

## MINUTES OF THE HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman John Faber at 3:30 P.M. on February 21, 2008, in Room 783 of the DSOB.

All members were present except:

Representative Carl Holmes - excused  
Representative Tom Moxley - excused  
Representative Vaughn Flora - excused

Committee staff present:

Raney Gilliland, Kansas Legislative Research Department  
Hank Avila, Kansas Legislative Research Department  
Gordon Self, Revisor of Statutes  
Kristen Kellems, Revisor of Statutes  
Florence Deeter, Committee Assistant

Conferees appearing before the committee:

Representative Mitch Holmes, District 114  
Chris Tymeson, Chief Legal Counsel, Kansas Department of Wildlife and Parks  
Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture  
Duane Simpson, Kansas Agribusiness Retailers Association  
Don Sayler, Kansas Restaurant and Hospitality Association  
Terry Harris, Larned, Kansas  
Mary Glassburner, Director of Bureau of Consumer Health, Kansas Department of Health and Environment  
Whitney Damron, Kansas Sport Hunting Association  
Ken Corbet, Ravenwood Hunting Preserve  
Brad Harrelson, Kansas Farm Bureau  
Mike Beam, Kansas Livestock Association  
Dave Corbin, Kansas Department of Revenue

Others attending:

See attached list.

It was noted that committee minutes from January 29, 30, 31, February 4 and 5, were sent electronically and, by consensus, were approved on February 21, 2008.

**Hearing on HB 2800 -wildlife; youth hunt of a lifetime deer permits.**

Staff Kristen Kellems briefed the committee on the amendments to **HB 2800**, stating the language allows organizations to issue free permits for hunting.

Representative Mitch Holmes, District #114, spoke as a proponent of **HB 2800**, and requested an amendment to allow non-profit organizations the freedom to issue special permits free of charge to the young hunter (Attachment 1).

Chris Tymeson, Chief Legal Counsel, Kansas Department of Wildlife and Parks, stated the Department supports the youth hunt of a lifetime program; however, the provisions contained in the bill cannot be supported (Attachment 2). He said costs cannot be imposed on current hunters, and without purchase of a hunting license, the end result is loss of federal aid apportioned back to the state based on the number of license holders. Mr. Tymeson said the Make-A-Wish Foundation is no longer participating in the hunt of a lifetime program. In answer to questions, Mr. Tymeson said the cost of permits for out-of-state hunters is \$320.

The Chair closed the hearing on **HB 2800**.

**Hearing on HB 2860 - registration of agricultural chemicals.**

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on February 21, 2008, in Room 783 of the DSOB.

Staff Kristen Kellems briefed the committee on the amendments in **HB 2860**. She said the language indicates the Secretary of Agriculture may adopt rules and regulations to allow pesticide products to be registered for a period not in excess of three years, thus removing the annual fee of \$150. Registering products for a three-year period requires payment of \$450.

Duane Simpson, Chief Operating Officer, and Vice-President of the Kansas Agribusiness Retailers Association, spoke in support of **HB 2860**. He said it gives the Secretary of the Department of Agriculture the authority to extend pesticide registrations from an annual application to a three-year period and greatly reduce the amount of paperwork. He said this is a technical change that would not have any negative impact to the state (Attachment 3).

Constantine Cotsoradis, Deputy Secretary, Kansas Department of Agriculture, said the Department registers approximately 12,000 pesticide products annually. He said that if the registration process is modified, renewals would need to be staggered over a two to three year period (Attachment 4).

The Chair closed the hearing on **HB 2860**.

**Hearing on HB 2838 - amending food service establishment licensure; creating an exception for hotels.**

Don Saylor, President and CEO, Kansas Restaurant and Hospitality Association (KRHA), provided testimony in support of **HB 2838**, which seeks to correct the current disparity of fees in statutory treatment of food service provided for lodging guests (Attachment 5). In Mr. Saylor's absence, his testimony was presented by Julie Hein. Mr. Saylor said KRHA and the Kansas Department of Health and Environment (KDHE) are involved in dialogue regarding fees and inspection of food service and lodging establishments.

Mary Glassburner, Director of the Bureau of Consumer Health at KDHE, said the proposed language in **HB 2838** will result in licensed food service establishments who have guests overnight, and who offer complimentary food, will be exempt from food safety inspection and regulation (Attachment 6). Ms. Glassburner offered language to amend the bill, stating that hotels will be exempt from paying for a separate food service license if they offer only complimentary meals to overnight guests.

The Chair closed the hearing on **HB 2838**.

