

Approved _____

2-4-86
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Senator Werts at
Chairperson

8:00 a.m. ~~p.m.~~ on January 28, 1986 in room 123-S of the Capitol.

All members were present except:

Senator Feleciano - Excused

Committee staff present:

Ramon Powers - Research
Don Hayward - Revisor
Nancy Jones - Secretary

Conferees appearing before the committee:

Bill Hanzlick, Director, Kansas Fish & Game Commission

A motion was made by Senator Gordon, seconded by Senator Kerr that minutes of the meetings of January 22 and 23, 1986 be approved. Motion carried.

Chairman Werts introduced Bill Hanzlick who reviewed four bills which the Fish & Game Commission request be introduced by the committee.

Mr. Hanzlick stated the most important consideration concerns the big game permit system. The Commission requests granting of authority to be more liberal with landowners/tenants relating to issuance of permits. The current ratio of distribution of big game licenses is equal between landowners and residents. The Commission wants to increase the ratio of licenses sold to landowners so that all who apply are provided a permit and also permits issued to non-resident landowners. The Commission is requesting issuance of licenses to allow the harvest of big game when "severe degradation" occurs during harsh winters, rather than wasting the animals. A further consideration should be given to lowering the age for obtaining a license from 16 to 14, as long as the Hunter Safety Course has been passed. During discussion Mr. Hanzlick was asked to provide statistics on the number of resident landowners denied licenses versus non-resident landowners receiving licenses. Mr. Hanzlick agreed to have this information available to the Committee when there is a hearing on the bill. (Attachment A)

A motion to make the effective date January 1, 1987 and to introduce the bill as amended was made by Senator Vidricksen, seconded by Senator Hayden. Motion carried.

The second bill discussed by Mr. Hanzlick related to regulation of watercraft and refinement of the definition of a vessel. Senator Hayden informed the Committee no boating problems have been reported on the Cimmarron river for at least five years, since there has been a lack of water in the river.

Motion was made to introduce the bill by Senator Gordon, seconded by Senator Vidricksen. Motion carried. (Attachment B)

The third proposal by Mr. Hanzlick concerns providing a method by which the Fish & Game Commission can assume a major role in the bonding of license and permit agents. (Attachment C)

Senator Hayden made the motion to introduce the bill, seconded by Senator Thiessen. Motion carried.

The final proposal given by Mr. Hanzlick concerns the issuing of a citation in the field for violation of the fish and game laws. Motion was made by Senator Langworthy to introduce the bill, seconded by Senator Vidricksen. Motion carried. (Attachment D)

Meeting was adjourned. The next meeting will be January 30, 1986.

Guest List

1-28-86

Bill Hanzlick
DARRELL MONTEI
Rich McKee

KS Fish. & Game
" " "
K.L.A.

PRATT
"
Topeka

Proposed

BILL NO. _____

By _____

AN ACT concerning fish and game; relating to the hunting of certain animals; amending K.S.A. 32-110a and 32-173 and K.S.A. 1985 Supp. 32-173 and repealing the existing sections; also repealing K.S.A. 32-177.

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

Section 1. K.S.A. 32-110a is hereby amended to read as follows: 32-110a. Deer, elk and antelope and wild turkey are hereby declared to be big game animals in the state of Kansas and it shall be unlawful for any person to pursue, hunt, kill, take or attempt to take any deer, elk or antelope big game in the state unless such person or persons each is the legal holder of a valid state hunting license and a valid big game permit for hunting, killing or taking, issued pursuant to rules and regulations adopted by the fish and game commission in the manner and for the fee provided in this act. Further, it shall be unlawful for any person or persons in the state to pursue, hunt, kill, take or attempt to take, or possess dead or alive, any deer, elk or antelope, big game at any time or by any means or manner or in any number unless and except as permitted by regulations made and adopted by the fish and game commission in the manner as provided and authorized by K.S.A. 32-164, and amendments thereto. Separate big game permits shall be required for deer, elk, antelope and wild turkey and shall be issued pursuant to rules and regulations adopted by the fish and game commission in the manner prescribed by K.S.A. 32-164, and amendments thereto. This act shall not apply to deer, elk or antelope big game reared or possessed by a licensed game breeder, surplus property disposal sales conducted for fish and game commission exhibit herds or to such animals legally killed

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outside the state of Kansas. A person exempt by law from having a hunting license shall not be required to possess such license for pursuing, hunting, killing, taking or attempting to take big game.

