

**SUBJECT:** Authority of Kickapoo Traditional Tribe of Texas to hunt white-tailed deer

**COMMITTEE:** Border and International Affairs — committee substitute recommended

**VOTE:** 7 ayes — T. King, Frost, Castro, Hardcastle, Hernandez, Merritt, Pickett  
0 nays

**WITNESSES:** For — Juan Garza Jr., Kickapoo Traditional Tribe of Texas; (*Registered, but did not testify*: Jesus Anico and Dean McWilliams, Kickapoo Traditional Tribe of Texas)  
  
Against — None

**BACKGROUND:** Parks and Wildlife Code, ch. 42 contains general hunting license provisions. Sec. 42.001 defines a “resident” as a person who has resided in Texas continuously for six months before applying for a hunting license, a member or dependent of a member of the armed forces, or a member of any other category of individuals that the commission by regulation designates as residents.  
  
The season for hunting white-tailed deer varies by different parts of the state. South Texas (30 counties) has the longest season, usually about 10 weeks between November and January. In addition, the Texas Parks and Wildlife Department (TPWD) issues an archery stamp that allows white-tailed deer hunting for a month beginning in late September.

**DIGEST:** CSHB 971 would expand the definition of “resident” in Parks and Wildlife Code, ch. 42 to include a member of the Kickapoo Traditional Tribe of Texas who possessed documentation of membership issued by the federal Bureau of Indian Affairs. The bill would stipulate that a documented member of the Kickapoo Tribe who held a license could hunt antlerless white-tailed deer for religious ceremonial purposes on any day of the year between one-half hour before sunrise and one-half hour after sunset.  
  
Outside of deer-hunting season, a tribe member would have to notify a local game warden, deputy game warden, or special game warden at least 24 hours before hunting antlerless white-tailed deer, and would have to

comply with all other aspects of game law at all times. A tribe member also would have to obtain explicit permission from the landowner before hunting antlerless white-tailed deer during closed season on that person's property.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

CSHB 971 would permit documented, properly licensed members of the Kickapoo Tribe to observe religious ceremonies and tribal customs by hunting antlerless, white-tailed deer at any time of the year. The Kickapoo Tribe of Texas possesses a rich religious and cultural heritage that incorporates the use of white-tailed deer meat and carcasses in daily ceremonies and the use of deer ribs in prayer rituals. Current law prevents the Kickapoo from conducting their religious and ceremonial rites as prescribed by their customs because they are not permitted to hunt year-round. The bill would grant a justified exception to allow tribe members the freedom to worship in the tradition of their ancestors.

The bill would not create safety or enforcement problems. As of 2003, there were only 470 enrolled members of the Kickapoo Tribe, 400 of whom were Texas residents. The bill would affect approximately 150 Kickapoo hunters in Maverick County, all of whom would be required to have hunting licenses and otherwise comply with the Parks and Wildlife Code. In addition, tribe members hunting out of season would be required to maintain frequent communications with wardens and would have to obtain an owner's express permission before hunting on private property. The exemption granted would be sufficiently small and well-justified as to have no effect on TPWD's authority to regulate hunting in the state.

This bill represents a well-crafted balance between respecting the traditional religious practices of the Kickapoo and complying with state hunting regulations enforced by TPWD.

**OPPONENTS  
SAY:**

CSHB 971 would require TPWD to issue a year-round license to only a member of the Kickapoo Traditional Tribe of Texas for hunting antlerless white-tailed deer. Granting such an exemption would circumvent TPWD authority to regulate hunting and wildlife management in Texas.

The Legislature should not carve out religious or ceremonial rites and place them in statute. The state should not make it a practice to offer exemptions on religious grounds, and doing so could create a “slippery slope” in the reasoning for providing such exemptions. Granting the Kickapoo Traditional Tribe special hunting privileges could give rise to other, similar requests and put the state in the unenviable position of upholding or denying those exemptions legislatively.

NOTES:

Unlike the bill as introduced, the committee substitute would require members of the Kickapoo Traditional Tribe of Texas to obtain explicit permission from the landowner before hunting antlerless white-tailed deer during a closed season on that person’s property. The substitute also would require a member of the tribe to notify a game warden at least 24 hours before hunting such deer during an otherwise closed season and under the game laws of Texas.

The companion bill, SB 869 by Uresti, has been referred to the Senate Natural Resources Committee.

The 78th Legislature in 2003 enacted a similar bill, HB 2159 by Garza, which was vetoed by Gov. Perry. The bill would have allowed a documented member of the Kickapoo Tribe who held a hunting license to hunt antlerless white-tailed deer for religious ceremonial purposes on any day of the year.