

SUBJECT: Preventing all hunting or fishing for people who have a suspended license

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

VOTE: 5 ayes — Hilderbran, Kuempel, Dunnam, Gallego, Phillips

0 nays

2 absent — Dukes, Baxter

WITNESSES: For — (*Registered, but did not testify*: Kirby Brown, Texas Wildlife Association)

Against — None

BACKGROUND: Parks and Wildlife Code, sec. 12.505 makes it a class A Parks and Wildlife Code misdemeanor (required fine of \$500 to \$4,000 and permissible imprisonment of up to one year in jail) to engage in an activity requiring a permit or license when such permit or license has been suspended, refused, or revoked. Parks and Wildlife Code requires a hunting or fishing license or permit in order to hunt or fish under most circumstances. Sec. 42.002 states that a license is not required for a landowner to hunt wild hogs causing damage to the owner's property. Sec. 71.004 says a license is not required for a landowner to hunt fur-bearing animals causing damage to the owner's property. Health and Safety Code, sec. 822.013 states that a license is not required to kill a dog or coyote that is attacking, is about to attack, or has attacked livestock or domestic animals. The Parks and Wildlife Department allows fishing in state parks without a license.

Secs. 12.508 and 12.5015 authorize the Parks and Wildlife Department to suspend or revoke a license in certain circumstances, including when a licensee has been convicted of certain Parks and Wildlife offenses. The attorney general also has the authority to suspend all licenses issued to a person who is not current on child support payments.

DIGEST: HB 3309 would amend sec. 12.505 to make it a class A Parks and Wildlife Code misdemeanor to hunt or fish, even if such hunting or fishing did not require a permit or license, during a time when the person's hunting or

fishing license was suspended or revoked or when the Parks and Wildlife Department would be prohibited from issuing a hunting or fishing license to the person.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

People who have had their hunting or fishing licenses suspended should not be able to hunt or fish in Texas at all. Under current law, however, certain types of hunting and fishing are allowed without a license. For example, someone who was not paying child support owed and who was not eligible to obtain a fishing license may fish in state parks without a license. HB 3309 would ensure that people could not get around their suspension or revocation by hunting or fishing in ways that did not require a license.

**OPPONENTS  
SAY:**

HB 3309 would prevent a landowner from killing a wild hog, coyote, or fur-bearing animal that was causing damage to the owner's property or was attacking that person's livestock – all activities that do not require a license. A person who engaged in such activity and was convicted could be punished by a fine of at least \$500 and as much as \$4,000 and also could be sent to jail for one year. Such a person would not be able to use the defense of necessity as defined in Penal Code, sec. 9.22, because necessity protects only the committing of a crime to avoid danger to a person, not an animal. Similarly, Penal Code, sec. 9.41 applies to the use of force against a person in order to protect one's property, and thus it would provide no protection either. A person should not be punished for protecting his animals or property from wild animals regardless of the circumstances.