

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:15 A.M. on March 17, 2005 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department
Lisa Montgomery, Revisor of Statutes Office
Gina Poertner, Committee Secretary

Conferees appearing before the committee:

John McCannon, Kansas Corporation Commission
Whitney Damron, Kansas Sport Hunting Association
LeAnn Schmitt, Kansas Department of Wildlife and Parks
Ken Corbet, Kansas Sport Hunting Association
Dan Ward, Kansas Wildlife Federation

Others attending:

See attached list.

Raney Gilliland gave a briefing on HB 2390.

Senator McGinn introduced John McCannon of the Kansas Corporation Commission to present testimony in favor of the bill (Attachment 1).

Senator Taddiken asked what the mechanism for responsibility is. Mr. McCannon stated that most people use cash fee option. Some wells will end up without a responsible party and will fall into this fund. Senator Taddiken wanted to know what the Commission has asked the Advisory Committee to do. Mr. McCannon stated that the Advisory Committee is to look at the whole scheme, look at what other states are currently doing, and make recommendations.

Senator Francisco asked if this was a double increase, to which Mr. McCannon replied that it is.

Senator McGinn asked why we are unable to find the responsible parties after 1996, if we could track this. Mr. McCannon stated that they are tracked, however, they may be lost due to bankruptcy or death.

Senator Teichman moved that the Committee pass the bill favorably. The motion was seconded by Senator Ostmeier. The motion passed by voice vote.

Mr. Gilliland briefed the Committee on HB 2466. This bill repeals the authority of the Kansas Department of Wildlife and Parks to issue commercial guide service permits.

Whitney Damron presented testimony in favor of the bill (Attachment 2). He stated that although licensure of guides and outfitters may appear to be an inappropriate role of the state, current law does little to provide consumers protection.

Senator Francisco asked Mr. Damron why he wants to bring up this bill before agreeing on substitute language. Mr. Damron responded that this is the appropriate step due to the way the law is enacted.

LeAnn Schmitt of the Kansas Department of Wildlife and Parks was next to testify (Attachment 3). The Department remains neutral on this bill.

Dan Ward of the Kansas Wildlife Federation testified in opposition to the bill (Attachment 4). Mr. Ward stated that although there are problems to solve, repealing this statute is not the best remedy. The KWF recommends creating minimum standards that a commercial guide would be required to fulfill before entering the marketplace.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:15 A.M. on March 17, 2005 in Room 423-S of the Capitol.

Senator Lee asked what other states are doing in terms of licensing for guides. Mr. Ward stated that guide and outfitter boards are in place. Mr. Damron stated that Missouri and Nebraska have no licensure.

Senator Taddiken asked about complaints being referred to the Attorney General's Office and if there are a significant number of complaints concerning guides. Mark Rankin of the KDWP stated that the complaints do come from other guides. Senator Taddiken asked if these cases would be similar to non-guide complaints. Mr. Rankin stated that different types of violations are seen, such as permit fraud.

Senator Teichman asked if there is any type of insurance that guides must carry. Ms. Schmitt said there is not.

Ken Corbet of the Kansas Sport Hunting Association was next to testify. Mr. Corbet did not submit written testimony. He stated that licenses work in other states because most of the land is federally owned. In Kansas, however, most land is privately owned and does not require a license.

Senator Taddiken questioned the need for having a guide permit for one sector and suggested a study.

Senator Taddiken moved that the bill be passed favorably by the committee. Senator Ostmeyer seconded the motion. Senator Bruce moved to amend **SB 98** into **HB 2466**, seconded by Senator Huelskamp. Senator Taddiken withdrew his motion. The amendment passed by voice vote. Senator Ostmeyer moved that **HB 2466** be passed favorably as amended, seconded by Senator Huelskamp. The measure passed by voice vote.

Senator Francisco asked if there is a background check upon obtaining a hunting license. Mike Hayden, Secretary of KDWP, stated that there are no background checks, but they are going to an automated system that starts in September of this year. It will have the ability to check for prior offenses.

The Committee's attention turned to **HB 2253**. Mark Rankin of the KDWP briefed the Committee on the amendments. A flow chart was provided as previously requested by the Committee.