Sec. 2. K.S.A. 32-178 is hereby amended to read as follows: 32-178. ~~The fish and game commission.~~ After giving consideration to the number of ~~deer, elk, antelope and wild turkey~~ big game in the state and the conditions affecting the same and after determining that the same may be taken in limited numbers without jeopardizing the future supply, ~~may by regulation~~ the fish and game commission, by adoption of rules and regulations, may open a season, in the state of Kansas or in any part or area of the state designated by counties or by federal or state highways or by major streams or federal impairments, for the pursuing, hunting and, killing, attempting to take and taking of deer, elk, antelope and wild turkey big game. The commission shall establish, by ~~regulation~~ adoption of rules and regulations, the legal means and manner for the taking of ~~deer, elk, antelope and wild turkey,~~ big game and the number of the same which ~~can~~ may be legally taken and possessed, and shall limit by regulation and permit the ~~number of persons who are privileged to pursue, hunt and take~~ taking of such big game in any area opened to such hunting.

Sec. 3. K.S.A. 1985 Supp. 32-179 is hereby amended to read as follows: 32-179. (a) When used in this act:

(1) "landowner" means a resident or nonresident owner of farm or ranch land of 80 acres or more located in the state of Kansas;

(2) "tenant" means a resident of this state who manages or operates farm or ranch land of 80 acres or more for agricultural purposes located in the state of Kansas;

(3) "regular season" means a statewide big game hunting season authorized annually which may include one or more seasons restricted to specific types of equipment;

(4) "special season" means a big game hunting season in

addition to a regular season authorized on an irregular basis or at different times of the year other than regular season:

(f) "general permit" means a big game hunting permit available to Kansas residents not applying for big game permits on a regular or special.

(g) The Kansas fish and game commission is hereby authorized to issue through the office of director of the commission at Pratt, Kansas, special permits and game tags pertaining to the hunting, taking and possessing of ~~deer, elk, antelope and wild turkey~~ big game. Such permits and game tags shall not be issued until the commission has established ~~an open~~ a regular or special big game hunting season and then only in such number as the commission deems advisable considering the number of game and the conditions affecting the same.

~~A resident owner or tenant of farm lands as used within this section means one who owns, manages or operates farm or ranch land of 50 acres or more. Fifty percent of such permits and game tags authorized to be issued by the commission shall be issued to resident owners and resident tenants of farm lands within specific management units or zones and the remaining 50% shall be issued to residents of this state who have not applied for a landowner-tenant permit. If such resident owners and resident tenants do not apply for the full number of such permits and game tags allotted to them, these not applied for shall be added to the 50% which are to be issued to residents of this state who have not applied for a landowner-tenant permit. A resident owner~~
Fifty percent of the permits authorized for a regular season shall be issued to landowners or tenants and the balance shall be issued as general permits. Big game permit application procedures shall be established by rule and regulation of the commission. Permits not issued to applicants within the time period prescribed by rule and regulation may be issued without regard to the 50% limitation. The commission may authorize additional permits for landowners or tenants who were unsuccessful in obtaining a regular season permit after timely

application. Such permits and applications herefor may contain additional restrictions as prescribed by the commission. The commission may establish special seasons in addition to the regular seasons and permits may be issued without any percentage limitation. A landowner or tenant of farm-lands is not eligible to apply for a ~~landowner-tenant-permit~~ big game permit as a landowner or as a tenant in a management unit or zone other than that which includes such owner's landowner's or tenant's land and may ~~only apply for a general resident permit~~. Members of the immediate family who ~~reside~~ are domiciled with a landowner or tenant may apply for a ~~landowner-tenant-permit-only-see-permit~~ big game hunting permit as a landowner or as a tenant. The total number of permits issued to a landowner or tenant and a landowner's or tenant's immediate family shall not exceed one permit for each 80 acres owned, managed or operated by such landowner or tenant.

