

MINUTES OF THE HOUSE COMMITTEE ON TOURISM AND PARKS.

The meeting was called to order by Chairperson Becky Hutchins at 3:38 p.m. on March 12, 2003 in Room 243-N of the Capitol.

All members were present except: Representative Geraldine Flaharty - excused
Representative Margaret Long - excused

Committee staff present: Mary Torrence, Revisor of Statutes' Office
Hank Avila, Legislative Research Department
Russell Mills, Legislative Research Department
Sarah Samuelson, Committee Secretary

Conferees appearing before the committee: none

Others attending: see attached list

SB 134 - Limiting liability of property owners to persons entering premises for agritourism and ecotourism purposes.

An amendment proposed by Chairperson Hutchins was distributed (Attachment 1). Representative Hayzlett made a motion to discuss the amendment; Representative Merrick seconded the motion.

Staff member Mary Torrence explained that the amendment is not intended to make any substantive changes, but simply to clarify the definition of "recreational purpose," and to clean up the punctuation.

Representative Kauffman asked whether "member of the public" includes the farmer or rancher. Ms. Torrence replied that it does not; neither does it include an employee or family member. "Member of the public" means visitors to the land for recreation.

Representative Ruff asked about the amendment she was planning to propose, regarding people riding on agricultural equipment, whether this amendment would still be possible with the revised wording, or whether it was now irrelevant. Ms. Torrence said that the revised wording was intended to be technical only, not to make a substantive change; thus, Representative Ruff's amendment would still be possible.

Chairperson Hutchins distributed copies of K.S.A.58-3206, which addresses liability for willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity.

Representative Kauffman made a motion for adoption of Chairperson Hutchins' amendment.
Representative Merrick seconded the motion. The motion carried.

Representative Ruff requested a conceptual amendment that would include "riding on" agricultural equipment as an additional exception to the liability limitations. She requested that Gary White of the Kansas Trial Lawyers Association explain the conceptual amendment.

Gary White explained that in the revised wording of page 1, line 40 of the bill, after "shall not include operation of", they would propose adding the words "or riding upon". The reason for this is that K.S.A.58-3206 provides immunity for negligent acts and wanton acts; it does not provide immunity for willful acts or malicious acts. The term "willful conduct" is defined by K.S.A.60-3401; "malicious" is also part of that statute, as is "wanton conduct." "Willful conduct" is "an act performed with a designed purpose or intent on the part of the person to do wrong or to cause injury to another." This means that the only way the exception applies is if you have a designed purpose or intent to injure somebody that's riding upon your equipment.

Representative Ruff made a motion to discuss this conceptual motion. Representative Peterson seconded the motion.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON TOURISM AND PARKS at 3:30 p.m. on March 12, 2003 in Room 243-N of the Capitol.

Representative Hayzlett asked whether the proposed amendment would include hayrack rides. Mr. White replied that the amendment also proposes immunity for hayrack rides. Essentially, hayrack rides would be an exception to the exception, because they are specifically immune. Some examples of agricultural equipment are listed in the bill.

Representative Hutchins expressed concern that hayrack riding could fall under the "not limited to" phrase in the definition of agricultural equipment. Mr. White said that the hayrack riding was not fully addressed in the Senate, but that this proposed amendment would specifically allow hayrack riding.

Representative Osborne requested clarification of whether, as the bill stands, all equipment would be immune, but with the proposed amendment, there would be immunity only for hayrack riding. Mr. White said this is the case.

Representative Schwab expressed opposition to the amendment, since riding in a combine, which is completely enclosed and goes slower than most cars, whereas on a hayrack, the riders are out in the open and can easily slip off the hay.

Chairperson Hutchins asked whether anyone in the gallery would like to speak, since she allowed Mr. White to speak.

Derenda Mitchell of the Kansas Livestock Association commented that the proposed amendment confuses and obfuscates the law. A hayrack ride is agricultural equipment. She commented that agricultural equipment has passenger seats, and riding on a combine can be highly educational in introducing children to agricultural processes.

Staff member Hank Avila asked whether extension services such as 4-H or FFA provide safety training for combine operators. Leslie Kaufman of the Kansas Farm Bureau replied that they do; in fact, one division of the KFB is devoted to education and safety activities, some of which are conducted by extension groups.

Ms. Kaufman also commented that the KFB would concur with the KLA in opposing the amendment. Manufacturers design much of this equipment for safety, and many precautions are built into the equipment. This amendment would go against the intent of the bill, which is to promote opportunities to view agriculture first-hand; that would prevent the use of a vehicle that was designed to accommodate a passenger.

