

**SUBJECT:** Permitting the seizure of vehicles, firearms and vessels from poachers

**COMMITTEE:** State Recreational Resources — committee substitute recommended

**VOTE:** 8 ayes — Kuempel, McCall, Hilderbran, Horn, King, Longoria, Merritt, Palmer  
0 nays  
1 absent — Hightower

**WITNESSES:** For — Gary Joiner, Texas Farm Bureau; Larry Battarbee  
Against — None  
On — David Sinclair, Texas Parks and Wildlife

**DIGEST:** CSHB 1452 would establish a number of offenses for persons caught hunting or catching wildlife resources by any means or method on land or water without an owner's consent. All Texas Parks and Wildlife Department (TPWD) hunting and fishing permits and licenses would be automatically revoked upon conviction of poaching. Upon conviction for a second, third or subsequent poaching offense, the bill would permit seizure and forfeiture of hunting or fishing equipment, vehicles, firearms, vessels or other devices.

A first offense for poaching without an owner's consent would be a Class B Parks and Wildlife Code misdemeanor, punishable by jail time of up to 180 days or a fine of \$200 to \$1,000 or both, as well as the automatic revocation of all TPWD fishing or hunting licenses issued to that person.

A second offense for poaching without an owner's consent would be a Class A Parks and Wildlife Code misdemeanor, punishable by jail time of up to one year or a fine of \$500 to \$2,000 or both.

If the holder of a lifetime license was convicted of poaching, the license would be automatically suspended for one to five years, determined by the court, or one year from the date of conviction, if the court did not set a time period.

Once a person was convicted of poaching, the court would set a period of one to five years during which the department could not issue the person a hunting or fishing license, tag, or stamp. If the court did not set such a period, the department could not issue a hunting or fishing license or stamp until a year after the date of the final conviction.

A person who had a license or permit revoked or suspended would be required to surrender them to the court, which would send them to the department along with a copy of the judgment of conviction.

**SUPPORTERS  
SAY:**

Poaching is a serious criminal act, which under current law is a Class C Parks & Wildlife misdemeanor, punishable by a fine of \$25 to \$500. CSHB 1452 would allow for an appropriate punishment to be meted out to offenders. Only a repeat offender would be threatened by forfeiture of firearms or vehicles. Entering someone's land without their consent, often while carrying a high-powered rifle, to steal their property is little different from armed robbery. The wild animals of the state belong to the people of Texas and are our children's heritage and should be protected.

Without the threat of forfeiture of firearms or vehicles for repeat offenses, the poaching laws have no teeth. Fines and even jail time pose little deterrent to repeat offenders and because of crowded dockets in county courts, poaching offenses might not be aggressively pursued. Those caught and convicted more than once very likely violated the poaching laws many other times without being caught. Although TPWD catches poachers regularly, many go unpunished because there are simply not enough wardens to go around.

Poaching is a growing problem in Texas. Between fiscal 1993 and 1996, 3,406 citations were issued for poaching. It is important to realize that poachers in Texas are not just people shooting a deer for their family to eat. Poaching can threaten the livelihood of breeders and collectors of game and exotic animals, who sometimes spend \$10,000 on one animal. Since a mounted trophy quality buck can be worth as much as \$20,000, a fine of \$500 or even \$5,000 poses little deterrent to determined poachers. Only forfeiture of vehicle, firearms, or serious jail time can deter them from future crimes.

TPWD wardens are well trained and would not apply poaching laws inequitably. Confiscation and forfeiture would be a powerful tool with which to fight poaching, and they would be very careful to see that it was applied appropriately because they would not want to lose it.

OPPONENTS  
SAY:

It would simply be too harsh to seize a person's vehicle as punishment for a poaching offense. Seizing their vehicles could not only rob people of their livelihood but also punish their family and dependants, who would be made innocent victims.

TPWD employees could even be tempted to try and pursue the poachers who have more valuable vehicles, leading to an inequitable application of justice and legal challenges to confiscation.

OTHER  
OPPONENTS  
SAY:

Rather than the harsh penalty of vehicle confiscation, the bill should permit only the confiscation of a poacher's firearms and other devices used to commit the violation. Another alternative would be to allow confiscation and forfeiture of a vehicle upon a third, rather than second, offense. This would ensure that the most serious repeat offenders are the most harshly punished.

NOTES:

The committee substitute deleted from the original version of the bill provisions for forfeiture of a vehicle upon conviction of a first offense and a requirement that TPWD revoke poachers' licenses upon notification of a conviction by the court and added provisions concerning the automatic revocation of hunting or fishing licenses.

HB 2542 by Kuempel, a revision of the Parks and Wildlife statutes that passed the House on second reading on April 30, would increase maximum fines for some Parks and Wildlife offenses. The maximum fine imposed for a Parks and Wildlife Class A misdemeanor would increase from \$2,000 to \$4,000 and the maximum fine imposed for a Parks and Wildlife Class B misdemeanor would increase from \$1,000 to \$2,000. HB 2542 would also define wildlife to include all wild animals and birds and aquatic animal life.

A related bill, HB 1941 by Place, which would automatically revoke the fishing or hunting license of a person convicted of poaching, was reported favorably as substituted by the State Recreational Resources Committee on April 23 and was sent to the House Local and Consent Calendar.