

Approved February 23, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at
Chairperson

3:30 ~~xxx~~ p.m. on February 18, 1988 in room 526-S of the Capitol.

All members were present except:

Representative Freeman (excused) Representative Barr (excused)
Representative Charlton (excused) Representative Rezac (excused)
Representative Sifers (excused)

Committee staff present:

Laura Howard, Legislative Research
Paul West, Legislative Research
Betty Ellison, Committee Secretary

Conferees appearing before the committee:

Robert L. Meinen, Secretary, Department of Wildlife and Parks
Dr. Gerald Tomanek, Chairman, Wildlife and Parks Commission, Hays
Ronald A. Vine, Kansas Wildlife and Parks Commission, Topeka
Kathy George, Kansas Wildlife and Parks Commission, Junction City
Edward Anderson, Kansas Wildlife and Parks Commission, Elkhart
Dr. William Browning, Kansas Wildlife and Parks Commission, Madison
William Anderson, Wildlife and Parks Commission, Fairway
Keith Sexson, Deer Project Leader, Department of Wildlife and Parks

Chairman Dennis Spaniol called the meeting to order, explaining that the purpose of this meeting was to allow the Secretary of Wildlife and Parks as well as members of the Wildlife and Parks Commission to answer questions of the committee.

Secretary Meinen distributed information which the committee had requested relative to the laws and regulations governing controlled shooting areas in Kansas. (Attachment 1) He introduced Dr. Gerald Tomanek, Chairman of the Wildlife and Parks Commission.

Dr. Tomanek introduced the commissioners in attendance, commenting that Commissioner Ronald Hopkins of Wichita was unable to attend because of illness. Commissioner Tomanek expressed a desire for the commission to work with the committee in an effort to improve and conserve the natural resources of the state, and also to improve the recreational opportunities in Kansas.

Dr. Tomanek's remarks were mostly relative to the deer hearings which the commission had held at five locations in the state-- Hays, Dodge City, Wichita, Chanute and Lawrence. More than 2,000 people, both sportsmen and farmers, attended these meetings. The information gathered at the meetings was pooled. Wildlife and Parks staff members were directed to research the most pertinent issues and make recommendations for appropriate action.

Some of the issues studied and the findings follow:

1. Setting a special deer season--no support.
2. Additional permits per person--support.
3. Lengthening of rifle season, opening on Wednesday, giving the landowner the opportunity to hunt before the large number of sportsmen begin on the week-end. This also would spread out the number of hunters, thus increasing the safety factor. Strong support.
4. Nonresident hunting license--no support.
5. Free landowner permits--very little support.
6. Considerable interest was shown in improving landowner--sportsmen relations.

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7. A strong desire to improve hunter ethics, and thus the quality of the hunt, was expressed.

Dr. Tomanek noted that the commission hoped to address and improve on all of the issues listed above.

Commissioner Ron Vine commented that the commission was looking forward to working with the farmers, landowners, hunters, sportsmen, individual citizens, the Governor and the Legislature on a vast number of interests related to natural resource management. The goal will continue to be to respect the opinions of individuals and organizations and to operate in an open forum.

Regarding the deer issue, Mr. Vine felt that the commission was in agreement with the Legislature that there was a deer population problem in certain areas of the state. There was agreement on the aspects of the second permit, the mid-week season opening, and that there are legitimate landowner-farmer concerns in specific areas of the state. The commission looked forward to working with the committee in finding solutions to the financial aspects involved.

Commissioner Kathy George noted that the commission was very pleased that the response from the pilot forums was not just from deer hunters, but from a vast constituency of people with many different interests related to the deer herds. The commission anticipates sharing reactions from the public with the committee in looking at other resource issues in the future.

Commissioner Ed Anderson commented that his home of Elkhart in the southwest corner of Kansas had a unique situation with deer. For the most part, the deer program has worked in western Kansas and he felt that it could also work in the eastern part of the state.

Commissioner Browning said that he was from Madison, the closest district to the deer problem area. He felt that the second permit and early opening of the season on Wednesday were the most popular ideas discussed. He felt that one of the most exciting things about the forums was the excellent relationships shown between the sportsmen and the landowners who attended.

