate - Received from the House April 11, 2019;
1-4 April 17, 2019, read first time and referred to Committee on Water
1-5 & Rural Affairs; April 30, 2019, reported favorably by the
1-6 following vote: Yeas 7, Nays 0; April 30, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Perry	X		
1-10	Creighton	X		
1-11	Alvarado	X		
1-12	Johnson	X		
1-13	Kolckhorst	X		
1-14	Rodríguez	X		
1-15	Taylor	X		

1-16 A BILL TO BE ENTITLED
1-17 AN ACT

1-18 relating to cultivated oyster mariculture; authorizing fees;
1-19 requiring a permit; creating a criminal offense.
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-21 SECTION 1. Section 11.032(b), Parks and Wildlife Code, is
1-22 amended to read as follows:
1-23 (b) The department shall deposit to the credit of the game,
1-24 fish, and water safety account all revenue, less allowable costs,
1-25 from the following sources:
1-26 (1) all types of fishing licenses and stamps and
1-27 shrimping licenses;
1-28 (2) all types of hunting licenses and stamps;
1-29 (3) trapping licenses and other licenses relating to
1-30 the taking, propagation, and sale of fur-bearing animals or their
1-31 pelts;
1-32 (4) sale of marl, sand, gravel, shell, and mudshell;
1-33 (5) oyster bed rentals and permits;
1-34 (6) federal funds received for fish and wildlife
1-35 research, management, development and conservation, resource
1-36 protection, and law enforcement, unless the funds are received for
1-37 the specific purposes of Subchapter F, Chapter 77;
1-38 (7) sale of property, less advertising costs,
1-39 purchased from this account or a special fund or account that is now
1-40 part of this account;
1-41 (8) fines and penalties collected for violations of a
1-42 law pertaining to the protection and conservation of wild birds,
1-43 wild fowl, wild animals, fish, shrimp, oysters, game birds and
1-44 animals, fur-bearing animals, alligators, and any other wildlife
1-45 resources of this state;
1-46 (9) sale of rough fish by the department;
1-47 (10) fees for importation permits;
1-48 (11) fees from supplying fish for or placing fish in
1-49 water located on private property;
1-50 (12) sale of seized pelts;
1-51 (13) sale or lease of grazing rights to and the
1-52 products from game preserves, sanctuaries, and management areas;
1-53 (14) contracts for the removal of fur-bearing animals
1-54 and reptiles from wildlife management areas;
1-55 (15) vessel registration fees;
1-56 (16) vessel manufacturer or dealer licensing fees;
1-57 (17) fines or penalties imposed by a court for
1-58 violation of water safety laws contained in Chapter 31 of this code;
1-59 (18) alligator hunter's or alligator buyer's licenses;
1-60 (19) sale of alligators or any part of an alligator by
1-61 the department;

(20) fees and revenue collected under Section 11.027(b) or (c) of this code that are associated with the conservation of fish and wildlife;

(21) fees related to cultivated oyster mariculture [any other source provided by law]; [and]

(22) vessel and outboard motor titling fees; and

(23) any other source provided by law.

SECTION 2. Section 11.033(a), Parks and Wildlife Code, is amended to read as follows:

(a) To the extent allowed by federal law, money in the game, fish, and water safety account may be used for the following purposes:

(1) enforcement of fish, shrimp, and oyster laws, game laws, and laws pertaining to sand, shell, and gravel;

(2) dissemination of information pertaining to marine life, wild animal life, wildlife values, and wildlife management;

(3) scientific investigation and survey of marine life for the better protection and conservation of marine life;

(4) establishment and maintenance of fish hatcheries, fish sanctuaries, tidal water fish passes, wildlife management areas, and public hunting grounds;

(5) propagation and distribution of marine life, game animals, and wild birds;

(6) protection of wild birds, fish, and game;

(7) purchase, repair, and operation of boats and dredges;

(8) research, management, and protection of the fish and wildlife resources of this state, including alligators and fur-bearing animals;

(9) salaries of employees and other expenses necessary to carry out the duties of the department under laws relating to fish, shrimp, oysters, game, water safety, and sand, shell, and gravel;

(10) expansion and development of additional opportunities of hunting and fishing in state-owned land and water;

(11) removing rough fish from public water;

(12) administration and enforcement of the water safety laws as set out in Chapter 31;

(13) purchasing all necessary forms and supplies, including reimbursement of the department for any material produced by its existing facilities or work performed by other divisions of the department;

(14) purchase, construction, and maintenance of boat ramps on or near public waters as provided in Chapter 31;

(15) resource protection activities; ~~and~~

(16) the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water; and

(17) any other use provided by law.

SECTION 3. Section 47.0091, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.0091. PURCHASE OF AQUATIC PRODUCTS BY WHOLESALE FISH DEALERS. No wholesale fish dealer may purchase for resale or receive for sale, barter, exchange, or any other commercial purpose any aquatic product from any person or entity in this state unless he purchases the product from the holder of:

(1) a general commercial fisherman's license;

(2) a commercial oyster fisherman's license;

(3) a commercial oyster boat license;

(4) a wholesale fish dealer's license;

(5) a fish farmer's license;

(6) a commercial shrimp boat license;

(7) a commercial oyster boat captain's license;

(8) a commercial shrimp boat captain's license;

(9) a commercial crab fisherman's license;

(10) a commercial finfish fisherman's license; ~~or~~

(11) a commercial gulf shrimp unloading license; or

(12) a cultivated oyster mariculture permit.

