

BILL ANALYSIS

Senate Research Center

H.B. 2526
By: Cuellar (Armbrister)
Natural Resources
5/13/1999
Committee Report (Amended)

DIGEST

As of September 1, 1997, certain violations of the Parks and Wildlife Code were upgraded from Class C misdemeanor offenses to Class B and Class A misdemeanor offenses. Although these new classifications subject poachers to possible jail time in addition to fines, poaching continues. Poachers risk probation and fines by engaging in illegal hunting activities, because poaching could be a lucrative business and the benefits seem to outweigh the risks. H.B. 2526 would enhance the violations for poaching penalties by upgrading certain violations and making specified offenses state jail felonies, to deter further violations.

PURPOSE

As proposed, H.B. 2526 upgrades penalties for poaching violations.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.101(2), Parks and Wildlife Code, to redefine "contraband" to mean any aircraft, or vessel used to commit a second or subsequent offense under Sections 61.022, 62.003, 62.004, or 62.005.

SECTION 2. Amends Sections 12.1106(b) and (d), Parks and Wildlife Code, to require the warden or officer to give notice of the seizure, to the county judge or a judge of a county court at law or district court of the county where the seizure occurred when a person pleads guilty or nolo contendere to, is convicted of, or is placed on deferred adjudication for a second or subsequent offense under Sections 61.022, 62.003, 62.004, or 62.005 of this code. Makes conforming changes.

SECTION 3. Amends Chapter 12E, Parks and Wildlife Code, by adding Section 12.4061, as follows:

Sec. 12.4061. PARKS AND WILDLIFE CODE STATE JAIL FELONY. Requires an individual adjudged guilty of a Parks and Wildlife Code state jail felony to be punished by confinement in a state jail for a term of no more than two years or less than 180 days. Authorizes an individual adjudged guilty of a Parks and Wildlife Code state jail felony to be punished by a fine of no less than \$1,500 and no more than \$10,000, in addition to confinement.

SECTION 4. Amends Section 12.5015, Parks and Wildlife Code, by amending Subsections (a)-(c) and adding Subsection (e), as follows:

(a) Provides that any hunting or fishing license or permit issued by the Texas Parks and Wildlife Department (TPWD) to a person is automatically revoked on final conviction of the person of an offense under Sections 61.022, 62.003, 62.004, 62.005, 62.011(c), 66.004(a), or 66.004(c).

(b)-(c) Makes conforming changes.

(e) Defines "final conviction."

SECTION 5. Amends Section 12.504(a), Parks and Wildlife Code, to authorize a license or permit to be suspended under this subchapter for a period set by the TPWD director (director). Provides that the period of suspension ends on the expiration of the time set by the director or the expiration of the license or

permit, whichever occurs first, rather than no more than 60 days after the date on which the suspension takes effect.

SECTION 6. Amends Sections 61.022(b)-(d), Parks and Wildlife Code, as follows:

(b) Provides that a person who violates Subsection (a) the first time commits an offense that is a Class A, rather than Class B, Parks and Wildlife Code misdemeanor, except as provided by Subsection (c).

(c) Provides that a person who violates Subsection (a) the first time by killing a desert bighorn sheep, pronghorn antelope, mule deer, or white-tailed deer commits an offense that is a Parks and Wildlife Code state jail felony and is punishable in addition by the revocation or suspension under Section 12.5015 of hunting and fishing licenses and permits.

(d) Requires a second violation of Subsection (a) to be classified as one category higher than the first violation or a Parks and Wildlife Code felony, whichever is lesser, rather than a Class A Parks and Wildlife Code misdemeanor. Makes a conforming change.

(e) Requires a third or subsequent violation of Subsection (a) to be classified as a Parks and Wildlife Code felony, rather than a state jail felony under Section 12.35, Penal Code. Makes a conforming change.

SECTION 7. Amends Section 62.011, Parks and Wildlife Code, to provide that it is an offense if a person while hunting kills or wounds a game bird or game animal and intentionally or knowingly fails to make a reasonable effort to retrieve the animal or bird, except as provided by Subsection (c). Provides that it is an offense if a person while hunting kills or wounds a desert bighorn sheep, pronghorn antelope, mule deer, or white-tailed deer and intentionally or knowingly fails to make a reasonable effort to retrieve the animal or intentionally, knowingly, or recklessly or with criminal negligence fails to keep the edible parts of the animal in an edible condition. Makes a conforming and nonsubstantive change.

SECTION 8. Amends Sections 62.013(b) and (c), Parks and Wildlife Code, as follows:

(b) Provides that a person who violates Sections 62.003, 62.004, or 62.011(c) of this code commits an offense that is a Class A, rather than B, Parks and Wildlife Code misdemeanor, unless it is shown at trial that the defendant has been convicted one or more times before the trial date, in which case the offense is a state jail felony, rather than a misdemeanor.

(c) Provides that a person who violates Sections 62.003, 62.004, 62.005, or 62.011(c) of this code is punishable by the revocation or suspension under Section 12.5015 of hunting and fishing licenses and permits, in addition to the punishments provided in Subsections (a) and (b). Deletes text regarding a violation of Sections 62.003 or 62.004 of this code

SECTION 9. Amends Chapter 62A, Parks and Wildlife Code, by adding Section 62.017, as follows:

Sec. 62.017. DISPOSITION OF SEIZED PROPERTY. Authorizes the court entering judgment of conviction to order any weapon or other personal property used in the commission of the offense destroyed or forfeited to TPWD, if a person is finally convicted of an offense under Sections 62.003, 62.004, 62.005, or 62.011(c). Authorizes TPWD to use the property in its normal operation, sell or transfer the property, or destroy the property, if TPWD receives a forfeiture order from a court as authorized by this section. Provides that this section does not apply to a vehicle, aircraft, or vessel. Requires the sale proceeds to be deposited in the game, fish, and water safety account, if the disposition of property under this section is by sale of property. Deletes text regarding the general revenue fund

SECTION 10. Effective date: September 1, 1999.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Emergency clause.