

**SUBJECT:** Expanded inspection powers for Parks and Wildlife game wardens

**COMMITTEE:** State Cultural and Recreational Resources — favorable, without amendment

**VOTE:** 5 ayes — Hilderbran, Geren, B. Cook, Kuempel, Phillips  
0 nays  
2 absent — Dukes, Bailey

**WITNESSES:** None

**BACKGROUND:** Under existing law, a game warden may inspect hunting or fishing licenses, containers, automobiles, firearms, and other items if the warden has probable cause to believe that a person has violated the Parks and Wildlife Code or if the person consents to the search.

**DIGEST:** HB 1529 would authorize a Texas Parks and Wildlife Department (TPWD) game warden or peace officer who observes a person engaging in a regulated activity to inspect that person's hunting or fishing license, any device used to hunt or catch a wildlife resource, any wildlife resource in the person's possession, or the contents of any container that could be used to store or conceal a wildlife resource. A game warden or peace officer could inspect any wildlife resource in a person's possession that was in the warden's plain sight. A warden or officer could not conduct such a search in a person's residence or temporary residence, including a home, cabin, hunting lodge, tent, or hotel room, nor on a public road that was not a road shoulder.

The bill would define a wildlife resource as any animal, bird, reptile, amphibian, fish, or form of aquatic life of which TPWD regulates the hunting, catching, or possession.

A person who refused to allow a search authorized under HB 1529 would commit a Class C Parks and Wildlife misdemeanor, punishable by a fine of \$25 to \$500.

The bill would take effect September 1, 2003.

**SUPPORTERS  
SAY:**

HB 1529 is needed to clarify the authority of game wardens in Texas by explicitly authorizing them to carry out inspections related to wildlife. Although most people do not realize it, a warden now has no recourse when a person refuses to produce a hunting or fishing license or to show wildlife that the person has caught. This statutory deficiency undermines a warden's ability to protect the state's wildlife resources. By explicitly authorizing a warden to inspect licenses, firearms, and wildlife when the warden sees a person hunting or fishing, HB 1529 would enable a warden to ensure that hunters and fishers have paid appropriate fees and are not engaged in illegal activity.

Although wardens are charged with the duties of a peace officer, their primary function is to protect the state's fish and wildlife resources. HB 1529 would facilitate their execution of this duty. While valid reasons exist to require probable cause before a peace officer conducts a search, wardens need broader inspection powers to prevent poaching and other unauthorized activity. Wardens are powerless when they are unable to inspect a person's license, firearm, or catch.

Failure to enact HB 1529 would erode further the ability of game wardens to prevent illegal exploitation of state wildlife resources. Recent news stories have raised awareness of the law's deficiency, and TPWD reports that people increasingly are refusing to submit to inspection requests by game wardens. HB 1529 would prevent this problem from getting out of hand and would preserve the ability of wardens to do their jobs effectively.

HB 1529 would clarify ambiguities surrounding a game warden's authority. Game wardens already may inspect commercial operations under their jurisdiction, and HB 1529 simply would add consistency to the statute that governs hunting and fishing. The bill would not authorize a warden to conduct an inspection in a person's home, tent, or cabin or on a public roadway, and the warden would have to witness a person in the act of hunting or fishing in order to conduct an inspection. These provisions would prohibit invasive roadblocks or random searches and would confine inspections to those who reasonably should be expected to comply with an inspection.

Concerns that wardens would begin to abuse their authority if HB 1529 is enacted are overblown. A recent survey showed that more than 90 percent of constituents who have come into contact with a game warden felt that the

warden was courteous and professional. The public's respect for game wardens largely has prevented refusals of inspections from becoming a bigger problem than it is. Wardens are known for respecting the authority the state grants them, and HB 1529 is needed to help these public servants carry out their difficult charge.

**OPPONENTS  
SAY:**

By granting game wardens more authority than any other law officers in the state, HB 1529 would open the door for harassment of law-abiding citizens. The Fourth Amendment to the U.S. Constitution protects innocent people's privacy rights by requiring probable cause to be established before a search can take place. HB 1529 would erode the constitutional protections against unreasonable searches by forcing citizens to submit to inspections.

**NOTES:**

The companion bill, SB 989 by Armbrister, was reported favorably, without amendment, by the Senate Natural Resources Committee on April 22.