

CHAPTER 633

S.B. No. 609

An Act relating to regulating the taking, possession, purchase, and sale of oysters and shrimp, to research programs concerning oysters and shrimp, and to fees for certain shrimp licenses;

providing penalties; amending the Parks and Wildlife Code, as amended, by adding Subchapter E to Chapter 76 and Section 77.007; and by amending Subsection (a), Section 77.004; Subsection (b), Section 77.031; Subsection (b), Section 77.033; Subsection (b), Section 77.035; and Subsection (b), Section 77.048.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 76, Parks and Wildlife Code, is amended by adding Subchapter E to read as follows:

"SUBCHAPTER E. OYSTER REGULATIONS

"Section 76.301. REGULATION OF TAKING, POSSESSION, PURCHASE, AND SALE OF OYSTERS. (a) *The commission by proclamation may regulate the taking, possession, purchase, and sale of oysters. A proclamation issued under this section must contain findings by the commission that support the need for the proclamation.*

"(b) *In determining the need for a proclamation under Subsection (a) of this section, the commission shall consider:*

"(1) *measures to prevent the depletion of oyster beds while achieving, on a continuing basis, the optimum yield for the oystering industry;*

"(2) *measures based on the best scientific information available;*

"(3) *measures to manage oysters;*

"(4) *measures, where practicable, that will promote efficiency in utilizing oyster resources, except that economic allocation may not be the sole purpose of the measures;*

"(5) *measures, where practicable, that will minimize cost and avoid unnecessary duplication in their administration; and*

"(6) *measures which will enhance enforcement.*

"(c) *A proclamation issued under Subsection (a) of this section may limit the quantity and size of oysters that may be taken, possessed, sold, or purchased and may prescribe the times, places, conditions, and means and manner of taking oysters. However, measures dealing with sale and purchase may only be implemented at first sale or exchange transaction.*

"(d) *A proclamation of the commission under this section prevails over:*

"(1) *any conflicting provision of Subchapter A, B, or C of this chapter to the extent of the conflict; and*

"(2) *a proclamation of the commission issued under the Wildlife Conservation Act of 1983 (Chapter 61 of this code).*

"(e) *A proclamation of the commission under this section does not prevail over any order, rule, or regulation adopted by the Commissioner of Health under Subchapter D of this chapter.*

"(f) *A person who violates a proclamation issued under Subsection (a) of this section commits an offense. An offense under this section is punishable by a fine of not less than \$25 nor more than \$200.*

"(g) *The commission shall make no proclamation under this chapter until it has approved and adopted an oyster management plan and economic impact analysis prepared by the department as provided in Section 76.302 of this code and unless such proclamation is shown to be consistent with the approved oyster management plan.*

"Section 76.302. RESEARCH PROGRAM. (a) *The department shall conduct continuous research and study of:*

"(1) *the supply, economic value, environment, and reproductive characteristics of the various economically important species of oysters;*

"(2) *factors affecting the increase or decrease in oyster stocks in both an annual and long-term cycle;*

"(3) *the use and effectiveness of dredges and other devices for the taking of oysters;*

"(4) *industrial and other pollution of the water naturally frequented by oysters;*

"(5) *statistical information gathered by the department on the marketing, harvesting, processing, and taking of oysters;*

"(6) *environmental parameters in areas in which oysters may be found that may serve as limiting factors of oyster population abundance;*

"(7) *other factors that, based on the best scientific information available, may affect the health and well-being of the economically important oyster resources; and*

"(8) *alternative management measures for oysters that may be considered for implementation in the management regime.*

“(b) The research may be conducted by the department or an agency designated by the department.”

