

- SUBJECT:** Creating a state jail felony for poaching violations
- COMMITTEE:** State Recreational Resources — committee substitute recommended
- VOTE:** 6 ayes — Cook, J. Davis, Ellis, Homer, Hope, Ritter
0 nays
3 absent — Kuempel, Alexander, Crownover
- WITNESSES:** For — Oscar J. Hale, Jr., Webb County District Attorney’s Office; Bill Powers, Texas Farm Bureau; Manuel A. Benavides
Against — None
On — Jack King, Texas Parks and Wildlife Department
- BACKGROUND:** Currently, most hunting and fishing violations under the Parks and Wildlife Code are Class C misdemeanors carrying fines between \$25 and \$500. Hunting with a light is a Class B misdemeanor punishable by up to 180 days in jail and/or fines between \$200 and \$1,000. Subsequent convictions are Class A misdemeanors punishable by up to one year in jail and/or fines between \$500 and \$2,000. Hunting from a vehicle or hunting at night is a Class B misdemeanor for a second offense committed within five years of the first offense. A felony committed in violation of the Parks and Wildlife Code is punishable by not more than 10 but not less than two years in jail and a \$2000 to \$5,000 fine. Currently, no Parks and Wildlife Code violations are punishable as state jail felonies.
- DIGEST:** CSHB 2526 would create a state jail felony for certain violations of the Parks and Wildlife Code. Punishment would be confinement in a state jail for 180 days to two years, and a fine between \$1,500 and \$10,000. Penalties for other violations would be increased.

CSHB 2526 would provide that the Texas Parks and Wildlife Department (TWPD) automatically could revoke a hunting or fishing license, permit, or lifetime license, or set a one-to-five year period for not issuing licenses, tags, or stamps to an individual upon a final conviction for:

- ! hunting without a landowner's consent;
- ! hunting from any type of vehicle;
- ! hunting at night;
- ! hunting with a light;
- ! catching fish with or possessing an electric-producing device commonly known to shock fish;
- ! or killing or wounding a desert bighorn sheep, pronghorn antelope, mule deer, or white-tailed deer without making a reasonable attempt to retrieve the animal and to keep its edible parts in edible condition, which would be added as a new offense.

Final conviction would be defined as a plea of guilty or no contest or deferred adjudication.

CSHB 2526 would require the director of TPWD to set the period when a license may be suspended, rather than limiting a suspension to not more than 60 days after the date the suspension takes effect.

State jail felony offenses under CSHB 2526 would include the first-time killing of a desert bighorn sheep, pronghorn antelope, mule deer, or white-tailed deer in the manners listed in the bulleted section above. Punishment also would include revocation or suspension of hunting and fishing licenses and permits.

This bill would increase the penalty for hunting from a vehicle, or at night, or with a light, or wasting edible parts of the sheep, antelope, and deer referred to above from a Class B to a Class A misdemeanor, making subsequent offenses state jail felonies. Weapons or personal property used in commission of these offenses could be forfeited to TPWD upon the owner's conviction. The bill would allow TPWD to use, sell, or destroy forfeited property. However this provision would not apply to a vehicle, aircraft, or vessel. Any proceeds from the sale of forfeited property would go into the Game, Fish, and Water Safety Account.

CSHB 2526 would add an aircraft, motor vehicle, or vessel used to commit a second offense of hunting with a light, hunting at night, hunting from a vehicle, or hunting without the consent of the land owner to the definition of contraband that a court could seize or could be forfeited.

The bill would take effect September 1, 1999, and apply only to offenses committed before this date.

**SUPPORTERS
SAY:**

CSHB 2526 would provide increased penalties for poaching, including a Parks and Wildlife Code state jail felony. This approach is needed because poaching currently is punishable only by fines between \$25 and \$500, not a sufficient deterrent to the offense. Poachers can make thousands of dollars taking illegal hunting parties onto private property to hunt without the permission of the owner, or selling the heads of game animals like bighorn sheep or pronghorn antelope, wasting the edible meat.

Many landowners need the money generated from hunting leases, especially those trying to diversify their economic resources during the drought. Poaching cuts into this important source of revenue. Furthermore, poaching prevents the intelligent management and conservation of game so that hunting can continue for years to come.

Statistics from the Texas Parks and Wildlife Department show that increased penalties clearly result in decreased frequency of violations. In fiscal year 1997, 458 cases of hunting without the landowner's consent were filed with TPWD. These were Class C misdemeanors. On September 1, 1997 the penalty was increased to a Class B misdemeanor. Such cases decreased by more than 50 percent to 202 cases in fiscal year 1998.

The penalty for fishing without the landowner's consent also was increased from a Class C to Class B misdemeanor. These cases dropped from 261 in fiscal year 1997 to 73 in fiscal year 1998.

Projections indicate that CSHB 2526 would generate fines totaling between \$111,075 and \$835,500, which would be deposited in the Game, Fish, and Water Safety Account Fund 009. Funds generated from increased penalties would go towards hunter, conservation, and outreach education programs, plus programs to improve habitat.

**OPPONENTS
SAY:**

CSHB 2526 would single out certain types of poaching and only apply the stronger punishment to these offenses. Offenders should receive consistent punishment. This bill should change the law for all types of poaching offenses or leave current penalties on the books as they are.

This bill would allow a vehicle to be confiscated as contraband. In a worst case scenario, a couple of high school kids could shoot at a deer from a vehicle and that vehicle, which might belong to the parents, could be confiscated. Upon conviction, a court could forfeit the vehicle to TPWD and it could be sold. The youths could be sent to a state jail for at least 180 days and fined \$1,500. These minimum punishments are too harsh for this type of situation.

NOTES:

The original bill would have increased the penalty for initial offenses of hunting without landowner's consent and make subsequent offenses a state jail felony. It would have made violations of hunting at night, exceeding bag limits, and violations of the retrieval and waste laws a Parks and Wildlife Code Class B misdemeanor or a Class A for subsequent offenses. It would have made hunting with a light a Class A misdemeanor, or a Penal Code state jail felony for a second or more convictions.