

SENATE BILL No. 59

AN ACT concerning wildlife; creating the wildlife violator compact.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The wildlife violator compact is enacted into law and entered into by the State of Kansas with any and all jurisdictions legally joining therein in accordance with its terms. The compact is substantially as follows:

ARTICLE I

FINDINGS, DECLARATION OF POLICY, AND PURPOSE

(a) The party states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those resources.

(3) The preservation, protection, management, and restoration of wildlife contribute immeasurably to the aesthetic, recreational, and economic aspects of these natural resources.

(4) Wildlife resources are valuable without regard to political boundaries, therefore, all persons should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communications among the various states.

(7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:

(i) Must post collateral or bond to secure appearance for a trial at a later date; or

(ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices described in paragraph (7) of this subsection is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.

(10) The practice described in paragraph (7) of this subsection causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

(11) The enforcement practices described in paragraph (7) of this subsection consume an undue amount of law enforcement time.

(b) It is the policy of the party states to:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges or rights of any person whose license privileges or rights have been suspended by a party state and treat this suspension as if it had occurred in their state.

(3) Allow violators to accept a wildlife citation, except as provided in subsection (b) of article III, and proceed on the violator's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate party state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subsection (b) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

ARTICLE II DEFINITIONS

Unless the context requires otherwise, the definitions in this article apply through this compact and are intended only for the implementation of this compact:

(a) "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(d) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including magistrate's court and the justice of the peace court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the party state which issues a wildlife citation to the violator.

(h) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a party state.

(i) "Licensing authority" means the Kansas department of wildlife and parks or the department within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Party state" means any state which enacts legislation to become a member of this wildlife compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.

(l) "State" means any state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

(m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges or rights, including the privilege or right to apply for, purchase, or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals, including but not neces-

sarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as “wildlife” and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party state. “Wildlife” also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Species included in the definition of “wildlife” vary from state to state and determination of whether a species is “wildlife” for the purposes of this compact shall be based on local law.

(p) “Wildlife law” means any statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

(q) “Wildlife officer” means any individual authorized by a party state to issue a citation for a wildlife violation.

(r) “Wildlife violation” means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

ARTICLE III PROCEDURES FOR ISSUING STATE

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subsection (b) of this article, if the officer receives the person’s personal recognizance that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable:

(1) If not prohibited by local law or the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation; and

(2) If the violator provides adequate proof of the violator’s identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate court or official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance required by subsection (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content as contained in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation.

ARTICLE IV PROCEDURES FOR HOME STATE

(a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state’s suspension procedures and shall suspend the violator’s license or permit privileges or rights until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction resulting in the suspension or revocation of the violator’s license or permit privileges or rights from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license or permit privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation.

ARTICLE V
RECIPROCAL RECOGNITION OF SUSPENSION

All party states shall recognize the suspension of license or permit privileges or rights of any person by any party state as if the violation on which the suspension is based had in fact occurred in their state and would have been the basis for suspension of license or permit privileges or rights in their state.

ARTICLE VI
APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license or permit privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

ARTICLE VII
COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board of compact administrators shall be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each party state, or his or her designee, and will serve and be subject to removal in accordance with the laws of the state the administrator represents. A compact administrator may provide for the discharge of the administrator's duties and the performance of the administrator's functions as a board of compact administrators member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board of compact administrators.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board of compact administrators shall be binding unless taken at a meeting at which a majority of the total number of votes on the board of compact administrators is cast in favor thereof. Action by the board of compact administrators shall be only at a meeting at which a majority of the party states are represented.

(c) The board of compact administrators shall elect annually, from its membership, a chairperson and vice-chairperson.

(d) The board of compact administrators shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board of compact administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(f) The board of compact administrators may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(g) The board of compact administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board of compact administrators' action shall be contained in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation.

ARTICLE VIII
ENTRY INTO COMPACT AND WITHDRAWAL

(a) This compact shall become effective when it has been adopted by at least two states.

(b)(1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board of compact administrators.

(2) The resolution shall be in a form and content as provided in the

compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation and shall include statements that in substance are as follows:

(i) A citation of the authority by which the state is empowered to become a party to this compact;

(ii) Agreement to comply with the terms and provisions of the compact; and

(iii) That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than 60 days after notice has been given by the chairperson of the board of compact administrators or by the secretariat of the board of compact administrators to each party state that the resolution from the applying state has been received.

(c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

ARTICLE IX

AMENDMENTS TO THE COMPACT

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one or more party states.

(b) Adoption of an amendment shall require endorsement by all party states and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a party state to respond to the compact chairperson within 120 days after receipt of the proposed amendment shall constitute endorsement.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the remainder of the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XI

TITLE

This compact shall be known as the wildlife violator compact.

Sec. 2. The secretary of the Kansas department of wildlife and parks shall make and publish such rules and regulations, not inconsistent with law, as deemed necessary to carry out the purposes of the wildlife violator compact.

Sec. 3. It shall be unlawful for any person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife, having been suspended or revoked pursuant to the wildlife violator compact, to exercise that right or privilege within this state or to purchase or possess such a license which grants such right or privilege.

(a) Any person who knowingly hunts, fishes, traps, possesses, or transports any wildlife, or attempts to do any of the same, within this state in violation of such suspension or revocation pursuant to the wildlife violator compact shall be guilty of a class A nonperson misdemeanor and sentenced to the following:

(1) A fine of not less than \$1,500 nor more than \$5,000; and

(2) any privilege or right to hunt, fish, trap or otherwise take, possess or transport any wildlife in this state, or purchase or possess any license, permit, stamp or other issue of the Kansas department of wildlife and parks shall be forfeited or suspended for a period of not less than two years nor more than five years in addition to and consecutive to the original revocation or suspension set forth by the provisions of the compact;

(3) the sentencing judge may impose other sanctions pursuant to K.S.A. 21-4502 and 21-4603d, and amendments thereto.

(b) Any person who knowingly purchases or possesses, or attempts to purchase or possess, a license to hunt, fish, trap, possess or transport wildlife in this state in violation of such suspension or revocation pursuant to the wildlife violator compact shall be guilty of a class A nonperson misdemeanor and sentenced to the following:

(1) A fine of not less than \$750 nor more than \$2,500; and

(2) any privilege or right to hunt, fish, trap or otherwise take, possess or transport any wildlife in this state, or purchase or possess any license, permit, stamp or other issue of the Kansas department of wildlife and parks shall be forfeited or suspended for a period of not less than two years in addition to and consecutive to the original revocation or suspension set forth by the provisions of the compact;

(3) the sentencing judge may impose other sanctions pursuant to K.S.A. 21-4502 and 21-4603d, and amendments thereto.

Sec. 4. As used in the compact, the term “licensing authority,” with reference to this state, means the Kansas department of wildlife and parks. The secretary of the Kansas department of wildlife and parks shall furnish to the appropriate authorities of party states any information or documents reasonably necessary to facilitate the administration of the compact.

Sec. 5. The compact administrator provided for in article VII of the wildlife violator compact shall not be entitled to any additional compensation for service as the administrator but shall be entitled to expenses incurred in connection with the duties and responsibilities of the administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of such office or employment.

Sec. 6. The secretary of the Kansas department of wildlife and parks shall appoint the director or head administrator of the department’s law enforcement division or section to serve on the board of compact administrators as the compact administrator for this state as required by section 1 subsection (a) of article VII of the wildlife violator compact.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.