Chairman Spaniol commented that Wildlife and Parks had received a great deal of input from hunters but no complete input from landowners. He felt that Wildlife and Parks needed to focus on the landowners' problems of damage due to the deer overpopulation.

Keith Sexson, Wildlife and Parks deer project leader, commented that in order to gain control of the deer population, the cooperation of deer hunters and landowners would be necessary. It was hoped to instill in the landowner the ability of hunting as a control mechanism and also to instill in the hunter the importance of private land as a hunting place. He felt that the population problems would continue to occur in the eastern third of the state, and there would be liberal permit quotas in those areas in 1988.

Responding to a question, Secretary Meinen said that money had been appropriated by the Legislature to the Corrections Department to relocate a building to the El Dorado honor campsite and to put the building into functional status and this has been accomplished. There also was an appropriation of \$64,000 of Wildlife and Parks money which was line-item vetoed by the Governor. That

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was to have been used to establish a game bird park. The veto message given by the Governor was that it was his intent for the Secretary of Corrections and the Secretary of Wildlife and Parks to work together on a proposal for the direction that the building should go. The two departments have met with the concurrence of the Governor toward development of a wildlife habitat center. It is believed that the habitat would continue to be a long-term economic development factor.

The Chair commented that since the legislature meets for only thirteen weeks, it would be imperative in the future to have the public meetings before the session begins. Since the committee had a number of other issues to address, it was important to proceed with House Bill 2729. While there were many different ideas on how to handle the deer overpopulation problem, there was agreement that action was not being taken too quickly.

Chairman Spaniol told the commission that the deadline for committee bill introduction was February 22, and the committee would try to introduce any bill that the commission should request.

There were no objections to the minutes of February 9, 10 and 11 and they were approved. The minutes of February 16 were distributed.

The meeting was adjourned at 4:10 p.m.

The next meeting of the House Energy and Natural Resources Committee will be held at 3:30 p.m. on February 22, 1988 in Room 526-S.

**LAWS AND REGULATIONS GOVERNING
CONTROLLED SHOOTING AREAS IN
KANSAS**

**KANSAS DEPARTMENT OF WILDLIFE & PARKS
WILDLIFE OPERATIONS
RR 2, BOX 54A
PRATT, KANSAS 67124**

316-672-5911

**ALAN WENTZ
ASSISTANT SECRETARY**

KANSAS STATUTES PERTAINING TO CONTROLLED SHOOTING AREAS

Following are the statutory laws governing controlled shooting areas in Kansas as established by the state legislature. Source references for these statutes are: Laws of 1955, Chapter 230, dated April 13; Laws of 1959, Chapter 192, dated June 30; Laws of 1961, Chapter 224, dated April 12; Laws of 1969.

Article 3.--PRIVATE GAME BIRD PRESERVES

32-311. Definitions. In this act, unless the context otherwise requires: "Person" includes individuals, copartnerships, associations, corporations, clubs, and firms. "Commission" means the state Forestry, Fish and Game Commission. "Game bird" means pheasant, quail, partridge, wild turkey, hand reared mallard duck, prairie chicken, grouse, exotic game bird, or any other bird hunted by sportsmen; "propagated" means and includes birds which are pen raised, birds raised from eggs purchased for purposes of raising said birds, chicks, and full-grown birds purchased to be released in the area, as well as birds hatched from eggs produced on the area. (L.1955, ch. 230, par. 1; April 13.)

32-312. Application for license; restrictions; fee. Any person owning, holding or controlling, by lease or otherwise, which possession must be for a term of five (5) or more years, any contiguous tract of land having an area of not less than three hundred twenty (320) acres, and not more than one thousand two hundred eighty (1,280) acres, who desires to establish a game bird breeding and controlled shooting area, to propagate, preserve and shoot game birds thereon under regulations as hereinafter provided, shall make application to the commission for a license to so do as herein provided, however, that where the game breeding and controlled shooting area is to be used exclusively for the propagation and shooting of hand reared mallard ducks the area licensed may be less than the three hundred twenty (320) acres required. Said application shall be made under oath of the applicant, his agent, or his attorney and shall be accompanied by a fee in the amount of two hundred dollars (\$200). (L. 1955, Ch. 230, par. 2; April 13.)