**Hearing on SB 487 - sales tax exemption for fees for guided and non-guided hunting; sale of game birds for hunting.**

Gordon Self, Revisor of Statutes, indicated **SB 487** was originally introduced by the Committee on Assessment and Taxation and was part of a ruling from the Department of Revenue to attempt to clarify a law with regard to sales tax on guided and non-guided hunting and the sale of game birds.

Whitney Damron, spoke on behalf of the Kansas Sport Hunting Association and Flint Oak, LLC, both of which lend support to **SB 487**. Mr. Damron said there has been some confusion as to whether sales taxes are applicable to services provided by not-for-profit and private organizations. He indicated Kansas could do more to provide hunting and shooting sports (Attachment 7).

Ken Corbet, owner of Ravenwood Hunting Preserve, and Past President of the Kansas Sport Hunting Association, brought testimony in support of **SB 487**. The organization has hunt providers and bird producers in more than eighty counties in Kansas. Mr. Corbet said that the support of farmers and ranchers is most important in providing opportunity for hunting experiences in Kansas (Attachment 8).

Brad Harrelson, State Policy Director, Kansas Farm Bureau, stated support for **SB 487**. He said that the agency opposes sales tax for services provided; sales tax should only be required on retail sales (Attachment 9).

Mike Beam, representing Kansas Livestock Association (KLA), spoke in support of **SB 487**. He said that members of KLA who have provided leased hunting rights on their property are required to pay income tax

CONTINUATION SHEET

MINUTES OF THE House Agriculture and Natural Resources Committee at 3:30 P.M. on February 21, 2008, in Room 783 of the DSOB.

and should not be required to pay sales tax (Attachment 10).

David Corbin, Kansas Department of Revenue, said that out-of-state hunting licenses have become big business in Kansas. He expressed concern that the exemption explained in **SB 487** will diminish the sales tax base (Attachment 11). He said the Department of Revenue does not hold the position of taxing leases; leases are similar to rent. Mr. Corbin will provide information requested by committee members regarding:

- the amount of tax collected by the Department in previous years, and
- other states that collect taxes for hunting on leased property.

Randy Smith provided written testimony opposing the passing of **SB487** (Attachment 12).

The Chair closed the hearing on **SB 487**.

The Chair requested consideration of **HB 2908 - permits for farm wineries**. Representative Svaty moved to pass HB 2908 favorably to be placed on the Consent Calendar. Representative Bowers seconded the motion. Motion passed.

The meeting was adjourned at 5:05 p.m. The next meeting is scheduled for February 25, 2008, at 3:30 p.m.

# HOUSE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 21, 2008

NAME	REPRESENTING
Mary Glasburner	KDHE
Angela Kohl	KDHE
Ken Corbet	KANSAS Sport Hunting Assn & RAVENWOOD Lodge
Fred Seiler	KARA
Erik Lange	MKC
Tom Impebrato	DeBruce Fertilizer
Roger Long	United Agri Products
DAVID RETHMAN	MIDWEST AG SERVICE, LLC
Shane Eck	Dodge City Co-op
Marc Hoobler	NK-Syngenta Seeds
Mary Boehm	Boehm Grain
Jeff Lavery	KC Supply
Duane Simpson	Ks Ag Retailers Assoc.
Justin Kaufman	Ks Co-op Council
Whitney Danner	KS Sport Hunting Assn / Hunt Oak
BRAD HARRISON	KFB
CVCotsoradis	KDA
Phil Van Court	The Seale Company
Dave Retzer	KAWG

STATE OF KANSAS  
HOUSE OF REPRESENTATIVES

STATE CAPITOL  
300 S.W. TENTH STREET  
TOPEKA, KS 66612  
(785) 296-7631  
holmesm@house.state.ks.us



DISTRICT ADDRESS:  
211 S.E. 20TH AVE.  
ST. JOHN, KS 67576  
(620) 234-5834

MITCH HOLMES  
114TH DISTRICT

Testimony in Favor of HB2800  
February 21, 2008

Last year the Legislature created a special deer permit for non-profit organizations that provide deer hunts for children with a life threatening illness. The statute allows for up to 10 of these permits to be issued per year. Last year Kansas issued 2 of these permits to an organization called Hunt of a Lifetime.

I was privileged to attend the dinner the night before the hunt commenced and met the two recipients and their parents. Additionally, I saw firsthand the fundraising activity of the organization. The fundraising is a continuous process and one that takes a lot of commitment from the volunteers who make it all possible.

