

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 A.M. on March 10, 2005 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department

Conferees appearing before the committee:

Chris Tymeson, Chief Legal Counsel, Kansas Wildlife and Parks

Dan Ward, Director, Kansas Wildlife Federation

Ron Klataske, Audubon of Kansas

Others attending:

See attached list.

Senator McGinn requested a bill briefing on **HB 2253** by Raney Gilliland who recommended some corrections and rewording of the bill.

Senator Taddiken asked about Section 4 lines 4-6. Mr. Gilliland stated that this was current law. Senator Taddiken asked if we are changing the stricken language. Mr. Gilliland said that by striking this section, current law would be retained.

Senator Bruce asked how many diversions one could get, to which Mr. Gilliland replied that conferees would address this question.

Chairman McGinn recognized Chris Tymeson, Chief Legal Counsel for Kansas Department of Wildlife and Parks to present testimony in favor of the bill (Attachment 1). He also presented an amendment to address disparities in the statutes.

Senator Lee asked for a flow chart to explain the penalties. She also asked what the penalty is for a class C misdemeanor. Mr. Tymeson stated that a flow chart would be provided and that a class C has a fine of \$500.

Senator Huelskamp asked for a description of habitual violator population and if progress has been made in deterring these crimes. Mr. Tymeson stated that the bill currently under consideration enacting the Wildlife Violator Compact was one measure to address these issues.

Senator McGinn asked how many people have been prosecuted and if we will see more prosecutions. She also asked if this allows for flexibility to use ankle bracelets if the jails reach capacity. Mr. Tymeson stated that he does not think the provisions allow for the use of ankle bracelets.

Senator Ostmeyer asked if there are any numbers on this. Kevin Johnson, KDWP enforcement from Pratt, Kansas stated that data can be obtained. He also informed the committee that there is not a large number who have three or more violations. Senator Ostmeyer asked if the violator loses their gun or license upon such infractions. Mr. Tymeson stated that mandatory revocation is in place which ties into the violator compact.

Senator Bruce asked about page 3 of the bill, and asked if a single violation arises from one set of facts or individual violation. Mr. Tymeson stated that the same set of facts would equal one violation.

Next to testify in favor of the bill was Dan Ward of the Kansas Wildlife Federation (Attachment 2). He stated that the main objectives of the bill are to raise fines to treat in-state and out-of-state violators equally and to increase penalties for repeat offenders.

Senator McGinn then introduced Ron Klataske of Audubon of Kansas (Attachment 3). Mr. Klataske supports the bill and states that there is a significant amount of illegal deer hunting in Kansas and

## CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 A.M. on March 10, 2005 in Room 423-S of the Capitol.

this bill would provide statutory deterrents.

Senator McGinn asked if we are doing anything to watch sales of antlers, such as online auctions. Mr. Tymeson stated that they are watching some, but it is difficult to tell if the ownership of the antlers is legitimate or not. It is not unlawful to sell antlers in Kansas.

Senator Taddiken suggested the possibility of creating a statute to limit the number of antlers one could sell in a given time period.

Senator McGinn suggested assistance by computer tracking.

The meeting was adjourned at 9:30 a.m.



# KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2253 relating to the Sentencing Standards for Wildlife Violations  
To  
Senate Committee on Natural Resources**

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

**10 March 2005**

House Bill 2253 seeks to amend K.S.A. 32-1002, K.S.A. 32-1003, K.S.A. 2004 Supp. 32-1013, K.S.A. 32-1031 and K.S.A. 2004 Supp. 32-1032 by establishing new sentencing standards for wildlife violations, particularly relating to subsequent convictions. The provisions of this bill would be effective on July 1, 2005.

This bill was introduced at the behest of the Kansas Wildlife Federation, in cooperation with many other wildlife constituent groups, and is directed towards habitual wildlife violators. As such, the Department supports the proposal.

Since introduction, this bill has been amended at the behest of the County and District Attorneys Association, the Kansas Wildlife Federation and the Department. After having had time to review the latest series of amendments in depth, the Department would request the committee amend this bill again to address disparities amongst statutes. Attached is the requested amendment that was forwarded to the revisor's office for assistance.

In conclusion, the department wishes to thank the sponsors of this bill and the Committee for bringing this proposal forward. The department broadly supports legislation that would address wildlife offenses and feels that this legislation provides appropriate direction involving repeat violators of wildlife laws. The department encourages passage of this legislation and stands ready to assist in any way to resolve any issues related to this bill.

Office of the Secretary

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*Senate Natural Resources  
3/10/05  
Attachment 1*

8 March 2005

**HB 2253 – Proposed changes**

1.) **Page 1, line 11:** Include 32-1001 and 32-1004 in the title. (This relates to licenses and permits and illegal transport and possession from another state, and penalty provisions need to be added. Will address further below.)