Representative Peterson asked whether there is any place for a passenger on implements such as a bailer, a plow, or a drill. Ms. Kaufman replied that this once was common, but not on currently manufactured equipment.

Representative Peterson asked whether this amendment provides more or less liability. Ms. Kaufman replied that the proposed amendment would actually weaken the bill in terms of protection for the farmer.

Representative Schwab asked whether there are federal safety standards and regulations on this equipment. Ms. Kaufman replied that there are many safety requirements on the equipment, but she is not sure which of these are imposed by the federal government and which by the manufacturing industry.

Representative Shultz asked whether the Kansas Farm Bureau supports this bill as amended. Ms. Kaufman replied that the KFB will not actively oppose the bill, but that they still have some reservations. However, it is far better now than how it began. Also, if Representative Ruff's amendment were attached, the KFB would actively oppose the bill.

Representative Ruff commented that there is no guarantee that the equipment to be used is today's modern equipment, with all the current safety features. Not all farmers are as responsible as we would like, and to grant blanket immunity to all farmers, regardless of how irresponsible they might be, defies common sense.

CONTINUATION SHEET

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The conceptual amendment moved by Representative Ruff and seconded by Representative Peterson failed.

Representative Morrison made a motion to recommend SB 134 favorable for passage as amended. Representative O'Malley seconded the motion. The motion carried. Representative Merrick will carry the bill.

Chairperson Hutchins informed the committee of next week's plans:

Monday: Meeting on call of the chair

Wednesday: Hearing on **SB 221 - Creates the southeast Kansas quail working group stamp.**

Chairperson Hutchins called the attention of the committee to a brochure that was distributed (Attachment 2) on the Kansas Field Conference scheduled for June 4-6, 2003. Among proposed agenda for this conference are these topics, which may be of interest to the committee: "Nature Tourism and Recreation" and "Wyandotte County Lewis and Clark Task Force."

Chairperson Becky Hutchins adjourned the meeting at 4:24 p.m.

HOUSE COMMITTEE ON TOURISM AND PARKS

GUEST LIST

DATE: March 12, 2003

NAME	REPRESENTING
Mary Allman	Kansas State Historical Society
Carole Jordan	KDA
Derenda Mitchell	KLA
Todd Johnson	KLA
Leslie Kaufman	KFB
Sandy Braden	TIAK
Barb Coxart	KTRA
Chad Luce	KOWP

1 [As Amended by Senate Committee of the Whole]

2
3 As Amended by Senate Committee

4 Session of 2003

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6 **SENATE BILL No. 134**

7
8 By Committee on Commerce

9
10 2-4

11
12 AN ACT concerning land and water recreational areas; relating to limited
13 liability; agritourism and ecotourism; amending K.S.A. 58-3201 and 58-
14 3202 and repealing the existing sections.
15

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

17 Section 1. K.S.A. 58-3201 is hereby amended to read as follows: 58-
18 3201. The purpose of this act is to encourage owners of land to make land
19 and water areas available to the public for recreational purposes *and to*
20 *encourage the development of agritourism and ecotourism opportunities*
21 *in this state by limiting their liability toward persons entering thereon on*
22 *such land for such purposes.*

23 Sec. 2. K.S.A. 58-3202 is hereby amended to read as follows: 58-
24 3202. As used in this act: (a) "Land" means land, roads, water, water-
25 courses, private ways and buildings, structures, and machinery or equip-
26 ment when attached to the realty and includes agricultural and
27 nonagricultural land.

28 (b) "Owner" means the possessor of a fee interest, a tenant, lessee,
29 occupant or person in control of the premises.

30 (c) "Recreational purpose" includes, but is not limited to, any of the
31 following, or any combination thereof: Hunting, fishing, swimming, boat-
32 ing, camping, picnicking, hiking, pleasure driving, nature study, water
33 skiing, ~~winter sports, and horseback riding,~~ viewing or enjoying historical,
34 archaeological, scenic ~~or scientific sites,~~ *and recreational farming and*
35 *ranching activities equine riding, recreational farming activities and*
36 *recreational ranching activities provided as agritourism activities.*
37 *Recreational farming activities shall include all activities of farming*
38 *identified in subsection (f) when performed on a recreational basis*
39 *except a person's operation of farm [agricultural] equipment as de-*
40 *finied by subsection (a) of K.S.A. 16-1202 and amendments thereto*
41 *[this section, when such person is a member of the public on the*
42 *land for recreational purposes].*

and winter sports;

or scientific sites; and

43 (d) "Charge" means the admission price or fee asked in return for
44 , except that recreational farming activities shall not include operation of
45 agricultural equipment by a person who is a member of the public on the
46 land for recreational purposes

1 invitation or permission to enter or go upon the land.

