

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Robert Tyson at 8:39 a.m. on February 19, 2004 in Room 423-S of the Capitol.

Members present:

Senator Christine Downey
Senator David Corbin
Senator Derek Schmidt
Senator Dwayne Umbarger
Senator Janis Lee
Senator Mark Taddiken
Senator Phil Journey
Senator Robert Tyson
Senator Tim Huelskamp

Committee staff present:

Raney Gilliland, Legislative Research Department
Lisa Montgomery, Office of Revisor of Statutes
Linda Bradley, Committee Secretary

Conferees appearing before the committee:

Christopher Tymeson, Legal Counsel, Kansas Department of Wildlife and Parks

Others attending:

See Attached List.

The meeting was called to order by Chairman Tyson.

Review of Minutes

Senator Umbarger moved to approve the minutes of February 12. Senator Huelskamp seconded the motion and the motion carried.

Hearing on Senate Bill 496

SB 496 is concerning hunting; relating to the revocation or suspension of hunting licenses; amending K.S.A. 32-1013 and repealing the existing section.

Chairman Tyson asked Raney Gilliland, Staff, to explain **SB 496**. Mr. Gilliland stated the bill creates essentially a trespass violation system. It addresses individuals while hunting, for convictions or diversion agreements or trespass violations. You may recall one section of law that the legislature addressed in the last few years is a section being amended and this section basically makes it a violation for any person hunting, trapping and fishing on posted property without written permission from the property owners. Any landowner or person in lawful possession of any land may post such land by placing identifying purple paint marks on trees or posts around the area to be posted. Mr. Gilliland passed out additional information on criminal hunting. (Attachment 1) Mr. Gilliland also passed out additional information on criminal trespass. (Attachment 2)

Christopher Tymeson, Legal Counsel, Kansas Department of Wildlife and Parks spoke as a proponent of **SB 496**. Mr. Tymeson stated he firmly supports the bill. He said **SB 496** would amend current statutory provisions dealing with hunting without written permission, criminal hunting and criminal trespass while hunting. (Attachment 3)

The Committee was asked by Chairman Tyson if they had any questions. Various questions were asked by Senators Lee, Taddiken, Tyson, Journey, Huelskamp, Downey and Schmidt regarding a judge having the ability to take away hunters licence, the Kansas Bureau of Investigation involvement, send abstracts to courts and KBI, narrow down to hunter violations and use the right statutes, diversion agreement and

CONTINUATION SHEET

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE at 8:39 a.m. on February 19, 2004 in Room 423-S of the Capitol.

taking privilege away without charges being dismissed. Discussion comments were a drivers license is not a life time license and the courts can suspend a life time license, hunters need to know where property lines start, hunters hunting on private property because they are having trouble finding a place to hunt, we need a strong bill, county attorney can prosecute or file appeals.

Chairman Tyson asked Senators Journey, Schmidt and Taddiken to meet at 7:00 a.m., Friday, February 20, 2004 to work out some specifics in **SB 496**.

Adjournment

The meeting adjourned at 9:19 a.m.

The next scheduled meeting will be Friday, February 20, 2004.

SENATE NATURAL RESOURCES COMMITTEE

GUEST LIST

DATE: Thursday, February 19, 2004

NAME	REPRESENTING
Chris Tymeson	KDWP
Wloyd Fox	KDWP
LeAnn Smith	KDWP
Kevin Jones	KDWP
Steve Swaffar	KFB
RICHARD BODOWALD	FARMER
Konnie Leffler	DOB

[Home](#)[Bill Search](#)[Current Happenings](#)[Listen In Live!](#)[Helpful Hints](#)[Site Index](#)[Home](#) > [Kansas Statutes](#) > Kansas Statute No. 21-3728**21-3728****Chapter 21.--CRIMES AND PUNISHMENTS****PART II.--PROHIBITED CONDUCT****Part 2.--Prohibited Conduct****Article 37.--CRIMES AGAINST PROPERTY**

21-3728. Criminal hunting. Criminal hunting is hunting, shooting, trapping, pursuing any bird or animal, or fishing:

(1) Upon any land or nonnavigable body of water of another, without having first obtained permission of the owner or person in possession of such premises; or

(2) upon or from any public road, public road right-of-way or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises.

Criminal hunting is a class C misdemeanor. Upon the first conviction thereof after the effective date of this act, and in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting or fishing license, or both, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting or fishing, or both, for up to one year from the date of such conviction. Upon any subsequent conviction thereof, and in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting or fishing license, or both, or, in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting or fishing, or both, for one year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit.