This year I'd like to help out these organizations by making these special permits free of charge. This small gesture will make it easier on the non-profits as they pay for everything involved with the hunt, including airline tickets for hunters and their families, motel room, guns or bows, taxidermy and anything else that the child may need.

The fiscal note is not a true "cost" to the state, it is merely what the state could potentially bring in if permits are sold. The only real cost to the state is in the printing of the permits and the time it will take an employee of KDWP to issue the permits.

Thank you Mr. Chair and Committee for careful consideration of HB2800.

A handwritten signature in cursive script that reads "Mitch Holmes".

HS Ag & Nat'l. Resources  
2-21-08  
Attachment 1

**Testimony on HB 2800 regarding the Youth Hunt of Lifetime Deer Permits  
To  
The House Committee on Agriculture and Natural Resources**

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

**21 February 2008**

HB 2800 seeks to amend one statute related to youth hunt of a lifetime deer permits. The provisions of the bill would be effective on publication in the statute book. **The Department opposes the provisions contained in HB 2800.**

HB 2800 would amend K.S.A. 32-971 to require the department to provide, without cost, youth hunt of a lifetime deer permits to successful applicants.

As a matter of principle, the Department supports the youth hunt of a lifetime program. However, those costs cannot be passed onto current hunters. Potentially, if the youths in the program are not required to have hunting license, the Department cannot count those individuals as license buyers if the deer permit is not purchased. As a result, the Department loses federal aid, which is apportioned back to the states based on number of license holders, as well as the revenue from those permits.

As an alternative to supplying the deer permits for free, the Department would suggest the program be run similarly to the free licenses and permits for Kansas National Guard members. In that program, the Legislature has set aside state general funds in the budget to cover the costs of the licenses, the Department gets the funds to cover the lost revenue and gets to count the licenses as sold for federal aid purposes, and the individual gets a license without further burdening current hunters.

The Department appreciates the opportunity to address the bill.



# KANSAS AGRIBUSINESS RETAILERS ASSOCIATION

SAFE AND ABUNDANT FOOD THROUGH SOUND SCIENCE

**Statement in Support of House Bill 2860**  
**House Agriculture and Natural Resources Committee**  
**Representative John Faber, Chairman**  
**February 21, 2008**

Thank you Mr. Chairman and members of the committee, my name is Duane Simpson; I am the Chief Operating Officer and Vice President of the Kansas Agribusiness Retailers Association. KARA is a volunteer organization that represents over 700 agribusiness firms that are primarily retail facilities that supply fertilizers, crop protection chemicals, seed, petroleum products and agronomic expertise to Kansas farmers. KARA's membership base also includes ag-chemical and equipment manufacturing firms, distribution firms and various other businesses associated with the retail crop production industry. On behalf of these members I am testifying in support of HB 2860.

This is a very simple bill that gives the Secretary of the Kansas Department of Agriculture the authority to extend pesticide registrations from the current maximum length of 1 year to up to 3 year registrations. The registrants would pay the same amount in fees to the state if the Secretary exercises this authority and there would be no change in the distribution of the fees. For example, the current \$150 per year fee would be a \$450 per 3 year fee.

The purpose of this legislation is to reduce the unnecessary amount of paperwork that is filed by the registrants and the Department of Agriculture. There are almost 12,000 products that are registered each year. This simple bill would allow the agency to reduce the paperwork our members submit and they handle without any negative impact to the state.

The Department has alerted to us of a drafting error and I have included an amendment to make sure there is no fiscal impact. On page 2, lines 14-16 the bill states, "*Such fee shall equal an amount multiplied by the number of years registered and shall not exceed \$150 per each agricultural chemical registered.*"

It should read, "*Such fee shall be assessed on each agricultural chemical being registered and shall not exceed \$150 per year of registration.*"

I will also note that the bill eliminates the sunset of the fee increase that was passed several years ago. The fee is currently \$150 and neither the Department nor the industry is seeking a decrease in the fee. If the committee would prefer not to eliminate the sunset, we would have no objection to that amendment, but we simply do not believe the sunset is necessary any longer.

I urge this committee to make the technical change to the bill and pass it favorably. I will stand for questions at this time.

**Testimony on HB 2860**  
**to**  
**House Agriculture and Natural Resources Committee**

**by Constantine Cotsoradis**  
**Deputy Secretary**  
**Kansas Department of Agriculture**

**February 21, 2008**

Good afternoon, Chairman Faber and members of the committee. I am Constantine Cotsoradis, deputy secretary of agriculture.

We support the concept behind HB 2860, which is to authorize the secretary of agriculture to adopt rules and regulations to allow pesticide products to be registered for periods from one year up to three years.

