



February 2, 2023

Committee: The House Committee on Rules
Re: HJR 5 “to declare the constitutional right to fish, hunt or harvest wildlife or gather wild foods”
Position: Oppose

Chair Fahey, Vice-Chair Breese-Iverson and Vice-Chair Kropf, and Members of the Committee:

My name is Story Warren, I’m a resident of Oregon and a Wildlife Protection Program Manager for the Humane Society of the United States. On behalf of our Oregon members and volunteers, I ask this committee to oppose HJR 5. This far-reaching proposal could prevent Oregon citizens from their constitutional right to use the ballot initiative process, and seeks to codify cruel, outdated, and ineffective wildlife killing practices into our state’s constitution.

First, we must be clear: there is no actual threat to the right of Oregon residents to fish, hunt or harvest wildlife. Adding this frivolous language to the Oregon constitution—our state’s most treasured document—is unnecessary and could impede progress for wildlife in our state.

1. HJR 5 could prevent Oregon citizens from their constitutional right to use the ballot initiative process

Oregon voters should be extremely concerned that HJR 5 includes the provision that the right to fish, hunt or harvest wildlife and gather wild foods is “...subject only to laws enacted by the Legislative Assembly and rules adopted by state agencies to promote sound wildlife conservation and management...” So, that authority is granted to the legislature and the Oregon Fish and Wildlife Commission, but *not*, by omission, the ballot initiative.

Blocking the constitutional right of Oregon citizens to bring any issue of their choosing before voters for consideration would be a shameful subversion of democracy. The principles of direct democracy and civic participation are an important part of our history. This right is cherished by Oregon voters and deserves preservation, not deliberate obstruction.

Even with the – 1 proposed amendment language, HCR 5 would still codify cruel and unpopular “traditional methods” in the Oregon constitution (which we would oppose) by deliberately including vague language and leaving it up to state interpretation, and as a result, costly legal battles.

2. HJR 5 uses deceptive language that would codify cruel, outdated, and ineffective practices into our state’s constitution

By stating that Oregon residents have the right to fish, hunt or harvest wildlife and gather wild foods “by traditional methods or manners...,” HJR 5 uses deceptive language designed to prevent citizens, as well as elected and appointed officials, from modernizing and improving wildlife management practices.



In its manual “IN DETAIL: State Constitutional Amendments and the Right to Hunt and Fish” the Congressional Sportsmen’s Foundation advises drafters of state “right to hunt” measures to use the vague term “traditional methods” for hunting practices that the public no longer supports [see *Fig. 1*]. Specifically, that Congressional Sportsmen’s Foundation manual says:

Trapping admittedly faces a lot of controversy in this country, more so than the more mainstream ways of hunting such as by firearm or bow and arrow. While all traditional means should be protected, some practices like trapping can make support harder to get from parties that are otherwise pro-hunting in a general election.

So, the manual continues, “By using a vague term like “traditional methods,” it will be up to state agencies to determine what they include in their season as “traditional methods.””

It then says, “Further, by using a phrase like “traditional methods,” proponents can give a stronger protection to trapping without actually mentioning trapping.” And it adds, “At the same time, however, “by the use of traditional methods” could also help to protect other methods of hunting that have come under scrutiny, such as the use of dogs or baiting.”

There is no question that the American public no longer supports such methods. A 2019 survey by the hunting interest groups the National Shooting Sports Foundation and Responsive Management found that the majority of Americans disapprove of trophy hunting and of trapping for money, for fur clothing, and for recreation.¹ The landmark “America’s Wildlife Values Project” by Colorado State University found strong support among Oregonians for humane coexistence with wildlife.² And a 2016 research study found drastically improved public attitudes nationwide toward traditionally feared and misunderstood species, including large carnivores, noting that “The differences in attitudes witnessed in this study may be indicative of growing concern for the welfare of animals – both wild and domestic.”³

But despite those changing public attitudes about wildlife and increasing public opposition to cruel and outdated methods, HJR 5 seeks to protect the use of those methods in our state’s constitution and hinder the ability to update, modernize and improve Oregon wildlife management in the future.