Senator Taddiken asked how many repeat offenders have received diversions. Mr. Rankin said it is unknown but they are working to recover data.

Senator Lee moved the amendment, seconded by Senator Bruce. The motion passed by voice vote.

Senator Bruce shared Senator Taddiken's concerns regarding violations and whether or not too many diversions are being granted, and he asked for the Committee's thoughts. Senator Taddiken stated he did not have a balloon prepared but this could be revisited next session after a study. He stated he is willing to take action but did not want to tie up the process today. Senator McGinn asked if Senator Taddiken would offer an amendment on the floor. Senator Taddiken said he was willing to work with Senator Bruce to do the amendment on the floor. Senator Bruce stated he would propose diversion similar to DUI.

Senator Bruce made a motion to move **HB 2253** as amended out of Committee. Senator Ostmeyer seconded. The measure passed by voice vote.

HB 2014 was then discussed by the Committee. Mr. Gilliland gave the briefing. The new language requires ex officio members to act as a resource and would not be entitled to make or second motions, or vote at any meeting of the KWA.

Senator McGinn made comments in support of the bill. She stated that it may not be weighted accordingly and it might behoove the state to bring in additional members.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:15 A.M. on March 17, 2005 in Room 423-S of the Capitol.

Senator Francisco stated she could not support the bill. Parliamentary procedure should prevail rather than individual bills to regulate these meetings.

Senator Bruce stated he could see both sides, and that no one has offered a solid example. He stated there is a perception of impropriety, that it seems improper for an ex officio member to make a motion or vote.

Senator Taddiken offered a compromise. He suggested that this issue be studied.

Senator Lee asked if the ex officio members of the KWA are state employees. Senator Taddiken stated they are state employees.

Senator Huelskamp made a motion to pass the bill favorably. Senator Ostmeyer seconded the motion. The motion passed 6-3, Senators Francisco, Lee, and Taddiken voting against the measure.

Senator Teichman moved to approve the Committee minutes of March 3rd and 4th, seconded by Senator Bruce. The motion passed by voice vote.

The meeting was adjourned at 9:20 a.m.

KANSAS

CORPORATION COMMISSION

KATHLEEN SEBELIUS, GOVERNOR
BRIAN J. MOLINE, CHAIR
ROBERT E. KREHBIEL, COMMISSIONER
MICHAEL C. MOFFET, COMMISSIONER

Testimony of John McCannon
Assistant General Counsel
State Corporation Commission of Kansas
Conservation Division
before the
Senate Committee on Natural Resources
March 17, 2005

I would like to present Commission Staff comments on HB 2390 to the Committee.

This bill would amend K.S.A. 55-155 to increase the amount of annual financial assurance paid by oil and gas operators. The current financial assurance structure was modeled after the licensing system used by Texas in 1991, and became effective in Kansas in 1998. In 2001, the scheme was modified slightly; however, the fees and monetary figures did not change.

The financial assurance structure provides for two categories of oil and gas operators. The first consists of all operators that have been licensed for at least three years and have an acceptable record of compliance. In accordance with §(d)(3), these operators pay a nominal annual assurance fee, which is currently \$50. This amendment would increase the fee to \$100.

The second category consists of all operators who have held a license for less than three years, and all operators that do not have an acceptable record of compliance. This amendment would increase the face value of the blanket performance bond or letter of credit that each operator has the option of furnishing based on the number of wells he operates in §(d)(2); however, it would not change the value of the individual performance bond or letter of credit option based on the total aggregate depth of the wells in §(d)(1).

The majority of operators in this second category choose the nonrefundable fee or "cash bond" option in §(d)(4) as illustrated by Table 1, attached. This is essentially a cash bond that the operator pays the Commission in lieu of obtaining a bond or letter of credit. Currently that fee is 3%, but this amendment would increase it to 6%. This increase would bring the cash bond fee amount more in line with current commercial bond rates.

The amendment would remove the option of paying a cash bond fee in lieu of an individual bond based on the total aggregate depth of the wells. This change is suggested to prevent operators in this second category from paying an amount of financial assurance that is less than the fee that experienced operators with acceptable compliance records must pay.