2.) **Page 2, line 40:** after “game tags” insert:

“taking big game or wild turkey during a closed season, taking big game or wild turkey in violation of KSA 32-1003 (a) (1), (2), or (7), or taking big game or wild turkey in violation of KSA 32-1004 (a) (2), or (3)”

3.) **Page 3, lines 3, 8, 14, 20 & 21:** remove “big game or wild turkey permits and game tags” and insert “this section”.

4.) **Page 4, line 1:** insert “32-1001” and “32-1004”.

5.) **Page 5, lines 32 through 34:** remove proposed subsection (d) and replace with:

(d) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in KSA 32-1031, except as provided in KSA 32-1032 relating to big game and wild turkey.”

6.) **Page 6, lines 30 through 32:** remove proposed subsection (b) and replace with:

(b) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in KSA 32-1031, except as provided in KSA 32-1032 relating to big game and wild turkey.”

7.) **Page 7, lines 18 through 20:** remove proposed subsection (d) and replace with:

(d) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in KSA 32-1031”

8.) **Add a new Section:** which would include KSA 32-1001. Amend this statute by the addition of a new subsection (e) stating:

(e) Any person convicted of violating provisions of this section shall subject to the penalties prescribed in KSA 32-1031, except as provided in KSA 32-1032 relating to big game and wild turkey.”

HOUSE BILL No. 2253

By Committee on Wildlife, Parks and Tourism

2-2

10 AN ACT concerning wildlife; relating to wildlife violations; amending  
11 K.S.A. ~~22-2908, 32-1002, 32-1003~~ and 32-1031 and K.S.A. 2004  
12 Supp. ~~32-1013~~ and 32-1032 and repealing the existing sections. 32-1001, 32-1004,

13  
14 *Be it enacted by the Legislature of the State of Kansas:*

15 ~~Section 1. K.S.A. 22-2908 is hereby amended to read as follows: 22-~~  
16 ~~2908. (a) In determining whether diversion of a defendant is in the in-~~  
17 ~~terests of justice and of benefit to the defendant and the community, the~~  
18 ~~county or district attorney shall consider at least the following factors~~  
19 ~~among all factors considered:~~

- 20 ~~— (1) The nature of the crime charged and the circumstances surround-~~  
21 ~~ing it;~~
- 22 ~~— (2) any special characteristics or circumstances of the defendant;~~
- 23 ~~— (3) whether the defendant is a first time offender and if the defend-~~  
24 ~~ant has previously participated in diversion, according to the certification~~  
25 ~~of the Kansas bureau of investigation or the division of vehicles of the~~  
26 ~~department of revenue;~~
- 27 ~~— (4) whether there is a probability that the defendant will cooperate~~  
28 ~~with and benefit from diversion;~~
- 29 ~~— (5) whether the available diversion program is appropriate to the~~  
30 ~~needs of the defendant;~~
- 31 ~~— (6) the impact of the diversion of the defendant upon the community;~~
- 32 ~~— (7) recommendations, if any, of the involved law enforcement agency;~~
- 33 ~~— (8) recommendations, if any, of the victim;~~
- 34 ~~— (9) provisions for restitution; and~~
- 35 ~~— (10) any mitigating circumstances.~~

36 ~~(b) A county or district attorney shall not enter into a diversion agree-~~  
37 ~~ment in lieu of further criminal proceedings on a complaint if:~~

- 38 ~~— (1) The complaint alleges a violation of K.S.A. 8-1567 and amend-~~  
39 ~~ments thereto and the defendant: (A) Has previously participated in di-~~  
40 ~~version upon a complaint alleging a violation of that statute or an ordi-~~  
41 ~~nance of a city in this state which prohibits the acts prohibited by that~~  
42 ~~statute. (B) has previously been convicted of or pleaded *nolo contendere*~~  
43 ~~to a violation of that statute or a violation of a law of another state or of~~

1 a political subdivision of this or any other state, which law prohibits the  
2 acts prohibited by that statute; or (C) during the time of the alleged  
3 violation was involved in a motor vehicle accident or collision resulting in  
4 personal injury or death; or

5 (2) ~~The complaint alleges a violation of article 10 of section 32 of the~~  
6 ~~Kansas Statutes Annotated, and amendments thereto, and the defendant:~~

7 ~~(A) Has previously participated in diversion upon a complaint alleging~~  
8 ~~a violation of article 10 of section 32 of Kansas Statutes Annotated, and~~  
9 ~~amendments thereto; or (B) has previously been convicted of or pleaded~~  
10 ~~nolo contendere to a violation of article 10 of section 32 of Kansas Statutes~~  
11 ~~Annotated, and amendments thereto; or a violation of a law of another~~  
12 ~~state or of a political subdivision of this or any other state, which law~~  
13 ~~prohibits the acts prohibited by that article 10 of section 32 of Kansas~~  
14 ~~Statute Annotated, and amendments thereto; or~~