32-313. Inspection of proposed area by commission; issuance of license, when; bond. Upon receipt of the application, the commission shall inspect the proposed licensed area described in such application and the premises and facilities where game birds are to be propagated, raised and liberated and the cover for game birds on such area and the ability of the applicant to operate an area of this character. If the department (Commission) finds that the area contains not less than three hundred twenty (320) acres and not more than one thousand two hundred eighty (1,280) acres, is contiguous, and has the proper requirements for the operation of such a property; that the game birds propagated or released thereon are not likely to be diseased and a menace to other game; that the operation of such property will not work a fraud upon persons who may be permitted to hunt thereon; and that the issuing of the license will otherwise be in the public interest; the commission shall approve such application and issue a game breeding and controlled shooting area license for the operation of such an area on the tract described in such application with the rights and subject to the limitations in this act prescribed: Provided, however, the commission shall not issue any such license, or renewal thereof, unless the applicant shall file with said commission a bond to the state of Kansas in the sum of \$2,000.00, executed by an insurance company authorized to transact surety business in the state of Kansas, conditioned that the applicant will observe and comply with the provisions of this act, will pay any fine and costs assessed in event of conviction of the licensee for a violation of any of the provisions of this act, and all reasonable costs incurred in any hearing for revocation of the license. (L. 1955, Ch. 230, par. 3; April 13.)

32-314. Expiration date of license. All game breeding and controlled shooting area licenses shall expire on the thirty-first day of March of each year. (L. 1955, ch. 230, par. 4; L. 1961, ch. 224, par. 1; April 12; Laws of 1969.)

32-315. Posting of licensed area. Upon receipt of a game breeding and controlled shooting area license, the licensee shall promptly post such licensed area at intervals of not more than five hundred (500) feet with signs to be prescribed by the commission. (L. 1955, ch. 230, par. 5; April 13.)

32-316. Game limits. The licensee of any licensed game breeding and controlled shooting area may take, or authorize to be taken, within the season hereinafter fixed and designated, up to seventy percent (70%) of the total number of each specie of game bird released, but the commission may at its discretion allow the taking of a greater number than prescribed above if the commission should determine that such increased taking would be beneficial to the total game population in that area. (L. 1955, ch. 230, par. 6; April 13.)

32-317. Releasing of birds; register and reports. For purposes of this act, game birds shall be released upon such licensed breeding and controlled shooting areas in a manner satisfactory to the commission and the licensee shall keep a register which will clearly show the total number and kind of birds propagated each year, the date of the release, the date taken, and the disposition made of such game birds and shall make a report thereof to the commission in a manner prescribed by the commission and under oath. All game birds released on said licensed areas shall be full winged and fully able to take care of themselves in a wild state. (L. 1955, ch. 230, par. 7; April 13.)

32-318. Tagging; transfer of tags illegal. The commission shall prepare special tags suitable for use upon legs of game birds, which tags shall be nontransferable and of a type not removable without breaking and mutilating the tag, such tags to be used to designate birds taken upon a licensed game breeding and controlled shooting area. Upon application the commission shall furnish licensee with such tags at cost; Provided, that the commission shall not in any year furnish any licensee a number of tags in excess of the number of game birds which may lawfully be taken from such licensed area as hereinbefore provided. One of such tags shall be securely affixed to one of the legs of each of the game birds before the same is removed from such licensed area; and such tag shall remain upon the leg of such game bird until such bird is finally prepared for consumption. Transfer of tags from one licensee to whom they were issued to another licensee without the express permission of the commission shall be deemed a misdemeanor. Nothing contained in this act shall prevent the commission from adopting a rule or regulation requiring that all game birds released upon a licensed area to be tagged, and the commission is hereby authorized to make such a rule or regulation; Provided, however, such pretagging shall be distinct from the tagging herein required, and shall not be construed to avoid the tagging of all game birds killed on the area before removing the same therefrom. (L. 1955, ch. 230, par. 8; April 13.)

32-319. Season; hunting license required. No person shall take any game bird upon a game breeding and controlled shooting area by shooting in any manner except between September 1 and March 31, both dates inclusive, of each year. Every person hunting on such game breeding and controlled shooting areas shall be possessed of a Kansas resident or Kansas nonresident hunting license for the current year as required by law. (L. 1955, ch. 230, par. 9; L. 1959, ch. 192, par. 1; June 30; Laws of 1969.)