2 (e) "Agricultural land" means land suitable for use in farming and
3 includes roads, water, watercourses and private ways located upon or
4 within the boundaries of such agricultural land and buildings, structures
5 and machinery or equipment when attached to such agricultural land.

6 (f) "Farming" means the cultivation of land for the production of
7 agricultural crops, the raising of poultry, the production of eggs, the pro-
8 duction of milk, the production of fruit or other horticultural crops, graz-
9 ing or the production of livestock.

10 (g) "Nonagricultural land" means all land other than agricultural land.

11 ~~[(h) "Agricultural equipment" means equipment including, but~~
12 ~~not limited to, tractors, trailers, combines, tillage implements, bail-~~
13 ~~ers and other equipment used in planting, cultivating, irrigating or~~
14 ~~harvesting agricultural products, excluding self-propelled machines~~
15 ~~designed primarily for the transportation of persons or property on~~
16 ~~a street or highway.]~~

"Agricultural equipment" includes, but is

17 Sec. 3. K.S.A. 58-3201 and 58-3202 are hereby repealed.

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

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The Kansas Field Conference

Administered through the Kansas Geological Survey's Geology Extension program, the Kansas Field Conference is an outreach program providing educational opportunities to individuals who make and influence policy about natural resources and related social, economic, and environmental issues in Kansas.

At each Kansas Field Conference, participants travel to selected locations where they are introduced to the technical, economic, environmental, social, and policy-related components of natural-resource development. Using field experiences, the conference gives participants a firsthand look at some of the state's natural-resource issues, enabling them to make better-informed and more effective decisions when dealing with these resources.

Comments from Past Conferences:

"The tours have been a valuable educational experience for me and of great assistance as a legislator and member of the Energy and Natural Resources Committee. More legislators need to take advantage of this opportunity." —*Don Biggs, Former State Senator, Leavenworth*

"The field conference was interesting, informative, and worthwhile—a diverse mix of participants, presenters, and issues." —*John Strickler, Chair, Kansas Chapter Board of Trustees, The Nature Conservancy*

"Each year I look forward to the opportunity to learn more about Kansas. The ideas and background from the Field Conference help me in making decisions in the Legislature." —*Carl D. Holmes, State Representative, Liberal*

Who Should Be Involved?

- State and Federal agencies
- Business and industry leaders
- Legislators and legislative staff
- Educators
- Public-interest groups
- Municipal and county governments
- General public

The 2003 Field Conference will be limited to 30 invited participants. These individuals will be private and public leaders involved in natural-resource issues who are in policy- and decision-making positions in the state of Kansas.

General Information


Registration fee for the 2003 Field Conference is \$95. Transportation, meals, three nights lodging, and the Field Guide are included in the registration fee. Participants will be responsible for transportation to and from Lawrence, Kansas.

Further Information

For more information about the Kansas Field Conference or the 2003 Field Conference, please contact



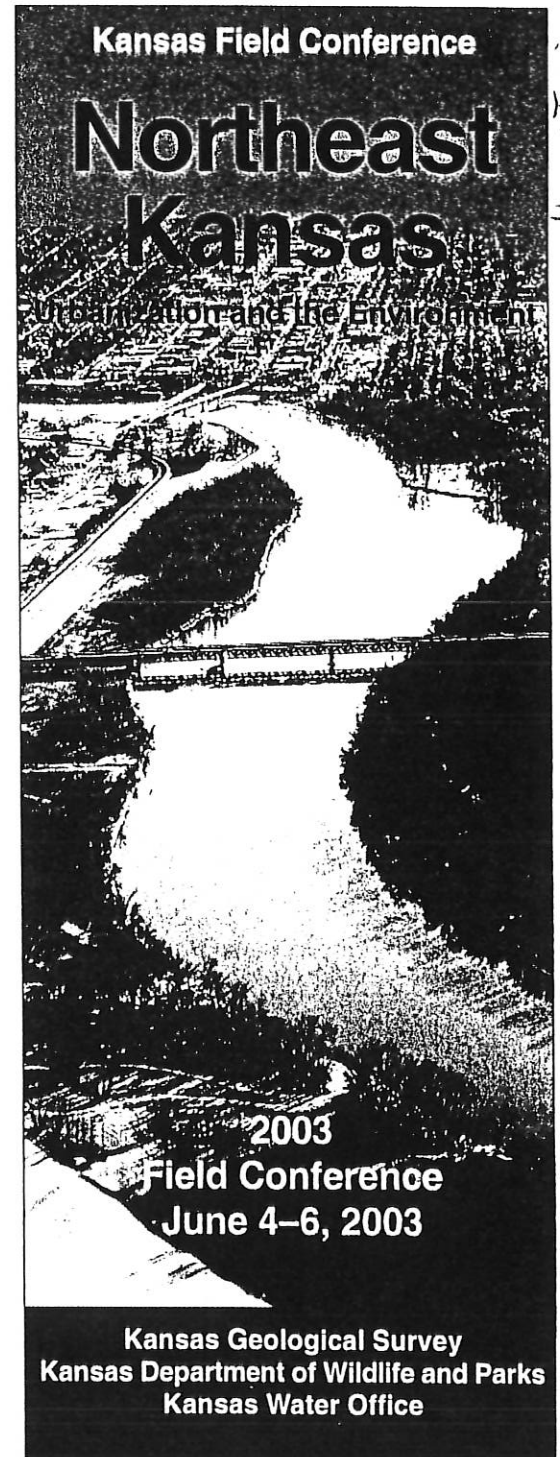
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Kansas Field Conference