Commission Staff believes these amendments are necessary because the recent increase in activity in the oil and gas industry is causing a sharp increase in the number of wells that may need to be plugged using these funds in the future. The increase in industry activity along with normal inflationary pressures over time will result in higher plugging costs per well, which will ultimately put an additional strain on the funds. The Well Plugging Assurance Fund that receives the monies from these fees currently carries a balance of approximately \$1.3 million dollars. The fund essentially provides an assurance for wells drilled after 1996 for which there are no specifically dedicated plugging bonds posted (i.e. Operators paying the nominal fee and operators paying the "cash bond fee"). The numbers of wells covered under this structure currently stands at approximately 15,000 wells, with those numbers increasing rapidly over the past two years.

In addition to the staff recommendation with respect to changes proposed in this legislation, the Commission has ordered the Oil and Gas Advisory Committee to study and evaluate the financial assurance structure and make recommendations to the Commission in one year regarding the adequacy and sufficiency of the scheme to provide for the eventual plugging of orphaned wells drilled or reworked after 1996.

Commission staff urges the passage of HB 2390 as presented.

Table 1 [Number of KCC Licenses posting assurance per type of assurance]

	1998	1999	2000	2001	2002	2003	2004
Nominal Assurance Fee	2078	2015	1935	1688	1670	1617	1666
Cash Bond	191	177	231	258	291	259	275
Surety Bond	36	41	39	25	38	41	29
CD/Letter of Credit	67	60	46	50	50	52	61
Total # of Licenses Posting Assurance	2372	2293	2251	2021	2049	1969	2031

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bsection shall expire on ary 31, 2005:

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ll submit to the house urism and parks and the e on natural resources a hery management units bsection (o)(1).

it shall state the species, ig game which may be he secretary may furnish th any big game permit f the open season, each h card shall return the giving such information d.

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his section do not apply l in surplus property dis- ent exhibit herds or big en outside this state.

h. 245, § 4; L. 1965, ch. 14, § 2; L. 1973, ch. 178, 1; L. 1978, ch. 152, § 11; L. 1981, ch. 178, § 1; L. 1985, ch. 135, § 1; L. 1986, h. 151, § 2; L. 1989, ch. 39, § 1; L. 1994, ch. 245, 3; L. 1998, ch. 180, § 1; 000, ch. 104, § 1; L. 2000,

ch. 159, § 5; L. 2002, ch. 96, § 4; L. 2003, ch. 121, § 1; L. 2004, ch. 99, § 5; Jan. 1, 2005.

Cross References to Related Sections:

Wild turkey permits, see 32-969.

32-938. Big game or wild turkey permits; reissuance to certain military personnel. The department of wildlife and parks may reissue big game or turkey limited draw permits to military personnel forced to forfeit their limited draw permit due to deployment in the event of armed conflict or war upon application and payment of the prescribed fee to the department and sufficient proof of such deployment. The permit, if reissued, shall be the same type, season and species permit that was forfeited and shall be valid during the next available hunting season upon return from the armed conflict or war by the applicant.

History: L. 1991, ch. 105, § 1; L. 2004, ch. 99, § 6; April 22.

32-943. Controlled shooting areas; definitions. As used in K.S.A. 32-943 through 32-950, and amendments thereto, unless the context otherwise requires:

(a) "Game bird" means pheasant, quail, partridge, hand-raised mallard duck, prairie chicken, grouse, exotic game bird or any other bird, except wild turkey, hunted by sportspersons.

(b) "Propagated" means birds which are pen raised, birds raised from eggs purchased for purposes of raising such birds, chicks and full-grown birds purchased to be released in the area, as well as birds hatched from eggs produced on the area.

History: L. 1955, ch. 230, § 1; L. 1989, ch. 118, § 74; L. 1999, ch. 16, § 1; L. 2004, ch. 99, § 7; Jan. 1, 2005.