SECTION 4. Subtitle D, Title 5, Parks and Wildlife Code, is

amended by adding Chapter 75 to read as follows:

CHAPTER 75. CULTIVATED OYSTER MARICULTURE

Sec. 75.0101. DEFINITIONS. In this chapter:

(1) "Broodstock oyster" means an oyster collected for the purpose of growing cultivated oysters.

(2) "Cultivated oyster" means an oyster grown at any point in the life cycle of the oyster in or on an artificial structure suspended in the water or resting on the bottom.

(3) "Cultivated oyster mariculture" means the process of growing cultivated oysters.

(4) "Natural oyster bed" has the meaning assigned by Section 76.001.

(5) "Oyster" means the Eastern oyster and the subspecies of the Eastern oyster.

Sec. 75.0102. APPLICABILITY; CONFLICT OF LAWS. (a) A structure used to grow oysters that is part of a cultivated oyster mariculture operation is not a natural oyster bed or a private oyster bed and is not subject to location requirements under Subchapter A, Chapter 76.

(b) The licensing and permitting requirements of Subchapters B, C, and F, Chapter 76, do not apply to activity carried out under a cultivated oyster mariculture permit issued under this chapter.

(c) A regulation adopted under Section 76.301 does not apply to an activity carried out under a cultivated oyster mariculture permit issued under this chapter.

(d) A rule or proclamation issued under this section prevails to the extent of conflict over a rule or proclamation issued under:

(1) Chapter 61; or

(2) Chapter 76.

(e) Section 2001.0045, Government Code, does not apply to rules adopted under this chapter.

Sec. 75.0103. CULTIVATED OYSTER MARICULTURE PROGRAM. (a) The commission shall adopt rules to establish a program governing cultivated oyster mariculture.

(b) Rules adopted under the program may establish requirements for:

(1) the location and size of a cultivated oyster mariculture operation;

(2) the taking, possession, transport, movement, and sale of cultivated oysters;

(3) the taking, possession, transport, and movement of broodstock oysters;

(4) marking structures for the cultivation of oysters in a cultivated oyster mariculture operation;

(5) fees and conditions for use of public resources, including broodstock oysters and public water; and

(6) any other matter necessary to implement and administer this chapter.

(c) The department shall coordinate with the Department of Agriculture, the Department of State Health Services, the General Land Office, and the Texas Commission on Environmental Quality in the adoption of rules under this section.

Sec. 75.0104. CULTIVATED OYSTER MARICULTURE PERMIT REQUIRED. (a) No person may engage in cultivated oyster mariculture without first having acquired a cultivated oyster mariculture permit.

(b) The commission shall adopt rules to implement this section. Rules adopted under this section may establish requirements for:

(1) permit applications and application fees;

(2) criteria for the approval, transfer, revocation, and suspension of permits; and

(3) procedures for hearings related to a permit.

Sec. 75.0105. DEPOSIT AND USE OF FEES; CULTIVATED OYSTER MARICULTURE CLEANUP SUBACCOUNT. (a) Except as provided by Subsection (c), fees collected under this chapter shall be deposited to the credit of the game, fish, and water safety account.

(b) The cultivated oyster mariculture cleanup subaccount is a subaccount in the game, fish, and water safety account. The subaccount consists of money deposited to the subaccount under this section.

(c) The department shall set aside 20 percent of the fees collected under this chapter. That money shall be deposited to the credit of the cultivated oyster mariculture cleanup subaccount in the game, fish, and water safety account and may be used only for the cleanup of illegal or abandoned cultivated oyster mariculture equipment and related debris in public water.

Sec. 75.0106. PROHIBITED ACTIONS. (a) No person may sell or barter, or offer to sell or barter, a cultivated oyster, except as authorized by this chapter.

(b) No person may place a cultivated oyster in a natural oyster bed or private oyster bed.

(c) In this subsection, "coastal public land" has the meaning assigned by Section 33.004, Natural Resources Code. Regardless of whether a person holds a permit under this chapter, no person may place a structure related to cultivated oyster mariculture on coastal public land unless the person first obtains a lease or easement under Chapter 33 or 51, Natural Resources Code.

Sec. 75.0107. PENALTIES. (a) For purposes of this section, "final conviction" includes a plea of guilty or nolo contendere to or the imposition of deferred adjudication or deferred disposition for an offense.

(b) A person who violates Section 75.0104(a) or 75.0106 or a rule adopted under this chapter commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) If conduct constituting an offense under this section also constitutes an offense under Section 33.112, Natural Resources Code, the actor may be prosecuted under this section, Section 33.112, Natural Resources Code, or both.

SECTION 5. Not later than August 31, 2020, the Parks and Wildlife Commission shall adopt rules to implement Chapter 75, Parks and Wildlife Code, as added by this Act.

SECTION 6. This Act takes effect September 1, 2019.

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