Northeast Kansas

Urbanization and the Environment



**2003
Field Conference
June 4-6, 2003**

**Kansas Geological Survey
Kansas Department of Wildlife and Parks
Kansas Water Office**

House Tourism Committee
3/12/03
A. H. H. H. H. H.

House Tour
Date - 3/12/03
Attachment # 2
Part 2

2003 Field Conference

The 2003 Field Conference for decision- and policy-makers moves to extreme northeastern Kansas to explore the effect of urbanization on natural resources, the area's rivers, and a variety of issues unique to this part of the state. This year's conference is sponsored by the Kansas Geological Survey, the Kansas Department of Wildlife and Parks, and the Kansas Water Office. During the two-and-one-half day conference, participants will travel by chartered bus to selected sites, including Sunflower Army Ammunition Plant, Mill Creek Watershed in Johnson County, Johnson County Landfill, Cabela's, Kaw Point (the

confluence of the Kansas and Missouri rivers), a dredging operation on the Kansas River, the Missouri River, Benedictine Bottoms, and Sugar Creek Underground Limestone Mine and Cement Plant.

Experts in resource development will brief the participants on what they will see and on the issues related to the sites, and a comprehensive Field Guide will present background on the sites and issues. Opportunities will be provided for interaction with county, state, and regional officials, environmental groups, and citizens' organizations.

Northeast Kansas—Urbanization and the Environment

Conference Agenda

Wednesday, June 4

- Assemble in Lawrence, KS
- **Sunflower Army Ammunition Plant**, DeSoto, KS
U.S. Army, General Services Administration
- **Urban Watershed Issues**, Mill Creek Streamway Park, Johnson County, KS
Clark Duffy and Kerry Wedel, Kansas Water Office
Mike Hayden, Kansas Dept. of Wildlife and Parks Johnson County Stormwater Management/Park and Recreation District
- **Johnson County Landfill**, Johnson County, KS
Deffenbaugh Industries, Inc.
Johnson County Environmental Dept.
- **Nature Tourism and Recreation—Cabela's**, Kansas City, KS
Ron Soucie, Cabela's
George Potts, Kansas Nature-based Tourism Alliance
Mike Hayden, Kansas Dept. of Wildlife and Parks

Shari Wilson, Wyandotte County Lewis and Clark Task Force

David Warm, Mid-America Regional Council
Scott Oldham, Unified Government of Wyandotte County, Kansas City, KS

- **Kansas River Sand Dredging**, Edwardsville, KS
Mark Mitchener, Holliday Sand and Gravel Co. U.S. Army Corps of Engineers
- **Missouri River Issues**, Atchison, KS
Mike Hayden, Kansas Dept. of Wildlife and Parks
Earl Lewis, Kansas Water Office
David Pope, Kansas Dept. of Agriculture, Division of Water Resources
U.S. Army Corps of Engineers

Friday, June 6

- **Sugar Creek Underground Limestone Mine and Cement Plant**, Sugar Creek, MO
Lafarge North America
Woody Moses, Kansas Aggregate Producers Association
- Return to Lawrence, KS - early afternoon

Thursday, June 5

- **Kaw Point**, Wyandotte County, Kansas City, KS

- Sunflower Ammunition Plant
- Stormwater Runoff and Flooding
- Minimum Streamflow
- Water Rights
- Water Supply
- Water Quality
- Solid Waste Landfill
- Bi-state Issues
- Air Quality
- Kansas River
- River Dredging
- Public Access and Open Spaces
- Nature Tourism and Recreation
- Lewis and Clark Celebration
- Missouri River
- Wetlands Restoration
- Underground Limestone Mine and Cement Plant

