

Approved: 2-6-97
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Chairperson David Corbin at 8:00 a.m. on February 5, 1997 in Room 254-E of the Capitol.

All members were present.

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Senator Robert Tyson
Mike Beam, Kansas Livestock Association, (KLA)
Leslie Kaufman, Asst. Director, Public Affairs Division, Kansas Farm Bureau
Clinton Riley, Department of Wildlife and Parks
Cynthia Abbott, National Audubon Society

Others attending: See attached list

Chairperson Corbin said effective as of midnight February 5, 1997, he had been appointed Chairperson of the Energy and Natural Resources Committee. The Chairperson introduced the new secretary of the committee, Lila McClafin, and briefly explained the direction he would take as committee chair.

The minutes of the January 23, 24, 28, and 29 were presented for adoption. Senator Karr moved they be adopted. Senator Morris seconded the motion. Motion carried.

SB 110: Unlawful acts relating to the methods of taking wildlife.

A fiscal note on **SB 110** was distributed stating passage of **SB 110** would have no fiscal impact to the state.

Senator Tyson said the purpose of the bill was to protect landowners' rights. The bill would amend K.S.A. 32-1003 to allow the landowner to carry a firearm for protection, surveillance and for normal farming and ranching activities (Attachment 1). Senator Tyson responded to questions.

Mike Beam, Kansas Livestock Association, supported the bill, as they believe it provides an enforcement mechanism for illegal activity while exempting farmers and ranchers who are protecting their property (Attachment 2).

Leslie Kaufman, Public Affairs Division, Kansas Farm Bureau, supported the bill as they believe agricultural producers should have the option of using, on privately, owned land, all reasonable means of controlling all damaging wildlife and predatory animals (Attachment 3).

Clinton Riley, Department of Wildlife and Parks, recommended three amendments for clarification and organizational purposes. With the adoption of these amendments addressed in his testimony the department would not oppose **SB 110** (Attachment 4)

Staff asked for clarification in line "37" if "animal" could be struck. The Department agreed.

Cynthia Abbott, Kansas Audubon Council, opposed the bill, as they believed the language was too broad and nonspecific, and had the potential to create some unintentional loopholes in wildlife policy, also, it had the potential to create a nightmare for wildlife officers (Attachment 5). She urged the committee to consider her remarks. She responded to questions.

Chairperson Corbin asked the Wildlife and Parks Department, Senator Tyson and other interested parties to meet and come back to the committee on Thursday, February 6, with language to clean up the bill, as he planned to work it then.

The meeting adjourned at 8:59 a.m.

The next meeting is scheduled for February 6, 1997.

STATE OF KANSAS



TOPEKA

KANSAS SENATE

ROBERT TYSON

SENATOR, TWELFTH DISTRICT

Home Address: ROUTE 1, BOX 229

PARKER, KANSAS 66072

(913) 898-6035

Office: STATE CAPITOL BUILDING—143-N

TOPEKA, KANSAS 66612-1504

(913) 296-7380

1-800-432-3924

COUNTIES

ANDERSON, BOURBON,
FRANKLIN, LINN & MIAMI

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE
ENERGY AND NATURAL RESOURCES
TRANSPORTATION AND TOURISM
JOINT COMMITTEE ON PENSIONS,
INVESTMENTS & BENEFITS

TESTIMONY

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Methods of Taking Wildlife

The purpose of this bill is to protect landowners' rights.

Under present law 32-1003 paragraph (g) a farmer or rancher cannot carry a firearm in his farm vehicle after dark.

The bill allows the landowner to carry a firearm for protection, surveillance and for normal farming and ranching activities.

Senate Energy Nat Res
2-5-97
Attachment 1



Since 1894

February 5, 1997

To: Senate Committee on Energy and Natural Resources
Senator David Corbin, Chairman

Fr: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

Re: Senate Bill 110 - Amendments to Illegal Spotlighting Statute

The Kansas Livestock Association (KLA) is a statewide trade organization consisting of over 7,000 individuals. Many of our members are farmers and ranchers who use spotlights while caring for livestock at night. It's quite common for these producers, during the spring calving or lambing season, to drive the fields and pastures day and night.

Frequently a gun is located in the truck. A spotlight is generally used to check for animals having difficulty giving birth at night. On occasion, the light and gun are used if a predator is found disturbing or harming livestock.

I'm confident most producers are unaware that Kansas law (K.S.A. 32-1003, subsection g) states it's a misdemeanor to carry a gun while using a spotlight on their own property. Consequently, KLA supports Senate Bill 110.