15 ~~(2) (3) the complaint alleges that the defendant committed a class A~~  
16 ~~or B felony or for crimes committed on or after July 1, 1993, an off-grid~~  
17 ~~crime, a severity level 1, 2 or 3 felony for nondrug crimes or drug severity~~  
18 ~~level 1 or 2 felony for drug crimes.~~

19 —Sec. 2, Section 1. K.S.A. 32-1031 is hereby amended to read as fol-  
20 lows: 32-1031. (a) Unless otherwise provided by law or rules and reg-  
21 ulations of the secretary, violation of any provision of the wildlife and  
22 parks laws of this state or rules and regulations adopted thereunder is a  
23 class C misdemeanor.

24 ~~(b)~~ (1) Upon a second conviction of a wildlife violation that is a class  
25 C misdemeanor, a fine of not less than \$250 shall be imposed.

26 ~~(c)~~ (2) Upon a third conviction of a wildlife violation that is a Class  
27 C misdemeanor, a fine of not less than \$300 shall be imposed.

28 ~~(d)~~ (3) Upon a fourth conviction and any subsequent convictions  
29 of a wildlife violation that is a class c misdemeanor, a fine of not less than  
30 \$400 shall be imposed and a minimum of not less than 7 days in the county  
31 jail shall be served.

32 All charges arising from the same set of circumstances shall con-  
33 stitute one conviction for the purposes of this section.

34 (b) Any conviction for a wildlife violation that is a class C mis-  
35 demeanor that occurs before July 1, 2005, shall not be considered  
36 for purposes of this section.

37 Sec. 2. K.S.A. 2004 Supp. 32-1032 is hereby amended to read as  
38 follows: 32-1032. (a) Violation of any provision of the wildlife and parks  
39 laws of this state or rules and regulations of the secretary relating to big  
40 game or wild turkey permits and game tags is a misdemeanor, subject to  
41 the provisions of subsection (b), punishable by a fine of not less than \$250  
42 nor more than \$1,000 or by imprisonment in the county jail for not more  
43 than six months, or by both.

taking big game or wild turkey during a closed season, taking  
big game or wild turkey in violation of subsections (a) (1), (2) or  
(7) of K.S.A. 32-1003, and amendments thereto, or taking big  
game or wild turkey in violation of subsection (a) (2) or (3) of  
K.S.A. 32-1004, and amendments thereto,



1 (1) Upon a first or second conviction for a violation of the wildlife  
 2 and parks laws of this state or the rules and regulations of the secretary  
 3 relating to big game or wild turkey permits and game tags, the violator  
 4 shall not be fined less than ~~\$250~~ \$500 nor more than \$1,000 or be im-  
 5 prisoned in the county jail for not more than six months, or both.

this section

6 (2) Upon a third conviction for a violation of the wildlife and parks  
 7 laws of this state or the rules and regulations of the secretary relating to  
 8 big game or wild turkey permits and game tags, the violator shall not be  
 9 fined less than \$500 ~~or \$1,000~~ and be imprisoned in the county jail for  
 10 less than 30 days, ~~or both~~. A third conviction shall be a class B non-  
 11 person misdemeanor.

this section

12 (3) Upon a fourth conviction for a violation of the wildlife and parks  
 13 laws of this state or the rules and regulations of the secretary relating to  
 14 big game or wild turkey permits and game tags, the violator shall not be  
 15 fined less than \$500 ~~or \$1,000~~ and be imprisoned in the county jail for  
 16 less than 60 days, ~~or both~~. A fourth conviction shall be a class A  
 17 nonperson misdemeanor.

this section

18 (4) Upon the fifth ~~conviction~~ or subsequent convictions for a vio-  
 19 lation of the wildlife and parks laws of the state or the rules and regula-  
 20 tions of the secretary relating to big game or wild turkey permits and  
 21 game tags, the violator shall not be fined less than \$500 ~~or \$1,000~~ and  
 22 be imprisoned in the county jail for less than 90 days, ~~or both~~. A fifth or  
 23 subsequent conviction shall be a class A nonperson misdemeanor.

this section

24 All charges arising from the same set of circumstances shall consti-  
 25 tute one conviction for the purposes of this subsection.

26 Any conviction for a wildlife violation that occurs before July 1,  
 27 2005, shall not be considered for purposes of this subsection.

28 (b) (1) In addition to any other penalty prescribed by law, the unlaw-  
 29 ful intentional taking of a trophy big game animal shall be punishable by  
 30 a fine of \$5,000.

31 (2) A trophy big game animal shall include any animal meeting the  
 32 following criteria:

33 (A) An antlered whitetail deer having an inside spread measurement  
 34 of at least 17 inches;

35 (B) an antlered mule deer having an inside spread measurement of  
 36 at least 22 inches;

37 (C) an antlered elk having at least six points on one antler; or

38 (D) an antelope having at least one horn greater than 14 inches in  
 39 length.

