

Approved 3-21-1991  
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Ross Doyen at  
Chairperson

8:03 a.m. on March 20, 1991 in room 423-S of the Capitol.

All members were present except: All members were present.

Committee staff present:

Pat Mah, Legislative Research Department  
Don Hayward, Revisor of Statutes  
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Representative Marvin Smith  
Darrell Moneti, Wildlife and Parks

The Chairman opened the hearing on HB 2494 - concerning game breeder permits.

Representative Marvin Smith presented testimony supporting the bill, and attached to his testimony is written testimony supporting the bill from Cathy McKenzie, Holton, Kansas, Debbie Burkey, Mayetta, Kansas, and Deborah Keehn, Hoyt, Kansas (Attachment 1).

Darrell Moneti presented written testimony supporting HB 2494 (Attachment 2). The hearing was closed on HB 2494.

The hearing was opened on HB 2495. Darrell Moneti presented testimony supporting the bill (Attachemnt 2). The hearing was closed.

The hearing was opened on HB 2496. Darrell Moneti presented written testimony on the bill. He suggested the late charge be returned to the original suggested amount of \$15 or at least consider the amount of \$10. (Att. 2) The hearing was closed.

The Chairman stated the three proposals would be considered for discussion. Senator Daniels moved to amend the late fee to \$12. The motion was seconded by Senator Hayden. The motion carried.

Senator Hayden moved to report HB 2494, HB 2495, and HB 2496 as amended for passage. The motion carried.

Senator Sallee moved to correct the minutes of March 7, and that they be adopted. The motion was seconded by Senator Thiessen. The motion carried.

The meeting adjourned at 8:45 a.m. The next meeting will be at 8:00 a.m., March 21, 1991.

1991 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 3/20/91

PLEASE PRINT

GUEST LIST

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NAME

REPRESENTING

Mike Bean  
Sara Coless

Ka. Livst. Assn.  
Home Bldg Assn - <sup>Y</sup>Greenville

MARVIN E. SMITH  
REPRESENTATIVE, FIFTIETH DISTRICT  
JACKSON AND SHAWNEE COUNTIES  
123 N.E. 82ND STREET  
TOPEKA, KANSAS 66617-2209  
(913) 484-3417  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

March 20, 1991

COMMITTEE ASSIGNMENTS  
MEMBER: EDUCATION  
TAXATION  
TRANSPORTATION

SENATE ENERGY AND NATURAL RESOURCES

HOUSE BILL 2494

Chairman Doyen and Members of the Committee:

Thank you for scheduling a hearing on HB 2494.

I introduced HB 2294 that would exempt wild birds from a game breeder permit. I had three members and officers of the Northeast Kansas Wild Caged Bird Association testify in support of HB 2294 and they support HB 2494 because line 14 strikes "wild birds".

Testimony from the constituents of the 50th District is attached for your information.

I would appreciate your favorable consideration of HB 2494. I would try to answer any questions.

Marvin E. Smith  
Representative  
50th District

*ENR*  
*3/20/91*

*Attachment 1*  
*pg 1 of 6*

Cathy S. McKenzie  
P.O. Box 128  
Oilton, KS 66436  
913-364-4151

March 5, 1991

HB 2294-Approval for this bill exempting pet bird owners and breeders from game bird permits.

As a pet owner, I am concerned that birds commonly kept as house pets are included in KSA 32-951. Perhaps the original intention of this bill was to exclude house pets as canaries and parakeets were listed as being exempt. This seems to imply that all other pet birds require wild game permits. There are in excess of 200 varieties of birds that are commonly kept as house pets, therefore KSA 32-951 is inadequate as it stands.

Birds have been kept as pets since the days of the Roman Empire. They have also been a part of American history. George Washington, Thomas Jefferson, Theodore Roosevelt, Lyndon Johnson and John Kennedy all shared the White House with pet birds.

Parrots are intelligent, sensitive, long lived and often times very expensive pets. Taking care of a parrot demands a sensitivity that goes beyond the common sense most people rely on in taking care of a dog or cat and often requires a lifetime commitment as they may live from twenty-five to seventy-five years. Daily interaction is needed to maintain the emotional well being of a parrot. They like routine in their lives and quite frequently bond very strongly with their owners, even to the extent of conversing with them.