32-964. Commercial guide services; permits; unlawful acts, penalties; information publication. (a) As used in this section:

(1) "Commercial guide services" means providing, offering to provide, arranging for or assisting with big game or migratory waterfowl hunting activities for others on a commercial basis, including but not limited to providing any one or more of the following when used in conjunction with or for big game or migratory waterfowl hunting activities: Pack or riding livestock, transportation other than by commercial carrier, equipment or facilities.

(2) "Commercial basis" means that the recipient of the services agrees to provide valuable con-

sideration as compensation for the guide services, and the services are provided as part of a business relationship. Evidence of a business relationship includes, without limitation, advertisement of the guide services, written agreement of the terms of payment or services provided by an employee of a commercial guide. Providing guide services on land not owned or leased by the individual providing the services shall not by itself constitute evidence that the services are provided on a commercial basis.

(3) Terms defined in K.S.A. 32-701 and amendments thereto have the meanings provided by that section.

(b) A valid commercial guide permit or associate guide permit is required to provide commercial guide services in this state.

(c) The provisions of subsection (b) do not apply to a person who:

(1) Possesses a controlled shooting area license and commercial guide services performed by the person are confined to the licensed controlled shooting area;

(2) owns private land and commercial guide services performed by the person are confined to lands owned by the individual;

(3) is a tenant, as defined by K.S.A. 32-937 and amendments thereto, and commercial guide services performed by the person are confined to farm or ranch land with respect to which the person is such a tenant; or

(4) provides commercial guide services only in cooperation with an educational or not-for-profit event approved by the secretary.

(d) Any person who desires to provide commercial guide services shall apply to the secretary for a commercial guide permit. The application shall give the name and address of the applicant, the type of commercial guide services to be provided, the area of the state where guide services would occur, a listing of facilities proposed for use, a listing of equipment to be available to the commercial guide service customers, including pack or riding livestock, and such other information as required by the secretary. The fee prescribed pursuant to K.S.A. 32-988 and amendments thereto shall accompany the application.

(e) The secretary may issue a commercial guide permit if the secretary determines that:

(1) The applicant possesses adequate knowledge of wildlife and parks laws of this state and rules and regulations of the secretary;

1-3

(2) the applicant possesses adequate knowledge of hunting skills;

(3) the applicant is 16 or more years of age; and

(4) the application is complete and accurate.

The secretary may require an applicant to successfully complete a written or oral examination before issuing a commercial guide permit and may establish an annual date by which applications must be submitted.

(f) A commercial guide permittee shall make such reports of permitted activities to the secretary as required by rule and regulation adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto.

(g) A commercial guide permittee may employ one or more associate guides to conduct services authorized by the commercial guide permit while the associate guide is in the employment of the commercial guide permittee. A commercial guide permit or associate guide permit is required for any individual so employed by a commercial guide permittee.

(h) Any individual who desires to obtain an associate guide permit shall apply to the secretary. The application shall give the name and address of the applicant; the name, address and commercial guide permit number of the commercial guide by whom the applicant would be employed; the notarized signature of such commercial guide permittee; and such other information as required by the secretary. The fee prescribed pursuant to K.S.A. 32-988 and amendments thereto shall accompany the application.

(i) The secretary may issue an associate guide permit if the secretary determines that:

(1) The applicant possesses adequate knowledge of wildlife and parks laws of this state and rules and regulations of the secretary;

(2) the applicant possesses adequate knowledge of hunting skills; and

(3) the application is complete and accurate.

The secretary may require an applicant to successfully complete a written or oral examination prior to issuance of an associate guide permit and may establish an annual date by which applications must be submitted.

(j) Commercial guide permits and associate guide permits expire on December 31 of each year.

(k) A commercial guide permittee or associate guide permittee may assist with the legal taking of wildlife while providing commercial guide

services but shall not perform the actual taking or shooting of wildlife for the guided person.

(l) Unless exempt pursuant to K.S.A. 32-919 and amendments thereto, a commercial guide permittee or associate guide permittee shall be required to possess a valid hunting license issued to such permittee in order to conduct hunting activities. A commercial guide permittee or associate guide permittee shall be required to possess any stamp as required by law to engage in the activity.

(m) It shall be unlawful to perform commercial guide services without having in possession the written permission of the owner or the person in lawful possession of the land where the commercial guide services are performed.