40 (3) The secretary may adopt, in accordance with K.S.A. 32-805, and  
 41 amendments thereto, such rules and regulations that the secretary deems  
 42 necessary to implement and define the terms of this section.

43 (c) In addition to any other penalty imposed by the convicting court.



1 if a person is convicted of a violation of K.S.A. 32-1002, 32-1003 or 32-  
2 1013, and amendments thereto, that involves taking of a big game animal  
3 or wild turkey, or if a person is convicted of a violation of K.S.A. 32-1005,  
4 and amendments thereto, that involves commercialization of a big game  
5 animal or wild turkey, the court shall order:

32-1001,

, 32-1004

the court may order

6 (1) Upon the first such conviction, forfeiture of the person's hunting  
7 privileges for one year from the date of conviction and: (A) Revocation  
8 of the person's hunting license, unless such license is a lifetime hunting  
9 license; or (B) if the person possesses a lifetime hunting license, suspen-  
10 sion of such license for one year from the date of conviction.

the court shall order

11 (2) Upon the second such conviction, forfeiture of the person's hunt-  
12 ing privileges for three years from the date of conviction and: (A) Revo-  
13 cation of the person's hunting license, unless such license is a lifetime  
14 hunting license; or (B) if the person possesses a lifetime hunting license,  
15 suspension of such license for three years from the date of conviction.

the court shall order

16 (3) Upon the third or a subsequent such conviction, forfeiture of the  
17 person's hunting privileges for five years from the date of conviction and:  
18 (A) Revocation of the person's hunting license, unless such license is a  
19 lifetime hunting license; or (B) if the person possesses a lifetime hunting  
20 license, suspension of such license for five years from the date of  
21 conviction.

22 (d) If a person convicted of a violation described in subsection (c) has  
23 been issued a combination hunting and fishing license or a combination  
24 lifetime license, only the hunting portion of such license shall be revoked  
25 or suspended pursuant to subsection (c).

26 (e) Nothing in this section shall be construed to prevent a convicting  
27 court from suspending a person's hunting privileges or ordering the for-  
28 feiture or suspension of the person's license, permit, stamp or other issue  
29 of the department for a period longer than provided in this section, if  
30 such forfeiture or suspension is otherwise provided for by law.

31 New Sec. 43. Upon a conviction for a wildlife violation described in  
32 subsection (b) of K.S.A. 32-1050, and amendments thereto, the fines for  
33 such violation shall not be less than the appearance fee bond for that  
34 violation.

35 **Sec. 4.** K.S.A. 32-1002 is hereby amended to read as follows:  
36 **32-1002.** (a) Unless and except as permitted by law or rules and  
37 regulations adopted by the secretary in accordance with K.S.A. 32-  
38 805 and amendments thereto, it is unlawful for any person to:

39 (1) Hunt, fish, furharvest or take any wildlife in this state by  
40 any means or manner;

41 (2) possess, any wildlife, dead or alive, at any time or in any  
42 number, in this state;

43 (3) purchase, sell, exchange, ship or offer for sale, exchange or

renumber sections accordingly

1 shipment any wildlife in this state;

2 (4) take any wildlife in this state for sale, exchange or other  
3 commercial purposes;

4 (5) possess any seine, trammel net, hoop net, fyke net, fish gig,  
5 fish spear, fish trap or other device, contrivance or material for  
6 the purpose of taking wildlife; or

7 (6) take or use, at any time or in any manner, any game bird,  
8 game animal, coyote or furbearing animal, whether pen-raised or  
9 wild, in any field trial or for training dogs.

10 (b) The provisions of subsections (a)(2) and (a)(3) do not apply  
11 to animals sold in surplus property disposal sales of department  
12 exhibit herds or animals legally taken outside this state, except the  
13 provisions of subsection (a)(3) shall apply to:

14 (1) The meat of game animals legally taken outside this state;  
15 and

16 (2) other restrictions as provided by rule and regulation of the  
17 secretary.

18 (c) The provisions of this section shall not be construed to  
19 prevent:

20 (1) Any person from taking starlings or English and European  
21 sparrows; or

22 (2) owners or legal occupants of land from killing any animals  
23 when found in or near buildings on their premises or when de-  
24 stroying property, subject to the following: (A) The provisions of  
25 all federal laws and regulations governing protected species and  
26 the provisions of K.S.A. 32-957 through 32-963, and rules and reg-  
27 ulations adopted thereunder; (B) it is unlawful to use, or possess  
28 with intent to use, any such animal so killed unless authorized by  
29 rules and regulations of the secretary; and (C) such owners or legal  
30 occupants shall make reasonable efforts to alleviate their problems  
31 with any such animals before killing them.