The commission may require proof of ownership or tenancy from persons applying for ~~landowner-tenancy-permits~~ a big game permit as a landowner or tenant. The commission may adopt rules and regulations for each management unit or zone regarding the procedures for issuance of ~~deer~~ big game permits. The commission shall not issue any ~~wild-turkey-permit-or-any-archery-deer-eik~~ er-antelope big game permit to any person who has not attained the age of 14 years on or before the opening day of such season. ~~The-commission-shall-not-issue-any-firearm-deer-eik-er-antelope permit-to-any-person-who-has-not-attained-the-age-of-16-years-on or-before-the-opening-day-of-such-season-A-separate-permit-shall be-required-for-the-hunting-and-taking-of-deer-eik-antelope-or wild-turkey-~~

The fee for each ~~such~~ big game permit shall be as prescribed by rule and regulation adopted under K.S.A. 32-164b, and amendments thereto, ~~for all resident permittees~~. In prescribing the fee for firearm or archery ~~deer-eik-er-antelope~~ big game permits, the commission shall prescribe a lesser amount for ~~landowner-tenant~~ permits than that are prescribed for general

~~resident~~ permits issued to residents. The fees prescribed for ~~landowner-tenant~~ firearm permits issued to landowners or tenants shall be the same as the fees for ~~landowner-tenant~~ archery permits issued to landowners or tenants. The commission may charge a fee as prescribed by rule and regulation adopted under K.S.A. 32-164b, and amendments thereto, for issuance of duplicate permits, tags or ~~report~~ informational cards upon substantiated proof of loss.

The permit shall state the species, number and sex of ~~deer~~ elk, antelope or wild turkey the big game which may be killed by the permittee. The permit must be in possession of the permittee while hunting; and the same must be shown to any ~~sheriff-deputy~~ sheriff or state game protector officer authorized to enforce fish and game laws upon demand. The director ~~shall~~ may furnish an informational card with each any big game permit, and at the conclusion of the open season each permittee receiving such and shall return the ~~informational~~ card to the office of the director of the Kansas fish and game commission, Pratt, Kansas, giving such information as is called for on the card. ~~Should any permittee fail to return the informational card as requested, the permittee will not be eligible to secure such hunting permit the following open season.~~

The permittee shall permanently affix the game tag to the carcass of any ~~such~~ big game immediately after killing and thereafter, if required by rules and regulations adopted by the Kansas fish and game commission, the permittee shall immediately take such killed game to a check station designated as may be required in the regulation where a check station tag shall be affixed to the game carcass if the kill is legal. The tag shall remain affixed until the carcass is consumed or processed for storage. It shall be unlawful for any person to possess a carcass of ~~a deer, elk, antelope or wild turkey~~ big game animal, taken in Kansas, without a game tag issued by the commission attached to the same and without a check station tag attached to the same if required ~~and provided~~ by the commission. The permittee shall

make the big game carcass available for inspection by any officer authorized to enforce fish and game laws upon demand.

The form and contents of the permits and tags shall be determined by the director ~~and shall be issued only to persons holding valid state hunting licenses.~~ The permits and tags issued shall expire on December 31 following date of issuance and all moneys received by the office of director from the same shall be forwarded quarterly to the state treasurer at Topeka, Kansas, for ~~credit to the~~ deposit in the forestry, fish and game commission fee fund.