(n) The secretary shall adopt, in accordance with K.S.A. 32-805 and amendments thereto, such rules and regulations as necessary to administer and govern commercial guide services, including such restrictions and conditions as required for wildlife resource protection and to protect the public interest and public safety.

(o) In addition to any other penalty prescribed by law, the secretary, in accordance with the Kansas administrative procedure act, may refuse to issue, refuse to renew, suspend or revoke a commercial guide permit or an associate guide permit if the secretary finds that the applicant has:

(1) Failed to comply with the wildlife and parks laws of this state or rules and regulations of the secretary;

(2) been convicted of a violation of the fish, wildlife, boating or parks laws of another jurisdiction;

(3) been convicted of a felony involving the use of violence or the use of weapons;

(4) been convicted of any other felony within the previous five years; or

(5) failed to provide required reports.

(p) The secretary upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of applicants for commercial guide permits and associate guide permits.

(q) The secretary may prepare a general publication listing commercial guide permittees and services offered by the permittees for the purpose of assisting the public in securing the services of a commercial guide. No commercial guide permittee shall be included in such publication without the written consent of the permittee.

History: L. 1992, § 1; L. 1993, § 2; L. 2003, ch. 1

Revisor's Note:

Section was also amended by L. 2001, ch. 100, § 2. The previous version was repealed by L. 2001, ch. 100, § 2.

Law Review and Bulletin: 2001 Legislative Watch, 14 (2001).

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History: L. 2

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E-Mail: wbdamron@aol.com

TESTIMONY

TO: The Honorable Carolyn McGinn
And Members of the
Senate Committee on Natural Resources

FROM: Whitney Damron

On Behalf Of The
Kansas Sport Hunting Association

RE: Testimony in Support of HB 2466

An Act concerning wildlife; repealing the state's authority to issue
commercial guide service permits.

DATE: March 17, 2005

Good morning Madam Chair McGinn and Members of the Senate Committee on Natural Resources. I am Whitney Damron and I am appearing before you today on behalf of the Kansas Sport Hunting Association in support of HB 2466 that would repeal the state's authority to issue commercial guide service permits.

With me today is Ken Corbet, owner of Ravenwood Hunting Preserve, located southwest of Topeka and Robin Jennison, who represents the KSHA with me.

Distributed with my testimony are comments submitted for your consideration in support of this legislation by Keith Houghton of Ringneck Ranch, located near Tipton, Kansas and comments by Mr. Wes Traul of Anderson County.

While licensure of guides in outfitters may appear to be an appropriate role of the state, we would suggest current law does little to provide consumers with the ability to verify competence, quality or ability of guide and outfitter services. We believe implementation of this law has required people to become licensed who never intended to become a fulltime guide or outfitter, but the broad language of the bill and how it has been implemented has created misperception to the public and a hardship to those in the business.

*Senate Natural Resources
3/17/05
Attachment 2*

Repeal of this statute will in no way have a negative impact upon our wildlife population, as nothing in this repealer bill changes or affects how the Kansas Department of Wildlife and Parks manages our wildlife or natural resources.

From our discussions with the Department and from testimony in the House, complaints against guides and outfitters are routinely referred to the office of the Kansas Attorney General. We do not believe this practice would change if HB 2466 were enacted.

In practice, guides and outfitters who do not treat their customer base well ultimately lose business and those who treat their customers well see their clientele grow.

The primary concern of this statute is that it has been interpreted too broadly and required those who only provide ancillary services were also required to be licensed as a guide or outfitter. It is also difficult to hire potential guides and get them licensed and certified in September for services to be provided in the following year.

Perhaps some kind of guide and outfitter licensure or peer review program may be worthy of consideration. We would respectfully suggest that all parties of interest can work together to discuss the objectives and needs of such a program and bring a proposal back to the Department and/or the Legislature as needed. The KSHA believes all parties can work together to create a program that is efficient, practical and effective. But to do that, we should start from a clean sheet of paper rather than trying to further amend what we have now.

On behalf of the Kansas Sport Hunting Association, I thank you for your consideration of this legislation and would be pleased to stand for questions. I am sure Mr. Corbet would be available as well.