32 (d) *A second conviction under the provisions of this section shall be*  
33 *a class B nonperson misdemeanor. A third or subsequent conviction under*  
34 *the provisions of this section shall be a class A nonperson misdemeanor.*

35 Sec. 5. K.S.A. 32-1003 is hereby amended to read as follows:  
36 32-1003. (a) It is unlawful for any person, unless authorized by law  
37 or rules and regulations of the secretary, to:

38 ~~(a)~~ (1) Take any game animal or furbearing animal from a mo-  
39 torboat, airplane, motor vehicle or other water, air or land vehicle  
40 unless such person holds a valid handicapped hunting and fishing  
41 permit issued to such person pursuant to K.S.A. 32-931 and amend-  
42 ments thereto;

43 ~~(b)~~ (2) provide or receive information concerning the location

Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

1 of any game animal or furbearing animal by radio or other me-  
 2 chanical device for purposes of taking such bird or animal;

3 ~~(c)~~ (3) use sodium fluoroacetate, commonly called formula  
 4 1080, except as permitted by rules and regulations of the secretary;

5 ~~(d)~~ (4) use poison, poisonous gas, smoke or ferrets, or any  
 6 smoke gun or other device for forcing smoke or any other asphyx-  
 7 iating or deadly gas or liquid into the holes, dens, runways or  
 8 houses of wildlife, except as permitted by rules and regulations of  
 9 the secretary;

10 ~~(e)~~ (5) fish by placing in or upon any lake, pond, river, creek,  
 11 stream or any other water, bordering on or within the state of  
 12 Kansas, any deleterious substance or fishberries;

13 ~~(f)~~ (6) place or explode any dynamite, giant powder, lime, ni-  
 14 troglycerine or any other explosive of any character or kind in any  
 15 waters of the state of Kansas with the intent to take or stun fish;

16 ~~(g)~~ (7) throw or cast the rays of a spotlight, headlight or other  
 17 artificial light on any highway, roadway, field, grassland, woodland  
 18 or forest for the purpose of spotting, locating or taking any wildlife  
 19 while having in possession or control, either singly or as one of a  
 20 group of persons, any rifle, pistol, shotgun, bow or other imple-  
 21 ment whereby wildlife could be taken, except that nothing in this  
 22 subsection shall be construed to prohibit a person from carrying a  
 23 weapon while using artificial light for conducting surveillance, ac-  
 24 tively caring for agricultural equipment or livestock or conducting  
 25 activities described in subsection (c)(2) of K.S.A. 32-1002, and  
 26 amendments thereto, when on land under the person's control, if  
 27 the person owns such land, is in lawful possession of such land or  
 28 is regularly employed for purposes of livestock or agricultural pro-  
 29 duction or management on such land.

30 (b) A second conviction under the provisions of this section shall be  
 31 a class B nonperson misdemeanor. A third or subsequent conviction under  
 32 the provisions of this section shall be a class A nonperson misdemeanor.

33 Sec. 6. K.S.A. 2004 Supp. 32-1013 is hereby amended to read  
 34 as follows: 32-1013. (a) Any landowner or person in lawful posses-  
 35 sion of any land may post such land with signs stating that hunting,  
 36 trapping or fishing on such land shall be by written permission  
 37 only. It is unlawful for any person to take wildlife on land which is  
 38 posted as provided in this subsection, without having in the per-  
 39 son's possession the written permission of the owner or person in  
 40 lawful possession thereof.

41 (b) Instead of posting land as provided in subsection (a), any  
 42 landowner or person in lawful possession of any land may post such  
 43 land by placing identifying purple paint marks on trees or posts

Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

1 around the area to be posted. Each paint mark shall be a vertical  
 2 line of at least eight inches in length and the bottom of the mark  
 3 shall be no less than three feet nor more than five feet high. Such  
 4 paint marks shall be readily visible to any person approaching the  
 5 land. Land posted as provided in this subsection shall be consid-  
 6 ered to be posted by written permission only as provided in sub-  
 7 section (a).

8 (c) A person licensed to hunt or furharvest who is following or  
 9 pursuing a wounded animal on land as provided in this section  
 10 posted without written permission of the landowner or person in  
 11 lawful possession thereof shall not be in violation of this section  
 12 while in such pursuit, except that the provisions of this subsection  
 13 shall not authorize a person to remain on such land if instructed  
 14 to leave by the owner or person in lawful possession of the land.  
 15 Any person who fails to leave such land when instructed is subject  
 16 to the provisions of subsection (b) of K.S.A. 21-3728, and amend-  
 17 ments thereto.

18 (d) *[A second conviction under the provisions of this section shall be*  
 19 *a class B nonperson misdemeanor. A third or subsequent conviction under*  
 20 *the provisions of this section shall be a class A nonperson misdemeanor.*

21 Sec. 57. K.S.A. 22-2908, 32-1002, 32-1003 and 32-1031 and K.S.A.  
 22 2004 Supp. 32-1013 and 32-1032 are hereby repealed.

