

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Robert Tyson at 8:36 a.m. on February 20, 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:

None

Others attending:

See Attached List.

Chairman Tyson called the meeting to order.

**Further discussion on SB 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.**

Dan Ward, Executive Director of the Kansas Wildlife Federation sent written testimony in opposition of SB 496 late Thursday afternoon, February 19, 2004. Chairman Tyson said this testimony was just for the Committee to look at. Senator Taddiken said most of the contents of this testimony had already been covered. (Attachment 1)

The Committee was asked by Chairman Tyson to continue the discussion on **SB 496**. Senator Schmidt explained the results of the Subcommittee meeting held at 7:00 a.m., Friday, February 20, 2004 along with Senator Taddiken and Senator Journey. Senator Schmidt explained that what the Subcommittee proposes is a provision for "intentional criminal hunting trespass" similar to that in the criminal trespass statute (K.S.A. 21-3721). The second is conviction of the provisions of K.S.A. (posted land or purple paint designation) would result in the person being subject to the "intentional criminal hunting trespass" penalties. The third is to eliminate proposed amendments to K.S.A. 32-1013. (Attachment 2)

The Chairman then asked the Committee if there were questions. Senators Downey, Journey, Taddiken, Tyson, Huelskamp, Schmidt and Lee asked a range of questions including penalty for criminal trespassing and fishing, hunter not having a hunter's license, jail time, community service an option for the courts, is there incentive for the local prosecutor to pursue hunting violations, income potential to farmers whom allow hunting on their land, and diversion fee.

Mr. Tymeson mentioned the court would have to notify Kansas Department of Wildlife and Parks of a diversion agreement. A conviction on diversion would require court to pull the license. The statute should be redrafted. If you are prosecuted the violator pays the fee. Lisa Montgomery, Staff, to work on amendment to the bill with a supposed substitute to **SB 496**. Action will be taken on **SB 496** at the next meeting.

CONTINUATION SHEET

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE at 8:36 a.m. on February 20, 2004 in Room 423-S of the Capitol.

**Adjournment**

The meeting adjourned at 9:06 a.m.

The next scheduled meeting will be Tuesday, February 24, 2004





KANSAS WILDLIFE  
FEDERATION

*The voice of outdoor Kansas*

Testimony Prepared for the Senate Natural Resources Committee  
In Opposition to SB 496

February 19, 2004

My name is Dan Ward, and I'm the Executive Director of the Kansas Wildlife Federation. KWF is a 53-year old organization dedicated to the wise use, conservation, appreciation, and the restoration of our state's wildlife and natural environment. We approach this mission primarily from the perspective of hunting and fishing, which are important traditions in Kansas. Over 500,000 hunters and anglers spend close to one billion dollars in the state each year.

Many of our members are also members of the National Rifle Association. As a result, it is probably not surprising that our stance on this bill resembles an NRA response to proposed legislation.

To wit, we are reluctant to pass new laws and add additional criminal remedies to law enforcement, when there are already laws on the books that are not being enforced.

Additionally, if we must pass new laws to criminalize behavior, the best place to settle the resulting cases is in the criminal courts, not through administrative remedies. People placed at the mercy of agencies may have the right of due process, but the not the right to an attorney, to discovery, or a speedy trial.

Lastly, if we must pass new laws to criminalize, or further penalize behavior, then these laws should have equal justice as an aim. In our view, any landowner should have the right to expect protection from trespassers.

We will be the first to concede that there is an enforcement problem in the area of game laws. Our wildlife officers deserve more support and this body should look at ways of holding judges and district attorneys accountable when they refuse to treat poaching as the serious crime it is against the people, the economy, the sportsmen, and the natural heritage of our state.

The fact that we have an enforcement problem needs addressing. But reworking the justice system is not the answer.

Another problem that we see with SB 496 as it is written is that it takes discretion away from the enforcing bodies. Again, while there is an enforcement problem we need to address, mandating the suspension of a hunting license strips a judge of the right to make a judgment. Not all trespassing crimes are the same – some are blatant and uncaring invasions of property, and some are accidents of bad navigation. We recommend that your committee reject any effort to mandate the revocation or suspension of hunting licenses.

We thank you for your attention to this written testimony, and will be happy to answer any questions. Please contact us at the above address if we can be of service to you.

214 SW 6<sup>th</sup> Ave., Ste. 205 ♦ Topeka, KS 66603 ♦ (785) 232-3238

Senate Natural Resources Committee

Date: 2-20-04

Attachment 1

Subcommittee on SB 496

The Subcommittee proposes to amend KSA 21-3728, the statute which provides for criminal hunting trespass. The proposed amendments to this section would include:

1) a provision for "intentional criminal hunting trespass" similar to that in the criminal trespass statute (KSA 21-3721). This violation would occur when a person enters or remains upon land or nonnavigable body of water of another by a person who knows that they are not authorized or privileged to do so. Intentional criminal hunting trespass would be a Class B misdemeanor. Conviction of intentional criminal hunting trespass would require the court to order forfeiture of the person's hunting (or fishing) license for six months. A second conviction would result in forfeiture of the person's hunting (or fishing) license for one year. A third conviction would result in forfeiture for 5 years.

2) conviction of the provisions of KSA 32-1013 (posted land or purple paint designation) would result in the person being subject to the "intentional criminal hunting trespass" penalties outlined above.

3) eliminate proposed amendments to KSA 32-1013.

*Senate Natural Resources Committee*  
*Date: 2-20-04*                      *Attachment 2*