Whitney Damron

March 17, 2005

To: The Senate Committee on Natural Resources

From: The Traul Family, Operators of Sac Creek Lodge

My name is Wes Traul and my family and I are livestock and forage producers in Southeast Kansas (Anderson County). In 1997 in an effort to maximize our investment in agriculture, we began a small agri-tourism business on our farm and grasslands. We provide a destination for whitetail, upland birds, and turkey clients. We are not unlike the majority of hunt providers in this state, farmers and ranchers who have entered the outdoor recreation business in an effort to smooth out the ups and downs of commodity agriculture.

Since we began our business due to the demand in the past two years we have expanded our operation twice. After careful review of the operating environment we chose the neighboring states of Nebraska and Missouri for our expansion. One factor in favor of these locations is neither state has a guide license requirement, thus we eliminated the guide license and the burden of the reports. The sad result of this decision is we have taken revenue out of our community and moved it to other states which have welcomed us with open arms.

The normal tools of an outfitter include pack animals, deckers, canvas wall tents and quality optics; but in Kansas the tools of an outfitter are mops, dish cloths, spatulas and toilet brushes. In conversation with a field agent last November, he stated that anyone mopping floors, scrubbing pots and pans, cooking meals, or cleaning toilets for hunters could be required to have a guide license. I do not believe that cleaning crews and inn keepers fall under the definition of guide or outfitter. This is the major issue with the current guide regulation; it has evolved to include activities that in no way relate to guiding. Simply stated, it is a bad law.

Last year this legislature took major steps in promoting rural tourism. Committees were formed, workshops set up and tax credits granted for liability insurance. New people have been encouraged to enter the market. Part of these new operators will begin hunting destinations and as these new operations begin offering hunts on their farms, their father's farms, their neighboring farms they are going to run a muck of the guide regulations and KDWP. These new operators are not guides and outfitters, but farmers and ranchers trying to survive in rural Kansas.

You have already done away with the guide regulations for upland hunting operations. Please continue the positive work you have begun in stimulating rural tourism and end of the guide regulations for the farmers and ranchers who are trying to build rural tourism businesses in their communities and survive in Kansas agriculture today.

TO: The Senate Committee on Natural Resources

FROM: Keith Houghton, operator of Ringneck Ranch, Inc., Tipton, Kansas
President of the Kansas Sport Hunting Association

Keith and Debra Houghton
Ringneck Ranch, Inc.
HC 61, Box 7
Tipton, Kansas 67484
(785) 373-4835

RE: HB 2466 – Repeal of requirement for permits to provide commercial
guide services.

DATE: March 17, 2005

Dear Legislators:

Please accept my apologies for not personally attending this hearing. The short notice in scheduling this meeting did not give me the opportunity to modify my schedule as an airline pilot.

I am addressing you as a hunting service provider that operates a controlled shooting area primarily for upland gamebirds. Established in 1983, we are presently completing our fifth consecutive season of hosting approximately 2000 hunter-days that create over 50 seasonal jobs in the communities of Tipton and Hunter in North Central Kansas. Those 50+ jobs annually generate a payroll in excess of \$250,000 and sales tax revenue in excess of \$50,000 per year.

I am also currently the president of the Kansas Sport Hunting Association, which represents and supports some 220+ member organizations consisting of hunting service providers, gamebird producers, and supporting industries.

Please consider that hunting is a cornerstone to the governor's agritourism effort. I was a proponent of the original guide certification statute that would be repealed by HB2466. The original statute initiated under Secretary Minion in the early 90's provided a baseline of professionalism for what was becoming a new aspect of our Kansas hunting heritage. It now appears that the original statute was written so broadly, that with regulatory evolution and literal interpretation, the commercial guide requirement and certification has now become quite problematic.

The certification requirement is so broad that anyone advertising or providing services even associated with a hunt (meal service or accommodations) is required to be a certified guide...something akin to being a rated pilot in order to buy an airline ticket.

Re: A) Commissioner Warner's question and statements at the
January 23, 2003 Wildlife & Parks commission meeting.