It shall be unlawful for any person to hunt deer ~~in~~ in Kansas during a any firearms season for the taking of such deer, without and unless such person is wearing a hat of ~~red or~~ orange color and on the upper half of such person's body a minimum of 200 square inches of ~~red or~~ orange color, ~~a portion of which is~~ visible from both front and at least 100 square inches of which shall be visible from the front and at least 100 square inches of which shall be visible from the back.

Sec. 4. K.S.A. 32-110a, 32-177 and 32-178 and K.S.A. 1985 Supp. 32-179 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Proposed

BILL NO. _____

By _____

AN ACT concerning waters; relating to the regulation of watercraft; amending K.S.A. 82a-802 and repealing the existing section.

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

Section 1. K.S.A. 82a-802 is hereby amended to read as follows: 82a-802. As used in this act, unless the context clearly requires a different meaning:

(a) "Vessel" means ~~every description of watercraft other than a seaplane on the water, used or capable of being used as a means of transportation on~~ any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a hull for navigation on the water.

(b) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

(c) "Owner" means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement, and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(d) "Waters of this state" means any waters within the territorial limits of this state.

(e) "Person" means an individual, partnership, firm, corporation, association, or other entity.

(f) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(g) "Commission" means the Kansas fish and game commission.

(h) "Length" means the length of the vessel measured from

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end to end over the deck excluding sheer.

(i) "Operator" means the person who operates or has charge of the navigation or use of a motorboat or a vessel.

(j) "Undocumented vessel" means a vessel which is not required to have, and does not have, a valid marine document issued by the United States coast guard or federal agency successor thereto.

(k) "Reportable boating accident" means an accident, collision, or other casualty involving a vessel subject to this act which results in loss of life, injury sufficient to require first aid or medical attention, or actual physical damage to property including a vessel in excess of \$100.

(l) "Marine sewage" means any substance that contains any of the waste products or excrementations or other discharges from the bodies of human beings or animals, or foodstuffs or materials associated with foodstuffs intended for human consumption.

(m) "Marine toilet" means any latrine, head lavatory or toilet intended to receive marine sewage and which is located on or in any vessel.

(n) "Passenger" means any individual who pays, directly or indirectly, a fee or other valuable consideration to the owner or operator of a vessel, or to a representative of such owner or operator, for the purpose of obtaining passage or of being carried upon such vessel.

Sec. 2. K.S.A. 82a-802 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Referred
BILL NO. _____

By _____

AN ACT concerning fish and game; relating to agents appointed to issue licenses and permits; amending K.S.A. 1985 Supp. 19-328 and repealing the existing section.

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

Section 1. K.S.A. 1985 Supp. 19-328 is hereby amended to read as follows: 19-328. The Kansas fish and game commission or the county clerk of any county in this state may appoint such number of persons deemed necessary to serve the convenience of applicants for licenses and any permit provided under K.S.A. 32-169, and amendments thereto, and may authorize such persons to issue licenses or permits to both residents and nonresidents of the state upon the payment of fees prescribed by K.S.A. 74-104a, and amendments thereto. Any person appointed may purchase the licenses and permits for cash from the clerk, if appointed by the clerk, or from the Kansas fish and game commission, if appointed by the commission, or in lieu thereof, such person shall be required to execute a separate special safety bond to the state of Kansas conditioned to the payment of all license moneys received from the sale of licenses and permits and to pay the maximum value for all licenses and permits not settled for and not returned to the county clerk or Kansas fish and game commission appointing such person. The bond shall be in an amount prescribed by the commission and the fee for which shall be prescribed by the commission and paid to the commission and such fee shall be deposited in the manner prescribed by K.S.A. 74-3304, and amendments thereto. The bond shall be in an amount to be fixed by the county clerk, if appointed by the clerk, or in an amount fixed by the Kansas fish and game commission, if appointed by the commission, but such amount shall not be less

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than the maximum amount which can be realized from the sale of the licenses and permits in such person's possession. The bonds shall be filed in the office of the county treasurer, if the person is appointed by the county clerk, or in the office of the Kansas fish and game commission, if the person is appointed by the commission. Except as provided herein, the Kansas fish and game commission shall charge and retain a service charge fee of not to exceed \$5.50 for each license or permit sold under this section, and shall dispose of all such moneys as provided in K.S.A. 74-3304, and amendments thereto. The commission shall not charge such fee for each license and permit issued or sold to persons appointed by the commission to sell the same.