Currently we register approximately 12,000 pesticide products annually. Before modifying the registration process, we would seek input from all relevant stakeholders. If we decide to issue multiyear registrations, we would stagger the renewals depending on whether we issued them for two or three years.

While we support the intent of this bill, we have a problem with the language relating to fees we can charge. We are concerned the current language will limit us to \$150 per registered chemical regardless of the length of registration. We expressed our concern to the revisor's office and the bill's sponsor, and we have reached agreement on language to resolve the issue.

Thank your for letting me testify today. I will be glad to stand for questions at the appropriate time.





**Testimony Re: HB 2838**  
**House Agriculture and Natural Resources Committee**  
**Presented by Don Sayler**  
**On behalf of**  
**Kansas Restaurant & Hospitality Association**  
**February 21, 2008**

Members of the Committee:

My name is Don Sayler, and I am the President & CEO for the Kansas Restaurant & Hospitality Association (KRHA). The Kansas Restaurant & Hospitality Association is the leading business association for restaurants, hotels, motels, country clubs and allied business in Kansas. Along with the Kansas Restaurant & Hospitality Association Education Foundation, the association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas.

The KRHA supports HB 2838. Under current statute, the definition for a “boarding house” as well as that for “bed and breakfast home” allows these facilities to serve food to the licensee’s overnight guests without obtaining a food service license. Yet, hotels that serve food to their overnight guests are required to obtain a food service license if the food they are serving is not prepackaged food that is non-potentially hazardous. If both facilities are providing the same type of foodservice to there guest and similar risks are present in both facilities, why apply different standards? Under current regulation both facilities are required to comply with all applicable provisions of the Kansas food code. Again, if we are complying with the same regulations why is one facility being charged for an additional licensing fee when the other is not?

KRHA testified at the pubic hearing for the new lodging regulations asking for this difference to be removed. At that time, the response from KDHE was the following: The licensing requirement for food service is statutory and is found in K.S.A. 36-503, and cannot be changed by KDHE amending the regulations.

Since KDHE was not able to change the regulations, it became necessary to enact legislation, such as HB 2838, in order to correct the current disparity in statutory treatment of food service provided for lodging guests.

At a recent meeting with KDHE and industry representatives the topic of food licensing was discussed. At that time KDHE indicated that the new lodging inspectors would be conducting the food service inspection at most lodging facilities. KDHE and KRHA have been involved in, and continue to be involved in, continuing dialogue with regards to the fees and scope of program for inspection of food service establishments and of lodging establishments. KRHA appreciates the opportunity to dialogue with KDHE on



these subjects. We intend to, and will, continue with these dialogues in hopes of improving communication between the industry and the regulating agency, and in hopes of finding mutually beneficial understandings about these programs and their funding structure.

KRHA supports HB 2838, to eliminate the inequities in how different lodging establishments are treated in regards to licensing requirements. We strongly urge you to vote in support of this legislation.

Thank you very much for allowing me to testify and I will be happy to yield to questions.



*Kathleen Sebelius, Governor  
Roderick L. Bremby, Secretary*

DEPARTMENT OF HEALTH  
AND ENVIRONMENT

[www.kdheks.gov](http://www.kdheks.gov)

Division of Health

**Testimony on House Bill No. 2838  
to  
The House Agriculture and Natural Resources**

**Presented by  
Mary Glassburner  
Director of the Bureau of Consumer Health**

**February 21, 2008**

Chairman Faber and Committee members, my name is Mary Glassburner and I am the director of the Bureau of Consumer Health at the Kansas Department of Health and Environment (KDHE). Thank you for the opportunity to appear before you today regarding issues related to food safety in our lodging establishments.

The Food Safety and Consumer Protection program is administered to protect the public from foodborne illnesses and injury. Kansas has a long history of addressing issues regarding food safety and lodging sanitation in order to protect public health and safety.

Kansas has 780 licensed lodging establishments. Approximately 310 food service establishments provide some form of complimentary food service to the overnight guests of hotels. Of the 310, approximately 204 are operated by the hotel and provide buffet breakfasts. Several of these provide an evening 'happy hour' with food preparation involving appetizers. Many complimentary breakfasts are simple buffets of cereals, mixed sweet breads and muffins, eggs, milk, juices, fruit, and condiments including dairy creamers, cream cheese, jellies, etc. Frequently, the complimentary breakfast buffets are expanded with more food preparation and handling of a greater number of potentially hazardous foods (foods that can support the progressive growth of microorganisms). The expansion often includes foods such as biscuits and gravy, waffles, omelets, fried or scrambled eggs, sausage, bacon, ham, hashbrowns, etc. All are offered in Kansas lodging establishments as complimentary food service. Any of these foods are subject to contamination and temperature abuse giving microorganisms the opportunity to survive and thrive until consumed.