B) Wildlife and Park's letter to Cabela's Outdoor Adventures
advising that by advertising hunts in Kansas they were in
violation of the commercial guide requirement.

The recent evolution of the guide certification requirements now demands that guides complete the certification process by September for the following year. This situation makes staffing by hunting service providers more difficult than ever, if not impossible. The annual licensing fee was recently increased to the full legislatively authorized limit, which resulted in an immediate 500% increase.

Two years ago an amendment was passed in the house that exempted several species from the requirement for a certified guide. It was hoped that this action would initiate a change in the application of and certification for commercial guides. This law has become so cumbersome that law-abiding landowners are electing to bypass its requirement in growing their supplemental businesses.

Due to literal interpretation and without moderation of the commercial guide statute we at the Kansas Sport Hunting Association would ask for your support of HB2466 which would repeal the hunting guide certification requirement.

Thank for your consideration.

Keith Houghton

SESSION OF 2005

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2466

As Amended by House Committee on
Wildlife, Parks, and Tourism

Brief*

HB 2466, as amended, would repeal the authority of the Department of Wildlife and Parks to issue commercial guide service permits. The bill would take effect January 1, 2006, and thereafter and upon its publication in the statute book.

Background

At the Committee hearing, Christopher J. Tymeson, Chief Legal Counsel, Department of Wildlife and Parks, stated, among other things, that the oversight of guide service business is more of a consumer protection matter than one of wildlife management. He noted that complaints for failure to provide services or other consumer issues for services not requiring a guide permit are referred to the Attorney General's Office in the same manner as complaints against permitted guides. Other conferees who testified in support of the bill included: Keaton Kelso, Owner, K & K Outfitters, LLC; Ken Corbet, Ravenwood Hunters; and Wes Tral, livestock and forage producer, LLC; Keith Houghton, Ringneck, Inc., President of the Kansas Sports Hunting Association, presented written testimony in favor of the bill.

No one testified against the bill.

The Committee amendment to change the effective date of the act was suggested by the Chief Legal Counsel of the Department of Wildlife and Parks.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The fiscal note prepared by the Division of Budget indicates that the Department of Wildlife and Parks estimates that passage of HB 2466 would result in a decrease in revenue from permits to the Wildlife Fee Fund of \$108,000. The Department recognizes that passage of the bill would also result in a decrease in staff time spent processing applications, but is unable to estimate the amount of savings that would be realized. Any effect resulting from enactment of the bill is not accounted for in the *FY 2006 Governor's Budget Report*.

2-2466

KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2466 relating to Repealing the State's Authority to Issue Commercial
Guide Permits
To
Senate Committee on Natural Resources**

**By LeAnn Schmitt
Special Assistant to the Secretary
Kansas Department of Wildlife and Parks**

17 March 2005

House Bill 2466 seeks to repeal K.S.A. 32-964, which provides authority to the Kansas Department of Wildlife and Parks to issue commercial and associate guide permits. This bill will also amend or repeal other statutory language concerning the issuance of these permits and the provisions contained in this bill would be effective January 1, 2006, as was the recommendation of the Department. The Department stands neutral on this bill.

The requirement for any person who receives compensation for providing guide services for hunting or fishing became law in 1990. At the time of the initial legislation, a number of community-based groups and the Department testified in favor of requiring commercial guide businesses to be permitted by the State. In 1992, several of those groups who had previously testified in favor of permitting, testified before the Legislature that the statutory provisions were too restrictive and sought relief by exempting property owners and tenants, operating on their own lands, from the requirement. Over the course of time other affected groups providing guide services have been exempted as well. At present, only persons who provide guide services, for compensation, for big game and waterfowl hunting are required to hold a guide permit.

The present guide permitting program provides limited services, other than hunting opportunities by virtue of land access, to the big game and waterfowl hunting publics. The Department does provide a list of permitted commercial guides for the public. There are minimum safety related requirements, such as basic first aid and CPR certification, that guides must possess in order to offer commercial services. Criminal convictions of guide permit applicants are considered in the application process. The Department has denied 31 applicants since 2000, while at the same time issuing 2,362 permits. 472 permits are issued annually based on a five-year average.