23 Sec. 68. This act shall take effect and be in force from and after its  
 24 publication in the statute book.

Any person convicted of violating provisions of  
 this section shall be subject to the penalties  
 prescribed in K.S.A. 32-1031, and amendment  
 thereto.

See attached

32-1001, 32-1004,  
 renumber sections accordingly

Sec. 1. K.S.A. 2004 Supp. 32-1001 is hereby amended to read as follows: 32-1001. 7

- (a) It is unlawful for any person to:
  - (1) Participate or engage in any activity for which such person is required to have obtained a license, permit, stamp or other issue of the department under the wildlife and parks laws of this state or under rules and regulations of the secretary unless such person has obtained a currently valid such license, permit, stamp or other issue issued to such person;
  - (2) fail to carry in such person's possession a currently valid license, permit, stamp or other issue of the department, issued to such person, while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife and parks laws of this state or under rules and regulations of the secretary;
  - (3) refuse to allow examination of any license, permit, stamp or other issue of the department while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife and parks laws of this state or under rules and regulations of the secretary, upon demand by any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary;
  - (4) while participating or engaging in fishing or hunting: (A) Fail to carry in such person's possession a card or other evidence which such person is required to carry pursuant to K.S.A. 32-980 and amendments thereto; or (B) refuse to allow inspection of such card or other evidence upon demand of any officer or employee of the department or

*Refer back to 32-1002*

any officer authorized to enforce the laws of this state or rules and regulations of the secretary; or

(5) make any false representation to secure any license, permit, stamp or other issue of the department, or duplicate thereof, or to make any alteration in any such license, permit, stamp or other issue.

(b) No person charged with violating subsection (a)(1) for failure to obtain a vehicle or camping permit for use of any state park, or any portion thereof or facility therein, or any other area or facility for which a vehicle or camping permit is required pursuant to rules and regulations of the secretary shall be convicted thereof unless such person refuses to purchase such permit after receiving a permit violation notice, which notice shall require the procurement of: (1) The proper daily permit or permits and payment, within 24 hours, of a late payment fee of \$15; or (2) an annual vehicle or camping permit, as the case may be, if such permit has been established by rule and regulation and adopted by the secretary.

(c) (1) In any prosecution charging a violation of subsection (a)(1) for failure to obtain a permit required by K.S.A. 32-901 and amendments thereto, proof that the particular vehicle described in the complaint was in violation, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the time when and place where the violation occurred.

(2) Proof of a written lease of, or rental agreement for, a particular vehicle

described in the complaint, on the date and at the time of the violation, which lease or rental agreement includes the name and address of the person to whom the vehicle was leased or rented at the time of the violation, shall rebut the prima facie evidence that the registered owner was the person who parked or placed the vehicle at the time when and place where the violation occurred.

(d) No person who is a resident of this state and charged with violating subsection (a)(1) or (a)(2) shall be convicted thereof if such person produces in court or the office of the arresting officer the appropriate license, permit, stamp or other issue of the department, lawfully issued to such person and valid at the time of such person's arrest.

(e) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.



Sec. 1. K.S.A. 2004 Supp. 32-1004 is  
by amended to read as follows: 32-1004.

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It is unlawful for any person to:

(1) Possess a carcass of a big game animal or wild turkey, taken within this state, unless a game tag issued by the secretary is attached to it, and a check station tag is attached to it if required by the secretary, or refuse to make such carcass available for inspection by any officer authorized to enforce the laws of this state or rules and regulations of the secretary;

(2) possess any wildlife unlawfully killed or otherwise unlawfully taken outside this state;

(3) cause to be shipped within, from or into this state any illegally taken or possessed wildlife;

(4) intentionally import into this state, or possess or release in this state, any species of wildlife prohibited pursuant to K.S.A. 32-956 and amendments thereto;

(5) refuse to allow any conservation officer or deputy conservation officer or any law enforcement officer to inspect and count any wildlife in such person's possession; or

(6) refuse to allow any conservation officer or deputy conservation officer or any law enforcement officer to inspect any devices or facilities of such person which are used in taking, possessing, transporting, storing or processing any wildlife subject to the wildlife and parks laws of this state or rules and regulations of the secretary.

(b) The provisions of subsection (a)(1) do not apply to animals sold in surplus property disposal sales of department exhibit herds or animals legally taken outside this state.

(c) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

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# KANSAS WILDLIFE FEDERATION



*The voice of outdoor Kansas*

**Testimony Prepared for the Senate Natural Resources Committee  
In Support of HB 2253**

**March 9, 2005**

My name is Dan Ward, and I'm the Executive Director of the Kansas Wildlife Federation. KWF is a 54-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.