As a pet owner, one of my concerns with KSA 32-951 is the inspections that are required. All birds are susceptible to disease and I feel rather uneasy about the prospect of illness being brought to my beloved pets.

House pets of all kinds have special relationships with their owners. State permits are not required for other animals commonly kept as house pets. Pet birds should not be included in KSA 32-951. I ask you to vote favorably for HB 2294.

*E + NR*

*3/20/91*

*Attachment to*

*Pg 2 of 6*

Debbie Burkey  
Route 2, Box 234  
Mayetta, KS 66509  
966-2781

March 5, 1991

HOUSE BILL NO. 2294 - EXEMPTING PET BIRD OWNERS AND BREEDERS FROM  
GAME BREEDER PERMIT REQUIREMENTS

Mr. Chairman and Members of the Committee:

My name is Debbie Burkey, and I live at Route 2 Mayetta, Kansas. I am the current Secretary for the Northeast Kansas Cage Bird Club. I am here today in support of House Bill No. 2294, which amends KSA 32-951, a statute requiring game animal breeders to obtain a permit. House Bill 2294 will serve to draw a distinction between game animals and those species of birds kept as pets by myself and by thousands of other Kansans throughout the state.

KSA 32-951, if taken at face value, was intended to provide a means of protecting Kansas wildlife from the spread of any disease from contact with game animals raised in breeding facilities. The types of birds permitted to be kept as pets are not indigenous to the United States and are, for the most part, tropical birds, and they pose no threat to species of animals indigenous to Kansas. Defining these birds as "birds commonly kept as house pets" for the purpose of this Bill is probably the most concise definition available.

The Kansas Wildlife and Parks Commission's interpretation of KSA 32-951 as set forth in their publication, "Game Breeder Guidelines", and as described to us by officials at their local offices, indicates that the species of birds that we keep as pets will require a permit. The Game Breeder Guidelines says, "This section requires that anyone engaged in the business of raising and selling wild birds, game birds, game animals, furbearing animals, or any other wildlife have a game breeders' permit". It goes on to say, "for the purposes of enforcement, the Department defines the term 'raising' to mean 'to care for'".

The Game Breeder Guidelines also includes a list of animals for which a game breeder permit is NOT required. This list includes, under the heading "Semi-Domesticated Wildlife", two species of birds commonly kept as housepets: canaries and parakeets or budgerigars. The text explains that "only the semi-domesticated wildlife listed are exempt from game breeder permit requirements; other semi-domesticated wildlife are too similar in appearance to other wildlife".

I currently own and "care for" seven birds. Four of the seven are species other than canaries or parakeets. After reading the "Game Breeder Guidelines", I called the Law Enforcement Supervisor for Region 2 of the Wildlife and Parks Commission. What I was told was that if I ever decided to sell one of these birds, I would probably need a permit but I could avoid the permit process by giving the birds away. This is not a viable solution to the problem as even the smaller, very popular species such as lovebirds and cockatiels are worth from \$50 to \$100 each. The Enforcement Supervisor felt that persons selling birds was at issue here - but it is important to note that pet bird owners usually own several birds, and it is not unusual for them to sell one or more birds, fairly regularly, in order to "try out" a different species.

E + NR

3/20/91

Attachment 1  
P of 3 006

Since I would indeed have to obtain a permit in order to legally keep my birds, I contacted the Conservation Officer for Jackson County. The Conservation Officers perform the inspections, using the criteria provided in the Game Breeder Guidelines to determine whether an applicant is operating under acceptable care standards to qualify for a permit. The Conservation Officer felt that if I ever intended to sell a bird, I would need a permit - and that he would need to do an "in home" inspection. He admitted that he had no experience with the species of birds that I own, and that the Game Breeder Guidelines criteria does not cover care requirements for these birds, nor does it discuss "in home" inspections.

