

# Law Enforcement Session

## Need, Evaluation and Preparation of Decoy Deer

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*Abstract:* As Tennessee began building its deer herd, a problem arose with hunters shooting deer from public rights of ways. Due to ineffective enforcement practices, the problem became a major concern of landowners and the Tennessee Wildlife Resources Agency. The need arose to develop an effective and legal method to address violations and ensure compliance of wildlife laws. The idea of a decoy deer has been developed into a very effective tool which has been tested in the judicial system. This tool has also been demonstrated to be cost efficient. The public reaction has been very positive and supportive with demonstrable results in the reduction of complaints and violations.

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Hunting deer with the aid of a motor vehicle (road hunting) first became evident in Tennessee around 1973. The Tennessee kill rate was 7,400 deer a year in its statewide open deer hunt. Two statutory laws cover road hunting in Tennessee. The first prohibits shooting from a highway right of way which was passed in 1951. The second, passed in 1959, prohibits hunting wildlife with the aid of a motor vehicle. Although the statutory law prohibiting hunting wildlife from a motor vehicle was passed in 1959 (when the Tennessee kill amounted to about 500 deer in its statewide open season), it was only used very infrequently for primarily hunting deer at night with a spotlight. The law prohibiting shooting from a roadway was used even less during the deer season.

The Tennessee Wildlife Resources Agency (TWRA—formally Game and Fish Commission) did little to discourage road hunting in the early years when our deer kill was in its infancy. As the deer herd grew, the road hunting problem grew. Around 1978, it had developed into a landowner/hunter relationship problem. Tennessee at this time was killing 19,056 deer in its statewide open hunt (a 158% increase since 1973). The Tennessee Wildlife Resources Agency began trying to get a handle on this problem in 1979. We began discussing the problem with landowners and advising sportsmen groups and clubs of the need to correct this problem

before serious damage was done to the landowner/hunter relationships which up to this time had been relatively good. Through our contacts with the hunting public and using our best estimates, as many as 10% of our total kill was taken by the road hunter. During 1979 and 1981 we used the method of trying to follow people down the road who were driving slow to build enough evidence to charge the poacher with road hunting. This was a frustrating process with cases being dismissed. The officer was often observed by the hunters before enough evidence could be obtained. Another method used was staking out on fields with deer in them hoping that someone would come by and shoot. This was not effective because there was no control on movement of deer. In short, these methods were very ineffective. In 1981, the author purchased a full bodied deer form with hopes of mounting a deer and using the mounted deer as a decoy. Due to questions about the legality of this process, the full-bodied mounted deer was not used until late winter of 1983. In 1983, we had a short mast crop and the deer heavily used the field. From 1978 through 1983, the Tennessee deer kill increased from 19,056 to 42,176, an increase of 121%. Road hunters were having a field day with so many deer using the fields. Tennessee landowners became very vocal and frustrated by TWRA's inability to stop road hunting. The wildlife officer was spending much of his time answering landowner complaints about road hunting with very little success. Road hunting had become an epidemic with all segments of the population.

After talking with attorneys, judges and the State attorney general about the use of a decoy with regards to entrapment, the same opinion was rendered in all cases: it is not entrapment to provide the opportunity for someone to violate the law. The author decided to evaluate whether mounted deer used as a decoy helped to increase the identification and conviction of offenders. In 1983, the mounted deer was used 6 to 8 times in 2 counties in Tennessee and 21 cases were made. One group of 3 defendants were caught twice in the same day about 2 miles apart. It was a success as far as catching poachers violating the law by road hunting. The conviction rate in the courts was 100%.

At this point in time, no one in the TWRA knew what the news media would think of this process or what the public opinion would be. Even though it was an effective tool to catch the road hunter, public opinion and a positive news media report were necessary for the Agency to continue using the mounted deer. The print media had heard enough about road hunting to realize the magnitude of the problem. Nearly all their readers approved of the mounted deer. Landowners read of the Agency using this method to catch road hunters and started calling local wildlife officers wanting them to use it on their farms. In brief, the true deer hunter and landowner was in total support of this enforcement procedure.

Although it was used very briefly in 1983, it brought positive results on road hunting. The mounted deer was in the poacher's mind and stories were flying about the mechanical deer that walked and turned its head. There were many more stories of the mounted deer and all of these added to the effectiveness of using a decoy. Coupled with the support of the courts, people started to rethink about the idea of hunting from the road.

After the initial success the author had with the mounted deer and after the legal questions of entrapment were answered, most of the other areas wanted to use the mounted deer to help control their road hunting problem. With the need for several mounted deer across the state, the chief of law enforcement, Bob Harmon, realized how this tool could be lost without proper guidelines and restrictions being placed on its use. In October 1984, the following guidelines were issued:

- (1) The deer may be used only in areas with serious road hunting problems.
- (2) The area used will be rural road, not a heavily traveled gravel or blacktop main road.
- (3) The deer will not be placed at an intersection or cross roads.
- (4) Because of safety liability, the area used will have a dirt bank or an adequate back stop to stop any bullets.
- (5) The deer will only be used with the supervisor's approval.
- (6) The deer will be placed in fence row or partially hidden by bushes or brush so a person who is traveling the road and not road hunting will, in all probability, not see it.
- (7) The deer will not be a trophy buck but only a spike, small four-pointer, or doe.
- (8) The general sessions judge and the attorney general must have been thoroughly advised of this policy and in agreement with it prior to use of the mounted deer.

Strict compliance of these guidelines were expected in order to avoid any adverse publicity or a court ruling of entrapment. This policy does not permit the use of a mounted deer for violations of hunting deer during a closed season but for hunting from a vehicle and/or shooting from a public road.

In fall 1984, the mounted deer was used very sparingly and in only a few counties in Tennessee (primarily west Tennessee). According to our prosecution records and activity reports, the mounted deer was used 10 times with 18 citations being issued during the 1984-85 statewide open deer season. In the 1985-86 statewide open deer season, the mounted deer was used in nearly all areas of the state. Our records show it was used 40 times with 58 citations issued. In the 1986-87 statewide open deer season, the mounted deer was used 93 times and 88 citations were issued.

Although the number of times the mounted deer was used continued to increase, the number of violations continued to go down.

Some areas in Tennessee used the mounted deer for the first time in the 1986-87 deer season. In those areas, the road hunter had not been exposed to the mounted deer and they shot the decoy deer readily. As the use of the mounted deer increases, and the hunter becomes aware that it is being used, the road hunting violations decrease and landowners complaints show a marked decrease.

In the area where the decoy deer was first used in 1983 (6 to 8 times), 21 cases were made. In the same area during the 1986-87 open deer season the decoy was used 6 times and only 1 citation issued. On opening day of the statewide deer season no road hunting complaints were reported to the local wildlife officers.

There is no doubt that the decoy deer is the most effective tool the local wildlife officer has for enforcing road hunting laws. In a 4 year period, the attitude of all segments of the hunting public has changed. The 90% of the public that tries to abide by the law anyway does not shoot from the roadway or from a motor vehicle anymore. The 10% that is going to violate will continue to violate, but he now has to worry about one more tool that is very effective in controlling the poacher.

It is our belief the road hunting kill now has dropped to an immeasurable level. Using our best estimates and personal contacts with landowners as a gauge, we have a road hunting kill of less than 1% of our total kill. Tennessee deer kill on the statewide open season for the 1986-87 season was 76,950 deer.

It is now apparent that the decoy deer works in controlling the road hunting problem. A decoy deer can be prepared for under \$200.