Because of the stewardship and professional management by the Kansas Department of Wildlife & Parks, our state has become a national destination for turkey and deer hunters. In particular, the Kansas deer herd has been managed as a trophy herd since the opening of deer season in Kansas four decades ago. What our state has accomplished is regarded by wildlife professionals across the country as a great example of what good management can achieve.

That success has been made possible by the dedication and enthusiasm of the Kansas sportsman. The fees and taxes we pay have created an outdoor world that the rest of America envies and studies.

That very same success has also encouraged an irresponsible element. Our wide-open spaces and small number of conservation officers is bringing into Kansas an increasing number of people who come because they know that it's here that they can often get away with skirting or totally ignoring wildlife laws.

While illegal hunting is a concern for most game species in the state, we have a particular concern because of the gray market trade in illegally obtained antler racks.

Deer antler racks, depending on the quality and the buyer, can fetch anywhere from \$50 to \$5,000. Because of the money involved, poaching is becoming organized crime, attracting career criminals who are often also involved in crimes such as crystal meth production and distribution or auto theft rings.

To sum up:

- There are 65 wildlife officers for the entire state
- These officers are under-funded for the task at hand
- Poachers and illegal hunters are often given minimal fines.
- As a result, there is little effective deterrent in our state for illegal hunting and poaching crimes

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*Senate Natural Resources  
3/10/05  
Attachment 2*

The Kansas Wildlife Federation has made a commitment to secure our natural heritage from unethical sportsmen and career criminals who have our state in their sites. As part of that commitment, we have, along with Audubon of Kansas, Kansas Bowhunters Association, Kansas National Wild Turkey Federation, Kansas Outfitters Association, Kansas State Rifle Association, and the Kansas Wildlife Officers Association, put together this bill to tighten enforcement of wildlife crimes. Additionally, Geary County Fish & Game, the Kansas chapter of the Rocky Mountain Elk Foundation, and the National Rifle Association's Institute for Legislative Action are all in support of this measure.

Our bill has these main objectives:

1. Raising fines to treat out-of-state and in-state violators equally. Right now, the bonding authority outlined in 32-1050 lay out what are essentially fines that apply to out of state violators, as it's rare for residents to be bonded. By making this schedule to also be a schedule of minimum fines for these offenses, we equalize the treatment for residents and non-resident offenders.
2. Ramping up penalties for repeat offenders. This bill takes both the trophy deer law and the Class C misdemeanor laws and institutes a scale of minimum penalties that escalate as an offender works through the system. We see no reason why a third-time offender (who, if he received a diversion on his first offense, is actually a fourth-time offender) should be deserving of any special clemency.

In the course of assembling this bill and talking to decision-makers about the need for this bill, I have sometimes encountered a notion that poachers are basically harmless. It's worth taking some time to note how far from the truth this is.

As previously stated, poachers are often career criminals, and because of the money involved, poaching is becoming a venue for organized crime in the state. The professional poacher is not a harmless "good ol' boy" trying to feed his family – he is frequently a drug maker and dealer, who is armed with a high powered rifle.

Take a moment to think of the kind of courage that's needed to do this job. Working alone, miles away from the nearest back-up, going after hardened criminals armed with high-powered rifles and very possibly night vision equipment. Wildlife officers believe in their work. They're not asking us for much – we're not trying to turn misdemeanors into felonies, or trying to get millions of dollars in new equipment. They're asking the state to make sure that their work has the impact that the law-abiding sportsman is paying for them to have.

Wildlife laws are an ancient part of the English and American legal traditions. In fact, one could even make the case that wildlife laws go back to the days of the Roman Republic, in which the fish and wildlife of the Republic were held to be a public trust, given by the citizens to the government.

Since then, the concepts that have given the United States one of the world's best environments for hunting and fishing have descended to us from that long legal tradition. The concepts we use: game wardens, wildlife preserves, and even "poaching" all come out of English Common Law. It's worth noting that it's the countries that have followed these traditions – Australia, New Zealand, Canada, the United States, the Republic of South Africa – that have done the best job at preserving wildlife and wildlife habitat.

In all of those countries, and in all of that time, the same pattern has held – professional wildlife managers, paid for by sportsmen, work to make sure the habitat is intact. Conservation officers patrol the habitat to make sure that everyone follows the rules.

To complete the cycle, uphold the system, and to make sure that another generation of Kansans continues to enjoy the world-class outdoor heritage we have, it's absolutely critical that the counties of Kansas back up the law enforcement officers who are charged with keeping our outdoor heritage safe.

Your participation is vital for the future of rural Kansas, an age-old tradition, and an economic engine that generates nearly a billion dollars every year. Tens of thousands of Kansans are asking you to take this bill vote this bill through your committee.

