

**Testimony on SB 112 relating to KDWPT Citations
To
The Senate Committee on Judiciary**

**By Christopher Tymeson
Chief Legal Counsel
Kansas Department of Wildlife, Parks, and Tourism**

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SB 112 seeks to amend K.S.A. 32-1049 relating to citations. **The Department requested introduction of the bill.** The provisions of the bill would be effective upon publication in the statute book.

Quite simply, the bill changes requirements related to issuance of a citation from *shall* to *may* and strikes a subsection related to official misconduct in office. While the Department believes that county and district attorneys have the inherent authority to charge an individual with a KDWPT violation, at least one court has ruled otherwise and dismissed charges against an individual that was not issued a citation but was charged by the county attorney. There is a parallel traffic statute, K.S.A. 8-2106, that makes the issuance of a citation permissive.

The second change requested is to strike (f), which also has a parallel subsection in K.S.A. 8-2106. It seems a bit egregious to declare an officer guilty of misconduct and removal from office for a potential mistake and if the officer's actions were intentional, they could be terminated under the civil service act and potentially charged with a crime. If the committee accepts the proposed change, the Department would encourage changing the parallel traffic citation statute.

The Department appreciates the opportunity to address the Committee and requests favorable passage of the bill.