There are about 110 full service restaurants that offer full menu service to the general public and some of these also offer complementary breakfast or other food service to the overnight guests of a hotel. These full service restaurants are either located in or near the hotel. A guest of the hotel is given a complimentary 'meal ticket' or voucher.

BUREAU OF CONSUMER HEALTH  
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 330, TOPEKA, KS 66612  
Voice 785-296-0189 Fax 785-296-6522

HS Ag & Nat'l. Resources  
2-21-08  
Attachment 6

Upon presentation of the voucher at the restaurant, the meal is complimentary. These full service restaurants may or may not be owned by the hotel licensee.

The proposed language in House Bill 2838 will result in any food service establishment that offers complimentary food to the overnight guests of a hotel exempt for licensure which in turn exempts them from food safety inspection and regulation. Our primary concern is the lack of food safety regulation that has the potential of exposing thousands of consumers every day to food prepared, stored and served without benefit of food safety oversight.

In the best interest of food safety and public health, the Department of Health and Environment offers attached amended language to HB 2838. This amended language will exempt hotels from paying for a separate food service license if they offer only complimentary meals to their overnight guests while ensuring food safety. Full service restaurants will continue to be licensed and inspected as food service establishments.

I will be happy to answer your questions.

**HOUSE BILL No. 2838**

By Committee on Appropriations

2-12

9 AN ACT concerning licensure for food service establishment; amending  
10 K.S.A. 2007 Supp. 36-503 and repealing the existing section.

11

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

13 Section 1. K.S.A. 2007 Supp. 36-503 is hereby amended to read as  
14 follows: 36-503. (a) It shall be unlawful for any person to engage in the  
15 business of conducting a food service establishment unless such person  
16 shall have in effect a valid license therefor issued by the secretary of health  
17 and environment, except that any food service establishment providing  
18 only a device for the convenience and operation by a customer for the  
19 purpose of heating prepackaged food with no provision for consumption  
20 of food on the premises, or any food service establishment licensed by  
21 the secretary pursuant to any other law and maintained in connection  
22 with any premises licensed by the secretary pursuant to any other law  
23 shall not be required to obtain a license under this section, nor shall any  
24 person engaged only in the serving of food on railway dining cars or in  
25 the occasional sale or serving of food be required to obtain a license  
26 hereunder. For the purpose of this section, the sale or serving of food in  
27 the same location less than seven days in any calendar year shall be con-  
28 strued as the occasional sale or serving of food. ~~Hotels that serve food at~~  
29 ~~no additional cost to the overnight guests shall not be considered to be~~  
30 ~~operating a food service establishment.~~ Nothing in this act shall prevent  
31 the secretary of health and environment from inspecting any food service  
32 establishment when a complaint against such food service establishment  
33 is transmitted to the secretary of health and environment or any author-  
34 ized agent thereof except that no provision of this act shall be construed  
35 to authorize the secretary of health and environment to inspect or cause  
36 to be inspected under the provisions of this act any food service estab-  
37 lishment licensed by the secretary of health and environment pursuant  
38 to any other law or maintained in connection with any premises licensed  
39 by the secretary pursuant to any other law which food service establish-  
40 ment is not required to obtain a license under this section.

*For the purpose of this section, hotels that provide only complimentary food service to only that hotel's overnight guests shall not be required to purchase a food service license separate from the lodging establishment license. This exemption from licensing does not exempt any food service establishment inside the hotel from inspection or regulation.*

41 (b) Applications for such licenses shall be made on forms prescribed  
42 by the secretary, and each such application shall be accompanied by an  
43 application fee and by a license fee, each of which shall be established in

1 an amount fixed by rules and regulations adopted by the secretary of  
2 health and environment. Application fees may be adjusted in accordance  
3 with the type of establishment or based on other criteria as determined  
4 by the secretary, but in no event shall any application fee exceed \$200.  
5 Such license fee shall not exceed \$200 and shall be fixed in an amount  
6 which, together with the application fee, is sufficient to defray the cost  
7 of administering the food service establishment inspection and licensure  
8 activities of the secretary. Prior to the issuance of any such license, the  
9 secretary shall inspect or cause to be inspected the food service estab-  
10 lishment designated in the application, to determine that it complies with  
11 the standards for food service establishments promulgated pursuant to  
12 this act. If such food service establishment is found to be in compliance,  
13 the secretary shall issue the license. If the application for license is denied,  
14 the secretary shall give written notice thereof to the applicant, stating also  
15 that the applicant is entitled to a hearing thereon if a written request  
16 therefor is filed with the secretary within 20 days of the date such notice  
17 is sent. Such hearing shall be held in accordance with the provisions of  
18 the Kansas administrative procedure act.