History: L. 1969, ch. 180, § 21-3728; L. 1977, ch. 113, § 1; L. 1992, ch. 298, § 48; July 1, 1993.

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*Senate Natural Resources Committee
Date: 2-19-04 Attachment 1*

[Home](#)[Bill Search](#)[Current Happenings](#)[Listen In Live!](#)[Helpful Hints](#)[Site Index](#)[Home](#) > [Kansas Statutes](#) > Kansas Statute No. 21-3721**21-3721****Chapter 21.--CRIMES AND PUNISHMENTS****PART II.--PROHIBITED CONDUCT****Part 2.--Prohibited Conduct****Article 37.--CRIMES AGAINST PROPERTY****21-3721. Criminal trespass.** (a) Criminal trespass is:

(1) Entering or remaining upon or in any land, nonnavigable body of water, structure, vehicle, aircraft or watercraft other than railroad property as defined in K.S.A. 2003 Supp. 21-3761 and amendments thereto by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or

(B) such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

(C) such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 2003 Supp. 60-31a05, 60-31a06, K.S.A. 60-1607, 60-3105, 60-3106 or 60-3107 or K.S.A. 38-1542, 38-1543 or 38-1563, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or

(2) entering or remaining upon or in any public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.

(b) As used in this section:

(1) "Health care facility" means any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients.

(2) "Health care provider" means any person: (A) Licensed to practice a branch of the healing arts; (B) licensed to practice psychology; (C) licensed to practice professional or practical nursing; (D) licensed to practice dentistry; (E) licensed to practice optometry; (F) licensed to practice pharmacy; (G) licensed to practice podiatry; (H) licensed as a social worker; or (I) licensed to practice physical therapy.

(c) (1) Criminal trespass is a class B nonperson misdemeanor.

(2) Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which must be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

History: L. 1969, ch. 180, § 21-3721; L. 1979, ch. 92, § 13; L. 1980, ch. 99, § 1; L. 1986, ch. 161, § 3; L. 1992, ch. 183, § 6; L. 1993, ch. 291, § 79; L. 1996, ch. 30, § 2; L. 1996, ch. 211, § 2; L. 2002, ch. 141, § 11; L. 2003, ch. 128, § 17; Apr. 1, 2004.

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Senate Natural Resources Committee

Date: 2-19-04

Attachment 2

2/19/2004 8:23 AM

KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on SB 496 Relating to Revocation of
Hunting Licenses for Certain Violations
To
Senate Committee on Natural Resources**

**By Christopher J. Tymeson
Chief Legal Counsel
Kansas Department of Wildlife and Parks**

19 February 2003

SB 496 would amend current statutory provisions dealing with hunting without written permission, criminal hunting and criminal trespass while hunting. The bill creates the trespass violation system, which would be administered by the Department through rule and regulation. After the first conviction or diversion for the above listed offense, the Department would have the authority to revoke hunting privileges for up to one year. After the second conviction or diversion, the Department would have the authority to revoke hunting privileges for up to five years and after the third conviction or diversion, the hunting privileges shall be permanently denied or revoked. The provisions of this bill would be effective on July 1, 2004.

The Department firmly supports and is committed to fair and effective conservation law enforcement for the citizens of the State of Kansas. According to Department data, 245 individuals were cited for all types of the violations listed above in 2003. Of that number, 120 persons were found guilty or entered diversion agreements. Of the remaining cases, 21 were dismissed and 104 were written warning tickets, usually at the request of the landowner. It should be noted that other law enforcement agencies also enforce the provisions of the laws cited in the bill and some modification to the reporting system would need to be made in order for the Department to capture that data as well.

The Department would also note that the proposed legislation contains provisions only related to hunting as part of the violation. If this legislation were intended to address all activities where privileges apply, the bill would need modification to include trapping and angling. In addition, legislative direction would be beneficial to address whether a violation for one activity would affect license privileges for other activities.

Heretofore the Department has not had the authority to revoke or suspend hunting privileges. Such action has been reserved for the courts through a finding of guilt or by placing provisions in a diversion agreement. While the Department feels this bill is a step in the right direction towards effective law enforcement for conservation law, the Department would like more time to analyze the effects of the bill, particularly in light of potential for entry into the Interstate Wildlife Violator Compact.

Office of the Secretary

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Senate Natural Resources Committee Attachment 3
Date: 2-19-04