It is surprising to me that the Wildlife and Parks Commission would even consider performing "in home" inspections of pets. Aside from my belief that these species of birds should not be lumped in with game animals, and aside from the problem of Wildlife and Parks inspectors' lack of knowledge concerning these birds and their care requirements, the 70 Conservation Officers available statewide to perform these "in home" inspections could not possibly handle the number of permit applications to be processed should every pet bird owner apply. It is my feeling that when the Wildlife and Parks Commission drafted their interpretation, they did not realize how many different species of birds are kept as pets. Obviously, through their exemption of canaries and parakeets, there was some attempt made to address pet birds - but there is a real need for further clarification of which birds are intended to be regulated.

If it is determined that there is a need to monitor facilities that raise or care for species of birds kept as pets, then it should be via a program designed to benefit these animals. The current statute, if implemented using the Kansas Wildlife and Parks Commission's Guidelines, will not protect these animals at all, but will only be a continuing source of confusion and a waste of tax dollars.

House Bill No. 2294, if approved by you, will clearly distinguish the types of birds that pet owners care for from the game birds for whom the statute was originally intended. It is my sincere hope that you will consider the points discussed here today, and act favorably concerning House Bill No. 2294. I'd like to thank you for the opportunity to testify before you, and I will certainly try to answer any questions that you might have.

*EVR*  
*3/20/91*  
*attachment 1*  
*pg 4 of 6*

Deborah Keehn  
te 1  
y<sup>t</sup> KS 66440  
-986-6776

March 5, 1991

HOUSE BILL NO. 2294 - EXEMPTING PET BIRD OWNERS AND BREEDERS  
FROM GAME BREEDER PERMIT REQUIREMENTS

Mr. Chairman and Members of the Committee:

My name is Deborah Keehn. I live in Hoyt, Kansas and am the current president of the Northeast Kansas Cage Bird Club. I am here in support of House Bill 2294 which amends KSA 32-951.

As a concerned pet bird owner, I feel it is important that this Bill be approved. The statute as it reads now is very vague and confusing. Having served as president of the bird club for the past two years puts me in a position to hear how confused the general public is, and to hear their concerns involving KSA 32-951.

Under KSA 32-951, all people owning birds other than a canary or parakeet will have to have a permit. In order to get a permit, the facility where the birds are kept will have to be inspected. Will the person that has one or more pet birds in their living room have to have their home inspected, and what will the criteria of a home inspection be? If my home or facility does not meet that criteria, what are the penalties? Can my birds be confiscated? Will the state have qualified inspectors to carry out KSA 32-951? The majority of birds kept as pets require care far different from that of quail or pheasant. Some situations that would be recognized as perfectly normal by an experienced bird owner may not seem so to an inexperienced and unqualified inspector.

Aviculture has become a very popular pastime. There are many small hobby breeders. The person who breeds and raises a few finches on his sunporch and sells them for eight to ten dollars apiece will not have any takers if the buyer must pay \$10.50 a year for a permit to keep that ten dollar finch. People who breed these small birds are usually beginners, we all have to start somewhere. If we put this hobby breeder out of business, where will he gain the knowledge he needs to move on to the more difficult species - possibly one day joining those breeders who are actually helping to save a species of bird, such as the Hyacinth macaw.

The larger breeders of these species of birds have concerns, too. Breeders of birds that are commonly kept as house pets follow an entirely different set of rules than those folks involved in breeding game birds. Many of these birds are very difficult to breed - you can't simply throw together a male and a female and expect them to produce babies. Many species of parrots take years for the pair to bond, and some species mate for life. Inspections at an inopportune time of facilities housing these birds can result in terrible damage. These birds are sensitive, intelligent creatures, and especially while nesting can be easily stressed which can result in their abandoning the nest, or even in killing their young chicks.

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*3/20/91*  
*Attachment 1*  
*pg 5 of 6*

The importance of maintaining a disease free environment in any care facility cannot be stressed enough. An inspector trekking from one facility to the next is a major concern. There are a number of diseases peculiar to these species of birds that could be easily spread from one aviary to another via unknowing inspectors, a situation that can quickly wipe out an entire flock. Years of hard work and thousands of dollars can be lost.

Aviculturists, through controlled breeding, are the last hope for a large number of species of parrot-type, and softbilled birds. We all are aware that the destruction of rainforests, and other natural habitat is occurring at an unbelievable rate. Many species are already extinct, and dozens more are near extinction. The majority of us who are aviculturists are responsible, caring people who truly care about preserving these species.