We understand and appreciate the need for a statute prohibiting illegal hunting or poaching with an artificial light. Furthermore, we recognize the merits of a law that's enforceable. This bill, we believe, still provides an enforcement mechanism for illegal activity while exempting farmers and ranchers who are protecting their property.

The proposed change to K.S.A. 32-1003 only applies to the taking of "nonprotected" wildlife and only on property under control of the landowner or his/her employees.

Again, KLA supports Senate Bill 110 and we are anxious to work with this committee and others in addressing this issue. Thank you!

*Sen Energy & Natural Resc
Attachment 2
2-5-1997*



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

**Re: SB 110 - Landowner use of an artificial light to
protect or survey property**

**February 5, 1997
Topeka, Kansas**

**Presented by
Leslie Kaufman, Assistant Director
Public Affairs Division
Kansas Farm Bureau**

Chairman Corbin and members of the Senate Committee on Energy and Natural Resources, I am Leslie Kaufman, Assistant Director of Public Affairs for Kansas Farm Bureau. We appreciate the opportunity to appear before you today and comment on SB 110. Our comments today address what we see as the intent of SB 110 more than the actual language of the bill.

Farm Bureau is a voluntary, general farm organization. There are more than 129,000 families across Kansas who are county Farm Bureau members. Our voting delegates, themselves agriculture producers, have adopted policy we believe is compatible with the general philosophy of SB 110

*Sen Energy & Natural Resc.
attachment 3
2-5-97 3-1*

“We believe agricultural producers should have the option of using, on privately-owned land, all reasonable means of controlling all damaging wildlife and predatory animals.” For example, we believe it is reasonable for a livestock producer to check his animals with a spotlight. It is also reasonable, in our opinion, to have both a spotlight and a firearm in ones’s possession while checking on livestock. Currently, this practice is technically prohibited by law. SB 110 removes this prohibition for landowners who are protecting their property on land they either own or rent.

We understand the law SB 110 seeks to amend is intended to prevent inappropriate hunting practices and we respect that position. However, we do not feel the intent of the statute will be harmed by implementing SB 110 since the artificial light and firearm exemption is limited to the protection of one’s own property on land controlled by that person.

As such, we respectfully request you consider favorably the intent to allow landowners to use reasonable means to control wildlife and predator damage.

Thank you. I will be glad to answer any questions you might have.

Wildlife Damage and Predator Control AG-22

We believe agricultural producers should have the option of using, on privately-owned land, all reasonable means of controlling all damaging wildlife and predatory animals.

The coyote is a predatory animal and we are opposed to proposals to designate this predator as a fur bearing animal.

Hunting, trapping, or otherwise taking coyotes should be allowed at all times.



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953



Senate Bill 110 Testimony

Presented to: Senate Committee on Energy and Natural Resources
Provided by: Kansas Department of Wildlife and Parks
Date: February 5, 1997

SB 110 would amend K.S.A. 32-1003, concerning methods of taking wildlife. Currently, the statute prohibits the use of a spotlight, headlight or other artificial light for the purpose of spotting, locating or taking any animal while having in possession or control any rifle, pistol, shotgun, bow or similar implement. The bill would clarify that the prohibition applies to wildlife, as opposed to livestock and poultry. The bill would add that the use of such lights in the hunting, shooting or taking of nonprotected species of wildlife in the protection of property by landowners, operators, or their regular employees, or the use of such lights by such persons for surveillance, shall not be prohibited.

The department is not aware that there have been problems in the past concerning the implementation of subsection (g) of K.S.A. 32-1003. However, the department recognizes the needs of landowners to manage and protect their property. Therefore, we are not opposed to attempts to clarify the language of the statute, as we understand the intent of SB 110 to be.

The bill as introduced does not define "nonprotected species of wildlife" (page 1, line 42), and the term is not otherwise used in Chapter 32. For clarification purposes, the department recommends that the phrase be amended to read "wildlife species, other than those species subject to the provisions of K.S.A. 32-957 through 32-963, and rules and regulation adopted thereunder." Because all wildlife is statutorily owned by the state and under some form of state protection, this change would clarify that the exemption applies only to threatened, endangered,

*Senate Energy & Natural Resc
attachment 4
2-5-97
4-1*

or designated species in need of conservation.

The operations of the department would not be materially altered by this bill.