19 (c) Every license issued hereunder shall be displayed conspicuously  
20 in the food service establishment for which it is issued, and no such license  
21 shall be transferable to any other person or location. Whenever any such  
22 license is lost, destroyed or mutilated, a duplicate license shall be issued  
23 to any otherwise qualified licensee upon application therefor and the pay-  
24 ment of a fee in the amount of \$3.

25 (d) Any person who, on the effective date of this act, has a valid  
26 license to operate a restaurant shall be a licensee under the provisions of  
27 this act, and any such license is hereby deemed to be a license to operate  
28 a food service establishment issued under the provisions of this act.

29 (e) A premises where prepackaged individual meals are distributed  
30 to persons eligible under the federal older Americans act shall not pay  
31 any fee prescribed under subsection (b).

32 Sec. 2. K.S.A. 2007 Supp. 36-503 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its  
34 publication in the Kansas register.



**TESTIMONY**

**TO:**           **The Honorable John Faber, Chair  
And Members of the  
House Agriculture and Natural Resources Committee**

**FROM:**       **Whitney Damron  
On behalf of:**

- **The Kansas Sport Hunting Association**
- **Flint Oak, LLC**

**RE:**           **SB 487 - An Act concerning sales taxation; relating to imposition  
of tax; hunting and sale of game birds.**

**DATE:**       **February 21, 2008**

Good afternoon Chairman Faber and Members of the House Agriculture and Natural Resources Committee. On behalf of the Kansas Sport Hunting Association and Flint Oak, LLC, I appear before you today in support of SB 487 that would clarify the application of sales taxes on certain hunting, fishing and shooting-related activities in our state.

By way of information for the Committee, the Kansas Sport Hunting Association is a not-for-profit association of hunting service providers and game bird producers with members that offer the entire spectrum of hunting and shooting services, products and experiences in Kansas, including game bird breeding, hunting guide services, dog training, food and lodging, clay target sports and related services and recreational opportunities.

Flint Oak, LLC is privately-owned 5-star rated hunting, sport shooting, recreational resort located approximately 80 miles east of Wichita in the scenic Flint Hills of southeastern Kansas that is considered to be one of the finest establishments of its kind in the United States, with a worldwide clientele and reputation for quality and first class amenities. Flint Oak was the creation and vision of Ray and Winona Walton and represents an investment of over \$15 million. Mr. Walton passed away in 2007 shortly after the facility was sold to a group of Wichita area investors committed to expanding Flint Oak beyond even its current industry leading standards.

Collectively, both the KSHA and Flint Oak would like to express their appreciation to the Committee for quickly holding hearings on SB 487 following its passage in the Senate by a 40-0 vote on February 13, 2008.

As the Kansas Department of Revenue noted in its comments to the Senate Committee on Assessment and Taxation on January 17 of this year, there has been some confusion or misunderstanding in the past as to whether sales taxes are applicable to certain activities and sales that are conducted at facilities like Flint Oak, Ravenwood Hunting Preserve or even farmers providing access to land for hunting as well as products and services offered for sale by the hunting industry, including game birds and guide services. SB 487 is an attempt to clarify this area of law and codify in statute what the Legislature deems appropriate sales tax policy for these sales, transactions and activities.

During hearings held in the Senate, the Department of Revenue indicated that prior to 2007, it was its opinion that certain hunting related products and services were not subject to a sales tax or at the least, those involved in these kinds of businesses had been given conflicting advice from the Department as to whether certain sales, transactions and activities were subject to sales tax application. Regardless of past advice, sometime during the last year, a change in that determination was made and the Department sent out a Self-Audit Notice to 148 businesses involved with these kinds of products and services seeking a remittance of past due taxes for the preceding three years.

After a meeting with representatives of the Kansas Sport Hunting Association in December of 2007, the Department sent out a subsequent notice of intent to begin enforcing their revised policy effective January 1, 2008. Regardless of how or why we got to where we are today, we believe SB 487 as currently written is sound public policy with significant benefits to the state that should be adopted by the Legislature.

