

BILL ANALYSIS

C.S.H.B. 2434
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that advancements in the sophistication of technology have caused many landowners to become concerned that certain legal activities they engage in are at risk of being recorded by certain entities and that such recordings may be distributed with the intent to further that entity's own agenda. C.S.H.B. 2434 seeks to discourage this sort of activity by establishing provisions relating to prohibiting the production or distribution of certain records of field trials or the process of hunting or catching wildlife.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2434 amends the Parks and Wildlife Code to prohibit a person from using any device to produce an audio, visual, or audiovisual record of a person or a person's property lawfully engaged in field trials or in any part of the process of hunting or catching wildlife on a landowner's property, or from distributing such a record, without the consent of the landowner or the landowner's agent and with the intent to harm the landowner. The bill makes it a Class B misdemeanor offense to violate the prohibition and authorizes a landowner to bring a civil action against a person who violates the prohibition to recover court costs, reasonable attorney's fees, and an amount equal to not more than three times the actual and consequential damages caused by the violation. The bill establishes that the cause of such an action is cumulative of any other remedy provided by common law or statute.

C.S.H.B. 2434 repeals a provision establishing an affirmative defense to prosecution for offenses relating to harassment of hunters, trappers, and fishermen if the defendant's conduct is protected by the right to freedom of speech under the Texas Constitution or the U.S. Constitution.

C.S.H.B. 2434 repeals Section 62.0125(h), Parks and Wildlife Code.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2434 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 62.0125, Parks and Wildlife Code, is amended by adding Subsections (e-1), (i), and (j) to read as follows:

(e-1) No person may, without the landowner's consent:

(1) use any device to produce an audio, visual, or audiovisual record of a person or a person's property lawfully engaged in field trials or in any part of the process of hunting or catching wildlife on the landowner's property; or

(2) distribute a record described by Subdivision (1).

(i) A landowner may bring a civil action against a person who violates Subsection (e-1) to recover:

(1) an amount equal to not more than three times the actual and consequential damages caused by the violation;

(2) court costs; and

(3) reasonable attorney's fees.

(j) The cause of action created by Subsection (i) is cumulative of any other remedy provided by common law or statute.

SECTION 2. Section 62.0125(h), Parks and Wildlife Code, is repealed.

SECTION 3. (a) The repeal by this Act of Section 62.0125(h), Parks and Wildlife Code, does not apply to an offense committed under that section before the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by Section 62.0125(h), Parks and Wildlife Code, as it existed when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2013.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 62.0125, Parks and Wildlife Code, is amended by adding Subsections (e-1), (i), and (j) to read as follows:

(e-1) No person may, without the consent of the landowner or the landowner's agent and with the intent to harm the landowner:

(1) use any device to produce an audio, visual, or audiovisual record of a person or a person's property lawfully engaged in field trials or in any part of the process of hunting or catching wildlife on the landowner's property; or

(2) distribute a record described by Subdivision (1).

(i) A landowner may bring a civil action against a person who violates Subsection (e-1) to recover:

(1) an amount equal to not more than three times the actual and consequential damages caused by the violation;

(2) court costs; and

(3) reasonable attorney's fees.

(j) The cause of action created by Subsection (i) is cumulative of any other remedy provided by common law or statute.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.