On the counter side, clients are not provided any assurances or protection in the form of bonding or liability insurance on the part of the guide. Guides do not have to provide proof of actually having legal access to any land for their guiding business.

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Senate Natural Resources

3/17/05

Attachment 3

There are no requirements that equipment, lodging facilities or meals provided by the guide meet any standards.

The oversight of guide service businesses is more an issue of consumer protection rather than wildlife management. Current provisions do maintain certain minimum requirements, but are short of providing significant assurances to the public. In addition, guide permit requirements no longer apply to fishing, upland game birds, small game, wild turkey or predator hunting. Client complaints concerning failure to provide services or other consumer issues for services not requiring a guide permit are referred to the Attorney General's office of Consumer Protection in the same manner as complaints against permitted guides.

This proposed legislation places the State of Kansas at a cross-road. Passage of this legislation will fiscally impact the revenue to the Department, yet will reduce expenditures currently required to administer and enforce provisions of the program. The consumer of guide services will no longer have assurance that at least minimal safety standards are met by the guide, but presently health and safety standards are not required for lodging, meals or equipment provided. While a guide permit is required for big game or waterfowl hunting, no requirements are necessary for a large number of people providing guide services for upland bird and wild turkey hunting, or fishing.



**KANSAS WILDLIFE
FEDERATION**

The voice of outdoor Kansas

**Testimony Prepared for the Senate Natural Resources Committee
In Opposition to HB 2466**

March 16, 2005

Dan Ward

The Kansas Wildlife Federation stands in opposition to HB 2466, which would eliminate the licensure of commercial guide services by the Kansas Department of Wildlife & Parks.

We have reviewed the testimony of the Kansas Sport Hunting Alliance, and we fully take their two points: that the law as it stands now has so many gaps that it does not provide consumer protection, and that those who were not intended to be within the scope of the law have fallen under it, creating a certain amount of regulatory headache.

However, for our Board, it does not seem like a good solution to these problems to repeal any authority the state may have to regulate commercial guides. Nor does it seem accurate to us, given the lack of ethics we have seen in outfitters who are not members of the Kansas Outfitters Association or the Kansas Sport Hunting Association, to suppose that having no regulatory oversight will have no impact on the wildlife of the state. While it's true the Department will still enforce wildlife laws, it's also true that opening up the field of commercial guiding to anyone and everyone will encourage some people to take up the trade who should not be involved in it. As the Committee know, it's also true that with 65 wardens to patrol 81,000 square miles that deterring bad actors is as important as catching them.

There are serious problems in the guiding statutes as they exist, and from talking to Mr. Damron and the KSHA, I know they are in agreement with us on this. For instance, a fishing guide does not need to know how to give CPR or how to do a water rescue. Someone guiding for upland birds doesn't need to know how to give first aid.

However, the repeal could make things even worse. There would be, for instance, no criminal background check for deer guides. Since this arena draws the biggest money in the wildlife “industry” of Kansas, it also has the potential for drawing some of the worst actions.

As an alternative, the Kansas Wildlife Federation proposes that no action be taken on the bill this year, and that the Committee gives instructions to the KDWP to work together with the KSHA, the KOA, and other stakeholders to develop a simple and clear set of minimum guidelines that any commercial guide provider would have to fulfill before entering into the marketplace. This would expand current statute to cover fishing guides, upland bird guides, and thus produce a more meaningful and fair regulatory scheme.

For the sake of discussion, these minimum standards might include:

- A current first aid and CPR certification
- A criminal background check, to insure no felony convictions or habitual or major violations of wildlife statutes.
- A short test of ten or twenty questions to insure knowledge of wildlife regulations
- A modest fee that would only cover the cost of putting the program in place.

This last point is important to us as we have seen through our sister organizations that regulations around outfitters and guiding have frequently become a way that “agency capture” takes place, and that there is more emphasis on protecting the regulated body than the consumer. We believe that by keeping barriers to entry low and by having standards that encourage principled sportsmanship, the resulting marketplace will be the as fair and ethical as possible, giving the resident and non-resident hunter alike the best experience of the outdoors of our state.