I understand that there are, no doubt, unscrupulous individuals operating bird breeding facilities that would be forced to improve their methods through an inspection process. Furthermore, I would wholeheartedly support such a program. However, KSA 32-951 was not intended to deal with the regulation of the breeding of birds for the pet trade, and the Kansas Wildlife and Parks Commission is not properly prepared to determine whether an exotic bird breeding facility is operating under acceptable standards.

I sincerely believe that amending KSA 32-951 to exclude species of birds kept as pets will prevent further confusion and concern on the part of Kansans that own these birds. It is my hope that you will approve House Bill 2294 for all of the reasons discussed here today.

Thank you for allowing me to speak on behalf of this Bill. I would be happy to try to answer any questions that you might have.

E + N R  
3/20/91  
Attachment 1  
Pg 6 of 6



TESTIMONY PROVIDED TO  
SENATE ENERGY & NATURAL RESOURCES COMMITTEE

BY

KANSAS DEPARTMENT OF WILDLIFE AND PARKS

FOR

H.B. 2494

H.B. 2495

H.B. 2496

MARCH 20, 1991

*ENR  
3/20/91  
attachment 2  
pg 1 of 4*

H.B. 2494

TESTIMONY PRESENTED TO: Senate Energy & Natural Resources Committee

Provided By: Department of Wildlife and Parks

March 20, 1991

H.B. 2494 is Department sponsored legislation which would amend the game breeder statute. Currently, a permit is required to raise and sell wild birds, game birds, game animals, furbearers and any other wildlife. The definition of wildlife is such that a permit is required for virtually all individuals raising and selling any kind of wildlife. This is a broader application of the game breeder permit requirement than was intended as a result of the 1989 recodification of Wildlife and Parks statutes.

It is recommended that "wild birds" on line 14 and "any other wildlife" on line 15 be struck. Language is proposed to exempt all wildlife (except game birds, game animals and furbearers) from the permit requirement except for those species that a permit would be required by regulation.

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*3/20/91*  
*attachment 2*  
*Pg 2 of 4*

H.B. 2495

TESTIMONY PRESENTED TO: Senate Energy & Natural Resources Committee

Provided By: Department of Wildlife and Parks

March 20, 1991

Under current law, the Department can use the exempt regulation provisions of K.S.A. 77-415 to set seasons and establish bag and possession limits for game birds, game animals, fish and furbearers. Setting of seasons and limits for other species of wildlife follow procedures for permanent regulations. The only difference between a permanent and exempt regulation is the requirement to file with the Secretary of State. Exempt regulations do not require filing, thus become effective upon adoption.

H.B. 2495 would allow the Department to use the same regulatory process for all season and limit setting regulations. Often it is necessary to implement a season or limit on certain species within a short time frame. A permanent regulation does not take effect for approximately 55-60 days after adoption. Use of exempt regulations will avoid that problem.

*ENR*  
*3/20/91*  
*attachment 2*  
*Pg 3 of 4*

H.B. 2496

TESTIMONY PRESENTED TO: Senate Energy & Natural Resources Committee

Provided By: Department of Wildlife and Parks

March 20, 1991

H.B. 2496 is Department requested legislation which would increase the late payment charge from \$2 to \$15 on failure to purchase a required park permit. Upon notice of a late payment summons, recipients have 24 hours to make payment and to purchase the required permit. The House committee amended the \$15 amount down to \$5.

The number of summons issued during the past 3 years has shown a steady increase. In 1988, 3,189 summons were issued and increased to 4,952 in 1989. Figures for 1990 are incomplete, but are expected to slightly exceed 8,000 summons. Apparently, it is worth the \$2 gamble to avoid purchase of a park permit for an increasing number of people.

Increasing the late payment charge is anticipated to encourage timely purchase of park permits by more people. Our intent is not to generate more income. If the \$15 proposed charge has the desired effect, revenue is expected to remain about constant. However, administrative costs associated with late payments should substantially decrease. A \$10 late charge may also have the desired effect, but there is question If a \$5 amount is an adequate deterrent.

*ENR*  
*3/20/91*  
*Attachment 2*  
*pg 4 of 4*