

SUBJECT: Authorizing Kickapoo tribe members to hunt white-tailed deer off-season

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

VOTE: 7 ayes — Homer, D. Howard, T. King, Kleinschmidt, Kuempel, McCall, Thibaut

0 nays

2 absent — Dukes, Phillips

WITNESSES: For — *(Registered, but did not testify:* Eric Anico, Jesus Anico, Rogelio Elizondo, Juan Garza, Jr., David Gonzalez, Jose Pepe T. Trevino, Kickapoo Traditional Tribe of Texas)

Against — *(Registered, but did not testify:* Kirby Brown, Texas Wildlife Association; Susan Hendrix, Texas Humane Legislation Network)

On — David Sinclair, Texas Parks and Wildlife Department (TPWD); *(Registered, but did not testify:* Matt Wagner, Wildlife Division, TPWD)

BACKGROUND: Parks and Wildlife Code, ch. 42 defines a “resident” for hunting license purposes 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 Parks and Wildlife Commission by regulation designates as residents.

The season for hunting white-tailed deer varies in different parts of the state. South Texas (30 counties) has the longest season, usually about 10 weeks between November and January. TPWD issues an archery stamp that allows white-tailed deer hunting for one month beginning in late September.

DIGEST: HB 1595 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 sanctioned by the federal Bureau of Indian Affairs. 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, 2009.

**SUPPORTERS
SAY:**

HB 1595 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 very limited, justified exception to protect the right of tribe members to freely exercise their religious beliefs and to worship in the tradition of their ancestors.

The bill would not create safety or enforcement problems. As of 2003, the Kickapoo Tribe had only 470 enrolled members, 400 of whom were Texas residents. The bill would affect 70-80 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 local game wardens and would have to obtain an owner's express permission before hunting on private property. The exemption would be sufficiently small and well justified as to have no effect on TPWD's authority to regulate hunting in the state.

HB 1595 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:

HB 1595 would require TPWD to issue a year-round license only to a member of the Kickapoo Traditional Tribe of Texas for hunting antlerless white-tailed deer. Granting such an exemption would circumvent the TPWD's authority to regulate hunting and wildlife management in Texas.

The Legislature should not make it a practice to offer exemptions on religious grounds. 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.

Hunting seasons are determined based on the life cycle of the animals. Hunting outside of the prescribed seasons could result in the accidental killing of a doe whose fawn has not been weaned.

HB 1595 would expand the definition of "resident" to include a documented member of the Kickapoo Traditional Tribe of Texas. This would allow members of the tribe who live in Mexico and Oklahoma to buy a resident hunting license for \$23, rather than the nonresident license for \$300. Although this would be a small number of people, it still is an opportunity others would not have.

NOTES:

The companion bill, SB 1262 by Uresti, has been referred to the Senate Natural Resources Committee.

Similar bills enacted by previous legislatures — HB 2159 by Garza by the 78th Legislature in 2003 and HB 971 by T. King by the 80th Legislature in 2007 — were vetoed by Gov. Perry. HB 2159 did not include HB 1595's requirement that a tribal member hunting off-season receive explicit permission from a private landowner when hunting on the landowner's property. HB 971 was identical to HB 1595.