Any person so appointed electing to file a bond, upon the execution and filing of the required bond, shall be the agent of the county clerk, if appointed by the clerk, or of the Kansas fish and game commission, if appointed by the commission, for the issuance of licenses and permits in the county, if appointed by a county clerk, or approved place of business, if appointed by the Kansas fish and game commission, during such time as the bond is effective until the appointment expires or is revoked. Persons electing not to file a bond shall become agents immediately upon their appointment. In addition to the license and permit moneys to be collected by the appointed agents, the agents may collect a service charge fee of not to exceed \$5.50 for each license and permit issued or sold, which fee may be retained by the agent for services in connection with the issuing or selling of the licenses and permits. The agent shall receive no additional compensation from the county clerk or the Kansas fish and game commission for such services. No agent appointed pursuant to this section shall offer for sale a license or permit for an amount less than the fee prescribed for such license or permit by rule and regulation of the Kansas fish and game commission adopted pursuant to K.S.A. 32-164b, and amendments thereto.

All license and permit fees collected by the bonded agent shall be paid to the county clerk, if the agent is appointed by

the county clerk, or to the Kansas fish and game commission, if the agent is appointed by the commission, at such times and places as the clerk or commission, as appropriate, designates, but settlement shall be made at least three days before the expiration date of the licenses and permits in the possession of the agent. All unsold licenses and permits shall be returned to the clerk, if the agent is appointed by the county clerk, or to the Kansas fish and game commission, if the agent is appointed by the commission. Upon receipt of such license or permit fees by the county clerk, the clerk shall remit the entire amount thereof to the county treasurer in the manner provided in K.S.A. 32-104c, and amendments thereto, and such fees shall be disposed of in the manner provided for in K.S.A. 32-104c, and amendments thereto. Upon receipt of such license and permit fees by the Kansas fish and game commission, the fees shall be disposed of as provided in K.S.A. 74-3304, and amendments thereto.

Sec. 2. K.S.A. 1985 Supp. 19-323 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Proposed
BILL NO. _____

By _____

AN ACT concerning criminal procedure relating to violations of fish and game laws; amending K.S.A. 22-155a and K.S.A. 1985 Supp. 22-2202 and repealing the existing sections.

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

Section 1. K.S.A. 1985 Supp. 22-2202 is hereby amended to read as follows: 22-2202. (1) "Appellate court" means the supreme court or court of appeals, depending on the context in which the term is used and the respective jurisdiction of those courts over appeals in criminal cases, as provided in K.S.A. 22-3001 and amendments thereto.

(2) "Appearance bond" means an agreement, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions specified in the agreement.

(3) "Arraignment" means the formal act of calling the defendant before a court having jurisdiction to impose sentence for the offense charged, informing the defendant of the offense with which the defendant is charged, and asking the defendant whether the defendant is guilty or not guilty.

(4) "Arrest" means the taking of a person into custody in order that the person may be forthcoming to answer for the commission of a crime. The giving of a notice to appear is not an arrest.

(5) "Bail" means the security given for the purpose of insuring compliance with the terms of an appearance bond.

(6) "Bind over" means require a defendant to appear and answer before a district judge or associate district judge having jurisdiction to try the defendant for the felony with which the defendant is charged.

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(7) "Charge" means a written statement presented to a court accusing a person of the commission of a crime and includes a complaint, information or indictment.