32-320. Designation of special representative for area by commission; limitations; process agent; responsibility. The commission may designate any operator of a licensed game breeding and controlled shooting area or any of his or its agents or employees as a special representative of the commission with power to enforce the game laws and to prevent trespassing upon such property and to hunt and trap rodents and other animals or birds which are destroying or likely to destroy the game thereon; there shall be not more than one special representative appointed for each three hundred twenty (320) acres or fraction thereof and such special representative shall be subject to rules and regulations prescribed by the department and shall serve without compensation from the department. The licensee or an agent he may designate shall be the agent for service of process and be responsible for the lawful operation of the game breeding and controlled shooting area. (L. 1955, ch. 230, par. 10; April 13.)

32-321. Rules and regulations; acreage limitation. The commission is authorized to make rules and regulations for carrying out, administering and enforcing the provisions of this act: Provided, however, that the commission shall limit the number of areas proposed for licensing so that the total acreage licensed for game breeding and controlled shooting areas in any one county shall not exceed one-hundredth (1/100) of the total acreage of the county in which said areas are sought to be licensed. (L. 1955, ch. 230, par. 11; L. 1959, ch. 193, par. 1; June 30.)

32-322. Refusal to issue or renew, suspension or revocation of area license; notice and hearing. The commission may either refuse to issue or refuse to renew or may suspend or may revoke any game breeding and controlled shooting area license if the commission finds that such licensed area, or the operator thereof, is not complying or does not comply with the provisions of this act or that the area is being operated in an unlawful or illegal manner; however, the commission shall not refuse to issue, refuse to renew, or suspend or revoke any license for any of these causes, unless the licensee affected has been given at least fifteen (15) days notice, in writing, of the reasons for the action of the commission and an opportunity to appear before the commission or a representative thereof in opposition to the action of the department (commission). Upon the hearing of any such proceeding, the person designated by the commission to conduct the hearings may administer oaths and the commission may procure, by its subpoena, the attendance of witnesses and the production of relevant books and papers. (L. 1955, ch. 230, par. 12; April 13.)

32-323. Appeals to district court; procedure. It shall be lawful for any licensee to take an appeal from the proceedings before said commission or representative thereof to the district court for the county in which the game breeding and controlled shooting area is located or in which the greater portion of the area lies by giving written notice thereof to the clerk of the district court of said county within five (5) days after the decision of said commission or representative thereof and by filing with such clerk a bond, with two (2) or more sufficient sureties, conditioned for the payment of all costs made upon such appeal in case the decision of the commission or a representative thereof is sustained. (L. 1955, ch. 230, par. 13; April 13.)

32-324. Fees for hunting in licensed areas. Fees for hunting in game breeding and controlled shooting areas may be charged by persons maintaining such areas for purposes of restocking and replanting such preserves. Every person hunting on such areas shall be required to pay such fee as may be charged for hunting and such fee shall be fixed on a per bird or per day basis or a combination of both. (L. 1955, ch. 230, par. 14; April 13.)

32-325. Trespassing on areas; penalties; damages. It shall be unlawful for any person to trespass on a game breeding and controlled shooting area. Any person convicted of such trespass shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars (\$25), or be imprisoned in the county jail for not more than sixty (60) days, or by both such fine and imprisonment, and shall be responsible for all damages. Owners or keepers of dogs trespassing on game breeding and controlled shooting areas shall be responsible for all damages done by such dogs. (L. 1955, ch. 230, par. 15; April 13.)

KANSAS FORESTRY, FISH & GAME COMMISSION REGULATIONS
PERTAINING TO CONTROLLED SHOOTING AREAS

Following are current regulations governing licensed controlled shooting areas in Kansas as established by the Forestry, Fish and Game Commission. Authorization for establishing such regulations is cited in Kansas Statute 32-321. These regulations are in effect and in fact considered as laws of the State of Kansas.

