

SUBJECT: Seizure of property for hunting without landowner consent

COMMITTEE: Culture, Recreation, and Tourism — favorable, without amendment

VOTE: 6 ayes — Hilderbran, Kuempel, Baxter, Dunnam, Gallego, Phillips
0 nays
1 absent — Dukes

WITNESSES: For — (*Registered, but did not testify*: Kirby Brown, Texas Wildlife Association)
Against — None
On — L. David Sinclair, Texas Parks and Wildlife Department

BACKGROUND: Parks and Wildlife Code, sec. 61.022 forbids the hunting, catching, or possession of a wildlife resource unless the property owner gives consent. A first offense is a Parks and Wildlife Code class A misdemeanor (jail term of not more than one year and/or fine of between \$500 and \$4,000), except that the offense is a Parks and Wildlife Code state jail felony (state jail term of 180 days to two years and additional fine of between \$1,500 and \$10,000) if certain big-game animals, such as a white-tailed deer, were killed in the crime. Subsequent offenses incur stiffer penalties. The hunter's permit also can be revoked or suspended.

DIGEST: HB 2037 would allow a judge to seize the weapon or other personal property used by a person convicted of hunting, catching, or possessing wildlife without permission. The weapon or property could be destroyed or forfeited to the Texas Parks and Wildlife Department (TPWD). If TPWD received the item, it could use, sell or destroy the weapon or property at its discretion. If the department sold the weapon or property, TPWD would deposit money from the sale into the game, fish, and water safety account.

This section would not apply to a vehicle, aircraft, or vessel.

The bill would take effect September 1, 2005, and would apply only to a conviction for an offense entered on or after that date.

**SUPPORTERS
SAY:**

HB 2037 would provide an effective deterrent to the crime of poaching by allowing a judge to seize the property involved in such crimes. Such deterrents have proven effective in related areas. For example, when the state gained the ability to seize property related the crime of hunting at night, the number of such crimes decreased.

The bill simply would bring punishments for poaching in line with punishments for other hunting-related crimes, such as hunting from a vehicle, hunting at night, and hunting with a light. If a hunter shoots a deer from a car, the state is allowed to seize that gun. But if that same hunter crosses a fence and shoots a deer without permission, that hunter, even if convicted, can keep the gun used in the crime. HB 2037 would bring fairness to the law and correct an oversight that places poaching in a separate category from other hunting crimes.

While this bill would allow for increased punishment of certain poachers, it would not overly penalize these criminals. For example, the bill would not allow for the seizure of a vehicle, boat, or aircraft related to the crime.

**OPPONENTS
SAY:**

All the forfeiture statutes should be reexamined and the range of actions that give rise to forfeiture strictly should be limited. Seizures of property should be limited to the forfeiture of proceeds resulting from the crime. Seizure of a gun used while poaching does not fit this qualification. Disproportionate and unfair forfeiture seizures do not deter future violation and serve only to create distrust of, and disrespect for, law enforcement.