Many of us in Kansas who have a history of opening day hunting weekends with family and friends will understand when I say there are fewer and fewer places for Kansans and non-Kansans to hunt now than there was when we were growing up. This is attributable to many things, including a steady migration of people from rural to urban areas, which produces fewer hunters, hunting land lost to private hunting leases, loss of wildlife and habitat and many other factors. But there continues to be a strong interest from the public at large with hunting, shooting sports and outdoor recreational opportunities. Entities such as Flint Oak, Ravenwood, Ringneck Ranch and perhaps as many as 200 more such facilities in our state cater to the outdoorsman and woman to provide quality hunting and shooting experiences for their customers.

The state of Kansas should do all it can to encourage the growth of these kinds of operations, which necessarily increase revenues to state and local governments and businesses in our state selling that sell firearms, ammunition, dog training and veterinarian services and supplies to those who participate in these kinds of activities.

Through controlled shooting areas working in conjunction with game bird breeders, patrons of these facilities have the ability to hunt pheasant, quail and other game birds in Kansas from September 1 through March 31. Without controlled shooting areas, hunting seasons are limited by Wildlife and Parks depending upon breeding patterns, wildlife populations and related factors that limit these seasons generally from November through January.



The imposition of a sales tax on the kinds of services exempted in SB 487 may or may not have a significant impact upon the industry going forward, particularly on the larger operations involved in this industry. However, it also would not have a significant impact on state revenues and would become a regulatory headache for farmers and ranchers and those who are in this business to make a few extra dollars when the crops are in and the cattle content, as they would have to obtain a sales tax number from the state, create a separate accounting process and submit their requisite sales taxes to the state on a periodic basis.

There is also concern with the precedent involved with applying a sales tax to a service; i.e., hunting guides, dog trainers, shooting lessons and related services.

I found the question and answer portion of this Committee's discussion on January 17 to be very interesting and probably raised more questions than it answered.

- If a farmer leases land to another farmer to graze cattle, is it subject to sales tax? I believe I heard the answer was "no."
- If a farmer leases land to a group of doctors for a duck lease, is the lease subject to sales tax? I believe I heard the answer was "yes".

What if the farmer who leases the land for his cattle in the first example can also hunt on the land?

We can go much further with these kinds of examples, but I believe the Committee developed an understanding of some of our concerns and the need for clarity with this area of law. There appears to have been some subjectivity in the interpretations made in the past by the Department of Revenue, which leads us to the position of supporting legislation such as SB 487 to provide clarity for those involved in this industry.

To digress for just a minute, I would also note for the Committee that I have some personal experience with this issue. In 1993, when I was on the Board of Capital City Gun Club located west of Topeka, we received a notice of audit in regard to all of our shooting activities at the club, including trap, skeet and even pistol, rifle and black power shooting events similar to what the Department sent out in 2007. We were informed that we were required to collect sales taxes on all shooting events at our club, including trap and skeet, as well as any sales made at the club. Since that time, we have obliged the Department by collecting and remitting sales tax to the state for all "sales" at Capital City Gun Club. In the past 16 years, we have remitted approximately \$15,000.00 to the State of Kansas in sales taxes. It's not easy to find a person at a volunteer club to handle these kinds of transactions and the requisite paperwork, but fortunately we have done so and we hope he never turns in his resignation.

Kansas ought to be doing more to encourage hunting and the shooting sports in our state, not less. Most clubs in Kansas are non-profit and run by volunteers who contribute a significant amount of time and money to make their club work, just like we do at Capital City Gun Club. By and large, these clubs are open to the public and offer a public service that the Kansas Department of Wildlife and Parks only wish they could provide.

Most guide services and hunting preserves involve a farmer or rancher taking a few friends on a hunt, which expands over time to perhaps include lodging at the old homestead, meals cooked by the family and accommodations for hunting dogs and so on. Requiring those interested in getting into this business to collect sales taxes on each and every aspect of their venture seems counter productive to fostering this growing industry and opportunity.

Removing the requirement of collection of sales taxes on these kinds of services and transactions would be a reasonable step by the state to encourage further investment of this kind in our state.

Not all hunting clubs and preserves are as big and as extravagant as Flint Oak. But there are a lot of them in our state that are growing each and every year by providing a quality hunting and outdoor experience for their customers. These kinds of operations are located in rural areas of our state and provide opportunities for additional income for farmers and ranchers and those they employ or contract with. They provide recreational opportunities for hunting, shooting and gun dog enthusiasts who generally have substantial disposable income.

No one is here before the Committee asking for an exemption of traditional retail sales by those entities that routinely sell goods, such as ammunition, firearms, hunting and outdoor gear and related products. However, legislative clarity on certain goods and services that many people, including the Department thought were already exempt or should be is what this legislation is designed to address.