KANSAS FISH AND GAME COMMISSION
ARTICLE IX
GAME BIRD BREEDING AND CONTROLLED SHOOTING AREA REGULATIONS

23-9-2

APPLICATIONS FOR LICENSE; REQUIREMENTS

- (a) Application for game bird breeding and controlled shooting area license shall be made on the form provided by the Fish and Game Commission, and include further information as the Director may require. The application shall be secured from the Director of the Fish and Game Commission, RR#2, Box 54A, Pratt, Kansas 67124, and shall be completed in full.
- (b) All applications and application renewals shall be submitted to the Director of the Fish and Game Commission not later than August 10 of the current year. Applications received after August 10 shall be returned to the applicant without further processing.
- (c) The applicant shall submit proof of ownership or lease for a five year period of the area described in the application. Proof of ownership or lease shall accompany the application. (Authorized by K.S.A. 32-321; implementing K.S.A. 32-321; effective January 1, 1966; amended January 1, 1974; amended May 1, 1982.)

KANSAS FISH AND GAME COMMISSION
ARTICLE IX
GAME BIRD BREEDING AND CONTROLLED SHOOTING AREA REGULATIONS

23-9-11 OPERATING PROCEDURES

- (a) The licensee is required to erect signs at a height of not less than four (4) feet from the ground, along the boundary of the controlled shooting area, at intervals of not more than five-hundred (500) feet. The signs shall read as follows: "CONTROLLED SHOOTING AREA. LICENSED BY KANSAS FISH AND GAME COMMISSION, TRESPASSING UNLAWFUL." The signs shall be made of wood or metal and shall not be smaller than fifteen (15) inches by fifteen (15) inches.
- (b) The licensee shall keep the license and a copy of the laws and regulations pertaining to such controlled shooting area posted in a conspicuous and readily available place at the headquarters of the area.
- (c) Should the license of the game bird breeding and controlled shooting area be cancelled or revoked, the licensee must remove all controlled shooting area signs from the boundary of such areas within thirty (30) days of the cancellation or revocation date; or, should a licensee fail to renew his license prior to August 10, all controlled shooting area signs shall be removed from the boundary of the licensee's area prior to September 10.
- (d) The licensee shall not at any time take or permit the taking of more than one hundred percent (100%) of the number of each species of game bird released on the game bird breeding and controlled shooting area. Game birds shall not be hunted on the area until a release of game birds has been made.
- (e) Except as authorized under Kansas dog training and field trial laws and regulations, it shall be unlawful to recapture by trapping, any game bird, other than hand-reared mallard ducks, released on the area.
- (f) The licensee shall maintain game bird release reports and a daily register of hunters and their kill. Both reports shall cover a full calendar month's operation and these reports shall be submitted to the Director of the Fish and Game Commission, R.R.#2, Box 54A, Pratt, Kansas 67124, within ten (10) days after each month's operation. The report forms may be obtained from the office of the Director. The reports shall be made under oath of the licensee.
- (g) Only those birds released on the licensee's game bird breeding and controlled shooting area between August 15 and March 31 (both dates inclusive) of the current controlled shooting area season shall be credited toward the allowable kill on the area.
- (h) It shall be unlawful to influence or restrict the birds' ability to fly or run in any manner.

- (i) Kill tags will be supplied to licensees upon proper application to the Director of the Fish and Game Commission, RR#2, Box 54A, Pratt, Kansas 67124. Applications for kill tags shall be made by licensees at least two (2) weeks prior to time of expected use. The fee for the kill tags shall be remitted with the application. The Director may limit the number of tags a licensee may request on any given application. Unused kill tags remaining in the licensee's possession after March shall be the property of the licensee with the condition that the licensee intends to relicense his or her game bird breeding and controlled shooting area for the following year. These unused tags will be held over by the licensee and used during the subsequent controlled shooting area season, except in cases where an operator's license is canceled, revoked, or not renewed by August 10, the unused tags shall then be returned to the Director within ten (10) days of such cancellation, revocation or failure to renew license.

- (j) The shooting hours for the taking of game birds released on game bird breeding and controlled shooting areas, shall be within the period of one-half ($\frac{1}{2}$) hour before sunrise to sunset. The hunting, shooting or taking off wild migratory waterfowl is prohibited on the areas used for the propagation and shooting of hand-reared mallard ducks. (Authorized by and implementing K.S.A. 32-321; effective May 1, 1982.)