3. Other states with right-to-hunt amendments are not all the same

While 27 U.S. states currently have some form of a right to hunt (or right to fish) provision in their constitution or in statute, they are not all the same. Twelve states have right to hunt

¹ National Shooting Sports Foundation and Responsive Management, “Americans’ Attitudes toward Hunting, Fishing, Sport Shooting and Trapping 2019.” <https://asafishing.org/wp-content/uploads/2019/04/Americans-Attitudes-Survey-Report-2019.pdf>

² M. J. Manfredo et al., “America’s Wildlife Values: The Social Context of Wildlife Management in the U.S.” Fort Collins, Colorado: Colorado State University, Department of Natural Resources, 2018. <https://sites.warnercnr.colostate.edu/wildlifevalues/>

³ Kelly A. George, Kristina M. Slagle, Robyn S. Wilson, Steven J. Moeller, Jeremy T. Bruskotter, “Changes in attitudes toward animals in the United States from 1978 to 2014.” *Biological Conservation*, Volume 201, 2016, Pages 237-242. ISSN 0006-3207, <https://doi.org/10.1016/j.biocon.2016.07.013>



provisions that do not include the insidious “traditional methods” language, which can be used to cover unsporting, inhumane, and unpopular methods of hunting. 13 states contain the “traditional methods” language in their amendments.

Only two states, Utah and Arkansas, prevent citizen initiatives on wildlife management issues – as HJR 5 would in Oregon without the proposed amendment.

4. HJR 5 could result in costly litigation

Including in our constitution the “right to fish, hunt or harvest wildlife” could also cost Oregon taxpayers millions of dollars, by opening the door to expensive legal challenges from individuals who want to argue that reasonable quotas, season closures, bag limits, land area closures, and other restrictions on types of hunting, trapping, and fishing methods are unconstitutional.

5. We question the intent of HJR 5

Additionally, we would like to address the intent of the bill, with or without the proposed amendment. Proponents have argued that HJR 5 would not impact the citizen initiative process; however, they also point to ballot initiatives such as IP 3 (which HSUS is not involved in) as a threat to hunting and, they claim, a reason to pass a constitutional amendment. Either the bill does not impact the ability of citizens to hold a ballot initiative – in which case it would have no impact on that or similar initiatives – or it *does* hinder the ballot initiative, which would be a subversion of democracy and would exclude most citizens from having a say in Oregon’s wildlife management.

6. HJR 5 would disenfranchise most Oregonians

Hunting is one recreational pursuit among many that Oregonians participate in to connect with nature and wildlife. Many more Oregon residents enjoy non-consumptive activities in nature, such as wildlife and birdwatching, hiking, and camping, than those who hunt and fish. There is no justification for enshrining hunting and fishing in the constitution while not including other wildlife-related activities that Oregonians enjoy and have a stake in.

We therefore ask this committee to protect our right to vote on wildlife issues, and to have a say in the management of the wildlife that is held in trust for all Oregonians, and oppose HJR 5. Thank you.

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Fig.1

Another concern with such language is to what extent it protects traditional means, namely, trapping. Trapping admittedly faces a lot of controversy in this country, much more so than more mainstream ways of hunting, such as by firearm or bow and arrow. While all traditional means should be protected, some practices like trapping can make support harder to get from parties that are otherwise pro-hunting in a general election. By using a vague term like “traditional methods,” it will be up to state agencies to determine what they include in their season as “traditional methods.” Thus, the language both suggests that agencies should accommodate traditional means of hunting, while at the same time avoiding specificity so that the agency’s hands are not tied. If an agency decided that trapping was no longer prudent, it would not make sense to constrain them to having to keep some sort of trapping language. “By the use of traditional methods” empowers the agency make the decision.



Further, by using a phrase like “traditional methods,” proponents can give a stronger protection to trapping without actually mentioning trapping. Some non-hunters see hunting as an acceptable and even effective means of conservation, but at the same time view trapping as an inhumane version of hunting. It would be very unfortunate for a right to hunt/fish/manage amendment to fail because of explicitly using the word trapping when “traditional means” offers much of the same protection to trappers regardless. Granted, “by the use of traditional methods” does not offer the explicit level of protection as does specifically including “trapping.”

At the same time, however, “by the use of traditional methods” could also help to protect other methods of hunting that have come under scrutiny, such as the use of dogs or baiting, which, as discussed above, was recently on the referendum in Maine. Alternatively, if a drafter makes a list of specifics and

From pg. 7 of the Congressional Sportsmen’s Foundation manual “IN DETAIL: State Constitutional Amendments and the Right to Hunt and Fish”