

Statewide Amendment 5: Sportsperson's Bill of Rights

Background

Amendment 5 would add language to the Sportsperson's Bill of Rights of the Alabama Constitution to further clarify that citizens have the right to hunt, fish, and harvest wildlife, subject to reasonable regulations. Amendment 5 also adds language establishing hunting and fishing as the preferred means of managing and controlling wildlife in the state. This legislation was introduced by Representative Mark Tuggle (R-Alexander City) during the 2014 session.¹ It passed the House by a vote of 90-2 and the Senate by a vote of 32-1.²

Amendment 597 of the Alabama Constitution, known as the Sportsperson's Bill of Rights, was ratified in 1996 and simply states that "all persons shall have the right to hunt and fish in this state in accordance with laws and regulations."³ Alabama is one of seventeen states that guarantees a constitutional right to hunt and fish in the state.⁴ The National Conference of State Legislatures suggests that increased urbanization, decreased habitat, expanded restrictions on hunting, and opposition by environmental groups have prompted states to protect this right.⁵

Purpose of the Amendment

This expansion of the "Sportsperson's Bill of Rights" is designed to reinforce the right to hunt, fish, and harvest wildlife and to further refine the right by replacing the phrase "*in accordance with law and regulations*" with the phrase "*subject to reasonable regulations.*" The current phrasing suggests that the right is necessarily limited by any laws or regulations that lessen it, while the phrasing in Amendment 5 explicitly requires a court to evaluate for reasonableness any law or regulation that limits the right. Courts typically determine reasonableness by analyzing whether a regulation is legitimate and

Issue Snapshot

- Alabama's Constitution explicitly protects the right to hunt and fish in the state.
- The purpose of this amendment is to reinforce this right by clarifying that it can only be limited by reasonable regulation.
- The amendment also establishes hunting and fishing as the preferred means of managing and controlling wildlife in Alabama.

reasonable within the police power of the state or whether it is arbitrary and, under the name of regulation, deprives a citizen of a constitutional right. At present, there is no case law from any state regarding the Sportsperson's Bill of Rights that would provide insight as to how a court might reach a different conclusion under the expanded language proposed in Amendment 5 versus the current language of Amendment 597.

The additional provision of Amendment 5 that would establish hunting and fishing by the public as the preferred means of managing and controlling wildlife in Alabama would likely lend an additional layer of protection to the right if it were challenged on environmental or conservation grounds.

It is important to note that Amendment 5 contains a clause that specifically precludes this amendment having any bearing on current laws of eminent domain, trespass, or property rights.

¹ HB322, 2014 Regular Session (enacted 2014-286) (Ala. 2013).

² Id.

³ AL. CONST. amend. 597.

⁴ "State Constitutional Right to Hunt and Fish," NAT'L CONF OF STATE LEGISLATURES (September 2014), **available at** <http://www.ncsl.org/research/environment-and-natural-resources/state-constitutional-right-to-hunt-and-fish.aspx>.

⁵ Id.