

- SUBJECT:** Allowing individuals with physical disabilities access to riverbeds
- COMMITTEE:** Culture, Recreation and Tourism — committee substitute recommended
- VOTE:** 6 ayes — Homer, Kleinschmidt, Kuempel, McCall, Phillips, Thibaut
1 nay — D. Howard
2 absent — Dukes, T. King
- WITNESSES:** For — Chase Bearden, Coalition of Texans with Disabilities; Karen Dukes; Matthew Dukes

Against — Chuck Bailey; Janice Bezanson, Texas Conservation Alliance; Kirby Brown, Texas Wildlife Association; Jeannie Dullnig, Stewards of the Nueces; Reagan Houston; Kelly Knight, Friends of the Nueces River Association; Sky Lewey, Nueces River Authority; Dondee Lindenborn; Evelyn Merz, Lone Star Chapter - Sierra Club; John Moore; Joline Moore, Saturday Paddlers and Scott LeBlanc; John Robinson; (*Registered, but did not testify*: Marilyn Benavides; Terry Cowan; Gail Lindley, Friends of the Nueces; David Plylar)

On — David Sinclair, Texas Parks and Wildlife Dept.
- BACKGROUND:** Under the Parks and Wildlife Code, a person may not operate a motor vehicle in or on a protected freshwater area, with some exemptions.
- DIGEST:** CSHB 155 would add a person who had a permanent physical disability that substantially impaired one or more of the major life activities of the person to the list of those exempted from the prohibition against operating a motor vehicle in or on a protected freshwater area.
- A person who qualified for this exemption:
- would have to have a disabled parking placard or license plate in or on the motor vehicle used to access the protected freshwater area;
 - would have to have a written statement from a licensed physician documenting the extent of the disability; and

- could operate the motor vehicle only on a part of the protected freshwater areas not covered by water, and only for ingress to the river or stream or for the purpose of making a 180-degree turn for egress, within 100 feet of the point of entry to the river or stream in a direction parallel to the river or stream.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

People with physical disabilities often are unable to gain access to rivers and streams because of difficult terrain that would not be navigable by wheelchair. In some cases, motorized vehicles may be the only feasible way for a disabled or elderly citizen to reach the wild and scenic parts of a river. People with physical disabilities should have access to rivers, and CSHB 155 would help provide that by creating a very narrow exception to the general ban on motorized vehicles in riverbeds.

While vehicles may have an impact on streambeds, especially if driven imprudently, responsible operation largely mitigates any potential harm. CSHB 155 would allow a person with a physical disability to be dropped off by a motor vehicle at the edge of the water. The bill also would provide restrictions to ensure that the physically disabled were allowed equal access to these resources without causing environmental harm to Texas rivers or streams.

Current law allows several exemptions with the potential for a worse environmental impact to the riverbeds than allowing access to a physically disabled person. For example, the current exemption includes motor vehicles belonging to electric and oil and gas companies. Also, although some Texas rivers have access points that could be suitable to grant equal access, that is not the case throughout the state.

**OPPONENTS
SAY:**

Driving on the beds and banks of a freshwater area, regardless of disability, would damage that resource, especially in riparian areas. Vehicles can leak engine fluids into the rivers, loosen chunks of granite while “crawling” over rock obstacles, contribute to erosion along river banks, and destroy fish and wildlife habitat. Motorized vehicles also can harm water quality in rivers, many of which provide drinking water for downstream communities.

The 78th Legislature provided protections to every bed and bank in Texas by heavily restricting access to motor vehicles, and CSHB 155 would undermine those protections.

CSHB 155 would leave a great deal open for interpretation by not defining disability or life activities. The exemption also would be difficult to police and enforce and could lead to safety issues for those swimming along the edge of the water, especially children.

**OTHER
OPPONENTS
SAY:**

There currently are several access points into the Nueces River and no need to have to drive on the banks to gain access. Instead of allowing vehicles in the beds and banks of rivers, the necessary ADA improvements should be made by making the existing access points better and safer, with handicapped ramps and designated parking places. If not enough access points are available, that could be corrected as well. This would be a workable alternative to allowing access to vehicles that could potentially cause environmental harm to Texas rivers or streams.

NOTES:

The committee substitute differs from the bill as filed by providing verification requirements and restrictions for accessing a protected freshwater area by motor vehicle.