

- SUBJECT:** Allowing taking of certain animals and insects in a public right-of-way
- COMMITTEE:** Culture, Recreation, and Tourism — committee substitute recommended
- VOTE:** 8 ayes — Homer, D. Howard, T. King, Kleinschmidt, Kuempel, McCall, Phillips, Thibaut
- 0 nays
- 1 absent — Dukes
- WITNESSES:** For — Jeffrey Barringer, Kingsnake.com/OnlineHobbyist.com Inc.; Michael Price, San Angelo Nature Center, West Texas Herpetological Society; Troy Hibbitts and Toby Hibbitts, Texas Herpetological Society HCU-TX; Roy L. Engeldoff, Out Back Oasis Motel; Jessica Briggs; Tim Cole; Travis Laduc; Andrew Price; Lisa Willaman (*Registered, but did not testify*: Todd Hughes, HCU-TX Herps Conservation Unlimited; Gerald Keown, Herp Conservation Unlimited; Alexander McKeluy, Ashley Ozelski, Albion College Ecological Awareness Club; Peter Mimikos, Camerlin Posey, South Texas Herpetology Association; Mark Pyle, Dallas Fort Worth Herp Society; Jeff Adams; Ralph Aldis; Charlene Alexander; Kati Alexander; Toby Brock; Graham Criglow; Mark Fass; Joe Forks; Nathan Fowler; Wayne Howell; Todd LaPittus; Sara Lott; Tom Lott; Michael Pennell; Jason Penney; Deborah Sydney; Bonita Taylor; Christopher White)
- Against — (*Registered, but did not testify*: Susan Hendrix, Texas Humane Legislation Network)
- On — David Sinclair, Matt Wagner, Texas Parks and Wildlife Department
- BACKGROUND:** The 80th Legislature in 2007 enacted HB 12 by Hilderbran, which prohibits a person from hunting a wild animal or bird when the person is on a public road or right-of-way. The prohibition does not apply to the trapping of a raptor for educational or sporting purposes as provided by state laws governing permits for falconry.
- DIGEST:** CSHB 1500 would allow the capture, trapping, or hunting of a reptile, amphibian, or insect from a public road or right-of-way. The bill would

charge the Parks and Wildlife Commission with adopting rules governing the safe participation in the authorized activities.

This 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. A pending criminal action for an offense that the bill would eliminate would be dismissed when the bill took effect.

**SUPPORTERS
SAY:**

CSHB 1500 would reverse an unfortunate consequence of HB 12, passed in 2007 by the 80th Legislature. That bill, which prohibited hunting a wild animal or bird on a public road or right-of-way, effectively barred herpetologists and other reptile and amphibian enthusiasts from collecting specimens along roads and other accessible public areas. The legal definition of hunting in Texas includes the collection of animals as a hobby or for commercial reasons. Before enactment of HB 12, many collectors made heavy use of public rights-of-way to collect a variety of specimens.

The vast majority of land in Texas is privately owned, and the areas along roads may be the only place to collect reptiles and amphibians. Further, roadway habitats are not safe for amphibians and reptiles due to auto traffic. Collecting in these areas may reduce populations along roads, where they are most vulnerable. Empowering the Parks and Wildlife Commission to create rules regarding safety practices would allow the commission to require visible attire, establish a buffer around roads, and enforce other measures to protect safety.

Collecting amphibians and reptiles is an educational experience and is a very family-oriented activity for many enthusiasts in the state. Collectors, many of whom are educated and trained herpetologists, promote documentation of reptiles and amphibians in the state and help provide updated information about local populations. The collections constitute an insubstantial number of animals when compared with total populations, since collecting is a limited hobby and confined to particular accessible geographic areas.

Collectors take many safety precautions, and generally search for specimens in low-traffic areas that offer safe parking and a buffer from road traffic. To date, there is no record of a serious accident that resulted from someone collecting animals or insects on a public right-of-way.

OPPONENTS
SAY:

CSHB 1500 could diminish the ability of law enforcement officers to enforce existing prohibitions on hunting wildlife in a public right-of-way. Creating an exemption for hunting or taking reptiles, amphibians, and insects would make it more difficult to pursue illegal hunters. An enforcement officer would have trouble determining that an individual in a public right-of-way engaged in an illegal hunting activity was not in fact acting under the exception carved out in law.

The bill would also expand the troubling practice of hunting or trapping along roads, albeit on a limited basis. Roads are not safe places to practice hobbies, as vehicles are subject to unpredictable incidents. A vehicle that blew a tire, for instance, could veer off the road and into the public right-of-way. This could result in injury to a person who was collecting an animal near the road.

There are alternative arrangements available to allow collectors to pursue their hobbies without presenting a hazard along public roadways. The state could coordinate a program to allow private individuals to lease land to collectors for a limited time for a reasonable fee,. This type of arrangement could take substantially the same form as private hunting agreements offered by some ranches and could be mutually beneficial to property owners and collectors. A program such as this would allow for safe collection of reptiles and amphibians away from public roadways.

NOTES:

The House adopted a floor amendment by T. King to HB 12 by Harper-Brown, the Texas Parks and Wildlife Department Sunset bill, including the same language as proposed in HB 1500. HB 12 passed the House by 137-0 on May 4 and was left pending in the Senate Government Organization Committee on May 12.