March 10, 2005

**Statement of Ron Klataske  
To the Senate Natural Resources Committee  
In Support of  
House Bill 2253**

My name is Ron Klataske and I am here to express support for H.B. 2253 on behalf of the leadership of Audubon of Kansas, a statewide wildlife conservation organization, and to provide added insight and personal support as an ardent sportsman/conservationists and as a ranch/farm landowner. I received a B.S. degree in wildlife biology from KSU in 1966 and a Master of Science in wildlife management from the University of Maine in 1968. My thesis research was devoted to White-tailed Deer on a coastal island.

Audubon of Kansas is pleased to be a part of the broad coalition that has been involved in design and building public support for House Bill 2253. We appreciate the hard work of all the individuals and organizations that have provided time, expertise and leadership.



There seems to be an epidemic of illegal deer killing in Kansas. I photograph deer in the fall prior to the rifle season and the photo above is one of several magnificent bucks that I photographed in the fall of 2002 on or near our property. Unfortunately, it appeared that all except one were killed illegally. A neighbor found five carcasses, and we found three on our properties (including the carcass pictured on the next page). In another area in central Kansas, a party of pheasant hunters including one of our trustees from Osborne found nine in one weekend that same fall. Recently, a leader of the Wichita Audubon Society said that she and others encountered numerous dead deer while conducting the 2004 Christmas Bird Count in Sedgwick County. She said that it seemed like dead deer had been dumped off nearly every bridge in rural areas, and that

*Senate Natural Resources  
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Attachment 3*



antlers or heads had been removed from all of the deer. This is an example of wanton waste.



Illegal activity (including extensive illegal poaching at night with lights and light-gathering equipment) could conceivably result in the killing of 10,000 deer in Kansas. That is assuming that only 100 are killed in this manner in each county. The illegal kill may be several times that number. Many of these deer are shot solely for their heads and/or antlers. Heads and antlers are sold on e-Bay and via the “open” or black market. Once they are in possession and removed from the field it is difficult to prove that the deer antlers were taken illegally.

Illegal kill of deer represents a loss to all stakeholders in Kansas. Illegal activities often deny landowners and ethical hunters (both resident and nonresident) the opportunity to pursue and harvest the biggest and the best of the deer on their land, and in our state. These deer are lost from the gene pool, often before the breeding season.

Illegal killing of deer is even a threat to the sport of hunting because it turns landowners and the public against all hunting activity. I know landowners who have closed their land to all hunting because of their outrage with past deer poaching on their property. Illegally killed deer (and other wildlife) also erode funding for KDWP programs, and reduce expenditures in related Kansas hunting, travel and tourism businesses by both residents and nonresidents.

The loss in value to Kansas residents and the State of Kansas is certainly in the millions of dollars. The loss of tourism dollars associated with deer hunting most adversely affects rural communities that provide lodging, meals, outfitting, supplies, processing, taxidermy and other services. Landowners who lease hunting rights or value the personal opportunity to share their

land with friends and family members from throughout the state, nation and world are also deprived of rewarding financial and personal opportunities.

Many landowners take pride in management activities that maintain or enhance wildlife habitat on their land. I manage 1,175 acres with livestock and wildlife equal considerations in our stewardship plans. Two years ago I hosted the son of a former President of India. The article I am providing from the Outdoors Section of the December 5, 2004 Wichita Eagle details another hunter's success and enthusiasm. He came from Italy to hunt on our property (as our guest) and spend a week in Kansas. His quote is worthy of being include in a "Discover Kansas" publication:

**"I have never seen the prairie. I have seen many, many countries in the world. Something like this is impossible (to imagine). Every moment is different, the sight, the sound, the smell, the open views. This is great country." Mario Rovatti**

Ethical resident sportsmen and women are also cheated by vandals who roam the back roads and trespass at all times of the day and night, invading private land and violating public land protocols, often without regard for specified seasons. Everyone will benefit if we can eliminate profit motives and discourage illegal activities associated with big game poaching. Lets do everything we can to discourage criminals from prowling the Kansas countryside. Once criminals masquerading as hunters become involved in one illegal venture, other activities may lead to theft of farm and livestock equipment, gasoline, and almost anything that isn't tied down. All of this may, with some individuals, be used to finance drug addictions.

Because some poachers consider the prospect of financial rewards worth the risk of a slap on the wrist, they are not deterred by the minimal "values" established by statute and the potential fines that are imposed. In some instances the prospective fines are less than the cost of a \$205 nonresident permit. That brings poachers in from other states.

The need for adequate statutory deterrents for big game species is substantially fulfilled by House Bill 2253.

Adequate statutory deterrents should also be extended to other wildlife species--from Eagles to Falcons and Ospreys. However, bills to consider that need should be considered at a later time. Illegal slaughter of big game animals for the fun of vandals or for profit of criminals is an epidemic in Kansas and should be addressed immediately. We urge you to approve House Bill 2253 without delay.

We thank you for your consideration of this bill, and for your support for conservation and protection of our state's wildlife resources.

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