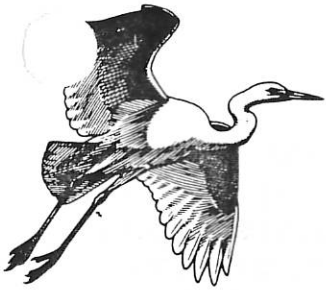
Landowners currently are allowed to kill animals in order to protect their property, under K.S.A. 32-1002, subject to certain conditions. The bill would explicitly state that spotlights, headlights or other artificial lights may be used in so doing. This is the interpretation of K.S.A. 32-1002 currently used and enforced by the department.

In addition, using a spotlight, headlight or other artificial light while in possession of a rifle or similar instrument is only prohibited by the current law when such lights are used for the purpose of spotting, locating, or taking an animal. The bill would explicitly state that such prohibition only applies to wildlife animals, which by definition does not include livestock and poultry. It would also make it explicit that such lights may be used for surveillance (which presumably is allowed by the current statute, to the extent that such use is distinct from the purpose of spotting, locating or taking an animal). These clarifications would be consistent with the current enforcement practices of the department, in its interpretation of K.S.A. 32-1003.

To make it clear that surveillance under the bill may occur only on one's own property, however, the department recommends that two additional amendments be made, for organizational purposes only:

- *"...or other artificial light for surveillance or in the hunting, shooting or taking..."* (Page 1, Line 41.)
- *"...on land under their control ~~or the use of such lights by the landowner, operator or their regular employees for surveillance.~~"* (Page 2, Line 1.)

With the suggested amendments for clarification purposes noted above, the department is not opposed to SB 110.



Kansas Audubon Council

February 5, 1997
Senate Energy and Natural Resources Committee
Testimony on SB 110

Thank you for giving me the opportunity to appear before you today with some concerns about SB 110. My name is Cynthia Abbott, and I am here on behalf of the Kansas Audubon Council and the approximately 5000 Audubon members throughout the state of Kansas.

First of all, I would like to state that the Kansas Audubon Council understands the need for landowners to be able to protect their property, especially the need for livestock owners to protect their livestock from predation. We strongly support measures that allow them to do so in a reasonable and responsible manner, and we understand that many such measures are already in place in statute, in regulation and in practice through longstanding Kansas Department of Wildlife and Parks' policies.

However, we have some concerns with this legislation, with its scope, with how well it could be fairly and reasonably enforced, and therefore ultimately with its impact on the management of wildlife species within the state.

First of all, as written, this legislation is very broad in its scope. "...[I]n the protection of property..." could be interpreted to mean protecting crops or even pasture grasses from being eaten, as well as protecting livestock from predation. This could, for example, open up the prospect of a landowner feeling legally justified in spotlighting and shooting deer, antelope or elk.

Secondly, this legislation does not address the problem of who will determine when and where taking an animal is truly "...in the protection of property..." In fact, it specifically seems to open up this question by saying that *hunting* of a nonprotected species with a spotlight is legal if it is done in the protection of property. Therefore, is it protecting property for a landowner to spotlight and shoot the bobcat that he sees crossing the road, because he has heard that some bobcat have been preying on calves? In this example, is there to be any proof required that a bobcat has taken or attempted to take any of the landowner's calves or, more specifically, that this particular bobcat has taken one or more of his calves? In another example, where a landowner has been told by friends that turkeys eat large quantities of grain, would it be protecting his property to spotlight and shoot turkeys roosting on his land? Will these determinations of legitimate predation concerns be based on the biological knowledge of professional wildlife management personnel or on the personal opinion of the local authority, who may or may not have any knowledge of wildlife biology?

Senate Energy & Nat. Res.
attachment 5
2-5-97

Our final point is that this legislation opens up an enforcement nightmare for conservation officers who, if they catch someone spotlighting with a gun in possession, will simply be told that the individual is checking on his own or his "employer's" property. Proving otherwise will be time-consuming and costly. Poaching, including spotlighting, is already a major enforcement problem. This legislation would appear to make it even easier for a poacher to wriggle out of a conviction. Therefore, it will probably encourage increased poaching by spotlighting.

In summary, while we feel that landowners need to have the right to remove legitimate wildlife threats to their livestock, we feel that this bill, as written, is too broad and nonspecific, potentially creating unintentional loopholes in wildlife policy. By opening up the ability for some to hunt by spotlight with firearms in possession, it also creates a distinct enforcement problem in separating legitimate spotlighting from illegal spotlighting. We urge you to take these considerations into account as you discuss and possibly amend this bill. In its current form, we would have to respectfully suggest that you let the current statutes stand by voting against this bill.