

**Testimony on HB 2341 relating to Disposition of Illegally Taken Wildlife
To
The Senate Committee Natural Resources**

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HB 2341 seeks to require the Department to offer unlawfully taken wildlife to the landowner or tenant where it was unlawfully taken. **The Department is opposed on the provisions contained in the bill.** The provisions of the bill would be effective upon publication in the statute book.

The foundation of fish and wildlife management in North America is based on 7 guiding principles. The first and foundational principle is the public trust of wildlife, which means wildlife is managed in trust by wildlife agencies for the good of all, a principle that has stood the test of time since the 1800's. Wildlife is only reduced to personal possession through the lawful take of that wildlife through a system of hunting and fishing laws that are developed through a public process. Unlawfully taken wildlife remains public property. Wildlife is not privately owned, although it may reside on private property. The European model of wildlife management is that wildlife is owned by the landowner, a model that our forefathers specifically sought to change when coming to North America.

The Department has many concerns about HB 2341. First and foremost, it is contrary to the long-standing history of wildlife management in Kansas and across North America. Second, the law passed last session has just gone through its second hunting season and many of the cases are just now being processed through the judicial system. The system has hardly been given any time to work. Finally, the retroactive provisions have no time limitation and essentially would require the Department to retain antlers from the ten year time period in perpetuity in the off chance someone might request the antlers.

The same case that prompted the last three years of discussion and ultimate legislation is once again the impetus behind HB2341. Last session, we chose to discuss the only philosophy of the proposed legislation rather than talk about the legislation as it related to a particular case. But since the Kent deer is apparently what is driving the discussion again this year, we will present the facts of the Kent case. Attached to our testimony is a report from KDWPPT Officer, Lynn Koch, the statement KDWPPT law enforcement personnel took from Mr. Kent, a map showing the location Officer Koch collected the headless carcass from November 11, 2011, and ownership maps of Osage County in the area of the incident.

As you will see, what the Legislature was led to believe last session, are not the facts of the case. The legislation was passed last session because of a perceived injustice to a landowner. What we argued then was the injustice was done to the Kansas public not any one individual.

To remind the committee, the authors of last session's legislation proposed to change the statute that dealt with who owned the wildlife of Kansas. In an attempt to more appropriately help the legislature accomplish what they were trying to do, KDWPT proposed putting language in the statute that dealt with how the department can dispose of seized and forfeited property. It is important to understand why the statute was written in its original form. Government agencies are required to have transparency and a public process for practically everything we do. Disposal of confiscated items is no different. As is becoming obvious in some people's minds, animal parts (antlers) can be a thing of great value. The statute as it is currently written, and to a greater degree HB2341, creates challenges for the Department. To avoid any appearance of impropriety, the disposal of those items should be an open public venue. With the change last session, it no longer has to be an open public process. The transparency will come after the fact when someone questions our actions and we are called to account for those actions. That is why I set out to learn the facts of this particular case and you have everything that I found that relates to the Kent deer.

The Department appreciates the opportunity to address the Committee on the bill and the support of the Committee in opposing the bill.