

Right to Hunt, Fish, and Trap

ISSUE: Does SDFB still oppose efforts to enshrine the right to hunt, fish, and trap in the South Dakota Constitution?

OVERVIEW: Efforts to include the rights to hunt, fish, and trap in the South Dakota Constitution are part of a broader movement observed in several states across the United States. These efforts aim to safeguard traditional outdoor activities and heritage by ensuring that the rights to hunt, fish, and trap remain protected and are not unduly restricted by future legislation or regulations.

In South Dakota, attempts to insert these rights into the state constitution have been ongoing for several years. Most recently, in 2018, organizations such as SDFB and SD Corn defeated HJR 1005. There was concern that the ballot measure, as drafted, posed more problems than solutions. For instance:

1. Is there an actual issue? Restrictions on hunting, fishing, and trapping have not been observed in South Dakota.
2. Concerns arose regarding the potential for courts to dictate rules such as bird limits, game tags, and other licenses instead of the Legislature and the Game, Fish, and Parks Commission.
3. The constitution holds significant reverence and is amended with great scrutiny. For example, the section that proponents of HJR 1005 attempted to amend had only been changed once in 99 years.

During the 2024 Legislative Session, discussions arose about introducing a different measure to establish the right to hunt, fish, and trap. Ultimately, the legislation did not materialize; however, future attempts may be made.

CONSIDERATIONS:

1. SDFB has opposed efforts to include the right to hunt, fish, and trap in the state constitution due to a general aversion to legislating through the constitution. The constitution is revered, and past opinions have deemed

such measures unnecessary. Additionally, there are numerous cherished privileges not explicitly stated in the constitution, such as the right to farm.

2. Twelve State Farm Bureaus have endorsed enshrining the right to hunt, fish, and trap in their state constitutions.
3. Embedding the right to hunt, fish, and trap in the constitution can serve as a political safeguard against potential future legislation seeking to curtail or abolish these activities for reasons unrelated to conservation or public safety. However, constitutional amendments solidify language in the constitution and are exceedingly challenging to alter. Any changes would require a statewide vote.

SDFB POLICY: SDFB does not hold specific policy supporting or opposing the inclusion of the right to hunt, fish, and trap in the South Dakota Constitution. However, policy does support, “citizen’s rights of referendum and initiated measures.”

DISCUSSION:

1. Does SDFB endorse the right to hunt, fish, and trap in the state constitution?
2. If so, how does SDFB advocate for the protection of private property rights, and what are the unintended consequences of this ballot measure idea?
3. There may be an opportunity to contribute to drafting the ballot measure. If so, does this alter our stance?