SECTION 2. Section 77.004, Parks and Wildlife Code, is amended by amending Subsection (a) to read as follows:

“(a) The department shall conduct continuous research and study of:

“(1) the supply, economic value, environment, and *reproductive characteristics* [~~breeding habits~~] of the various *economically important* species of shrimp;

“(2) factors affecting the increase or decrease in shrimp stocks in both an annual and long-term cycle;

“(3) the use and effectiveness of trawls, nets, and other devices for the taking of shrimp;

“(4) industrial and other pollution of the water naturally frequented by shrimp; [~~and~~]

“(5) statistical information gathered by the department on the marketing, harvesting, processing, and catching of shrimp landed at points in the state;

“(6) *environmental parameters in the bay and estuary areas that may serve as limiting factors of shrimp population abundance;*

“(7) *other factors that, based on the best scientific information available, may affect the health and well-being of the economically important shrimp resources; and*

“(8) *alternative management measures for shrimp that may be considered for implementation in the management regime.*”

SECTION 3. Chapter 77, Parks and Wildlife Code, is amended by adding Section 77.007 to read as follows:

“**Section 77.007. REGULATION OF CATCHING, POSSESSION, PURCHASE, AND SALE OF SHRIMP.** (a) *The commission by proclamation may regulate the catching, possession, purchase, and sale of shrimp. A proclamation issued under this section must contain findings by the commission that support the need for the proclamation.*

“(b) *In determining the need for a proclamation under Subsection (a) of this section, the commission shall consider:*

“(1) *measures to prevent overfishing while achieving, on a continuing basis, the optimum yield for the fishery;*

“(2) *measures based on the best scientific information available;*

“(3) *measures to manage shrimp throughout their range;*

“(4) *measures, where practicable, that will promote efficiency in utilizing shrimp resources, except that economic allocation may not be the sole purpose of the measures;*

“(5) *measures, where practicable, that will minimize cost and avoid unnecessary duplication in their administration; and*

“(6) *measures which will enhance enforcement.*

“(c) *A proclamation issued under Subsection (a) of this section may limit the quantity and size of shrimp that may be caught, possessed, sold, or purchased and may prescribe the times, places, conditions, and means and manner of catching shrimp. However, measures dealing with sale and purchase may only be implemented at first sale or exchange transaction.*

“(d) *A proclamation of the commission under this section prevails over:*

“(1) *any conflicting provision of this chapter to the extent of the conflict; and*

“(2) *a proclamation of the commission issued under the Wildlife Conservation Act of 1983 (Chapter 61 of this code).*

“(e) *A person who violates a proclamation issued under Subsection (a) of this section commits an offense. An offense under this section is punishable as provided by Subsection (a) of Section 77.020 of this code.*

“(f) *The commission shall make no proclamation under this chapter until it has approved and adopted a shrimp management plan and economic impact analysis prepared by the department as provided in Section 77.004 and unless such proclamation is shown to be consistent with the shrimp management plan.*”

SECTION 4. Subsection (b), Section 77.031, Parks and Wildlife Code, as amended, is amended to read as follows:

“(b) The fee for a commercial bay shrimp boat license is \$80 or an amount set by the commission, whichever amount is more [~~\$60~~].”

SECTION 5. Subsection (b), Section 77.033, Parks and Wildlife Code, as amended, is amended to read as follows:

“(b) The fee for a commercial bait-shrimp boat license is \$80 or an amount set by the commission, whichever amount is more [~~\$60~~].”

SECTION 6. Subsection (b), Section 77.035, Parks and Wildlife Code, as amended, is amended to read as follows:

“(b) The fee for a commercial gulf shrimp boat license is \$100 or an amount set by the commission, whichever amount is more [~~\$80~~].”

SECTION 7. Subsection (b), Section 77.048, Parks and Wildlife Code, as amended, is amended to read as follows:

“(b) The fee for the individual bait-shrimp trawl license is \$15 or an amount set by the commission, whichever amount is more [~~\$10~~].”

SECTION 8. Sections 4 through 7 of this Act apply to fees imposed on or after the effective date of this Act. The fee for a license issued before that date is covered by the law in effect on the date that the license was issued, and the prior law is continued in effect for that purpose.

SECTION 9. This Act expires September 1, 1991.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 30, 1985, by a viva-voce vote; Senate concurred in House amendments on May 25, 1985, by the following vote: Yeas 30, Nays 1; passed the House, with amendments, on May 16, 1985, by the following vote: Yeas 130, Nays 9, two present not voting.

Approved: June 15, 1985

Effective: Immediately