(8) "Complaint" means a written statement under oath of the essential facts constituting a crime, except that a complaint issued by a law enforcement officer pursuant to and in compliance with K.S.A. 8-2100 and amendments thereto and a notice to appear issued pursuant to and in compliance with K.S.A. 32-125a and amendments thereto shall be deemed a valid complaint if it is signed by the law enforcement officer.

(9) "Custody" means the restraint of a person pursuant to an arrest or the order of a court or magistrate.

(10) "Detention" means the temporary restraint of a person by a law enforcement officer.

(11) "Indictment" means a written statement, presented by a grand jury to a court, which charges the commission of a crime.

(12) "Information" means a verified written statement signed by a county attorney or other authorized representative of the state of Kansas presented to a court, which charges the commission of a crime. An information verified upon information and belief by the county attorney or other authorized representative of the state of Kansas shall be sufficient.

(13) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes court services officers, parole officers and directors, security personnel and keepers of correctional institutions, jails or other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority.

(14) "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a crime and

includes justices of the supreme court, judges of the court of appeals and judges of district courts.

(15) "Notice to appear" means a written request, issued by a law enforcement officer, that a person appear before a designated court at a stated time and place.

(16) "Preliminary examination" means a hearing before a magistrate on a complaint or information to determine if a felony has been committed and if there is probable cause to believe that the person charged committed it.

(17) "Prosecuting attorney" means any attorney who is authorized by law to appear for and on behalf of the state of Kansas in a criminal case, and includes the attorney general, an assistant attorney general, the county or district attorney, an assistant county or district attorney and any special prosecutor whose appearance is approved by the court. In the case of prosecution for violation of a city ordinance, also "prosecuting attorney" means the city attorney or any assistant city attorney.

(18) "Search warrant" means a written order made by a magistrate directed to a law enforcement officer commanding the officer to search the premises described in the search warrant and to seize property described or identified in the search warrant.

(19) "Summons" means a written order issued by a magistrate directing that a person appear before a designated court at a stated time and place and answer to a charge pending against the person.

(20) "Warrant" means a written order made by a magistrate directed to any law enforcement officer commanding the officer to arrest the person named or described in the warrant.

Sec. 2. K.S.A. 32-155a is hereby amended to read as follows: 32-155a. (a) Whenever a person is charged ~~by~~ ~~either~~ ~~of~~ ~~the~~ ~~Kansas~~ ~~forestry~~ ~~fish~~ ~~and~~ ~~game~~ ~~commission~~ for any violation of any of the ~~forestry~~ fish and game laws of this state or the provisions of article 8 of chapter 82a of the Kansas Statutes Annotated or rules and regulations adopted by the Kansas

fish and game commission punishable as a misdemeanor and is not immediately taken before a judge of the district court as required or permitted pursuant to K.S.A. 32-155 and 32a-217, and amendments thereto, the officer shall prepare a written citation containing a notice to appear in court, the name and address of the person, the offense charged, the time and place when and where the person shall appear in court and such other pertinent information as may be necessary.

(b) The time specified in the citation must be at least five ~~to~~ days after the alleged violation unless the person charged with the violation shall demand an earlier hearing.

(c) The place specified in the citation must be before a judge of the district court within the county in which the offense is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the alleged violation occurred.

(d) The person charged with the violation may give ~~his or~~ her a written promise to appear in court by signing at least one copy of the written citation prepared by the officer, in which event the officer shall deliver a copy of the citation to the person, and thereupon the officer shall not take the person into physical custody for the violation.

(e) Any officer violating any provisions of this section is guilty of misconduct in office and shall be subject to removal from office.

(f) In the event the form of citation provided for in this section includes information required by law and is signed by the officer preparing the same, then such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under this act.

Sec. 3. K.S.A. 32-155a and K.S.A. 1985 Supp. 22-2202 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.