On behalf of the Kansas Sport Hunting Association and Flint Oak, LLC, I thank you for your consideration of my testimony and respectfully request your support of SB 487 as adopted by the Senate.

**The Economic Importance of Hunting  
International Association of Fish and Wildlife Agencies  
Report prepared by Southwick Agency**

**Kansas**

**1996**

Number of Hunters (deer, migratory & upland):	275,000
Economic Impacts for All Hunting:	\$374,945,337
Earnings:	\$169,746,410
Jobs:	9,553
State and Local Tax Revenue:	\$20,962,922

**2006**

Number of Hunters (deer, migratory & upland):	271,175
Economic Impacts for All Hunting:	\$270,981,258
Earnings:	\$142,771,519
Jobs:	5,864
State and Local Tax Revenue:	\$29,695,037

In ten years:

- Number of hunters declined by 4,000.
- Economic Impact declined by \$100 million.
- Earnings declined by \$15 million.
- Jobs declined by 3,700
- State and local revenues increased by \$9 million.

To: Representative John Faber, Chair  
And Members of the  
House Agriculture and Natural Resources Committee

From: Ken Corbet  
Ravenwood Lodge

Re: SB 487 – Sales tax on hunting and sale of game birds

Date: February 21, 2008

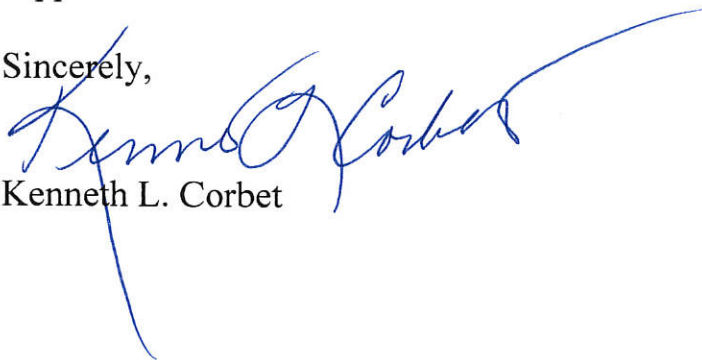
Dear Representative Faber and Members of the Agriculture and Natural Resources Committee:

My name is Ken Corbet and I am the owner of Ravenwood Lodge located southwest of Topeka. At Ravenwood we provide guided field hunts and sporting clays.

I am the past president of the Kansas Sport Hunting Association and am currently on their board of directors. We have hunt providers and bird producers in over 80 counties in the state of Kansas. Without the support of these farmers and ranchers, there would be no opportunity for the outdoor legacy of hunting and sport shooting for which Kansas is known.

On behalf of Ravenwood and the KSHA, I appear before you today to support SB487.

Sincerely,



Kenneth L. Corbet



*PUBLIC POLICY STATEMENT*

HOUSE COMMITTEE on AGRICULTURE and NATURAL  
RESOURCES

RE: SB 487 – an act concerning sales tax relating to hunting and  
fishing.

**February 21, 2008**  
**Topeka, Kansas**

**Testimony provided by:**  
**Brad Harrelson**  
**State Policy Director**  
**KFB Governmental Relations**

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Chairman Faber, and members of the House Committee on Agriculture and Natural Resources, thank you for this opportunity to offer testimony on Senate Bill 487 clarifying the application of sales tax to services provided in the hunting industry. I am Brad Harrelson, State Policy Director for Kansas Farm Bureau. We appear today in support of SB 487.

KFB is concerned about and disagrees with the Department of Revenue's recent interpretation that sales tax should be remitted by business and individuals providing hunting services and property owners who charge access fees for hunting. KFB policy clearly opposes the application of sales tax to services, and further states that sales tax should only be applied at the retail level. Many of our members participate in these endeavors and pay the appropriate income tax on these services. By imposing an additional sales tax the Department is double-taxing these businesses and individuals. Other providers in the State are not required to remit sales tax on services provided. Why should these businesses be singled-out?

We appreciate the Committee's efforts to correct this situation and look forward to resolution of the issue. Thank you for this opportunity to express the position of Kansas Farm Bureau.



*Since 1894*

## TESTIMONY

To: The House Agriculture & Natural Resources Committee  
Rep. John Faber, Chairman

From: Mike Beam, Sr. Vice President

Date: February 21, 2008

Subject: **Senate Bill 487** -Sales tax exemption for fees for guided and non-guided hunting and sale of game birds for hunting

Mr. Chairman and Committee members, I'm Mike Beam and I'm representing the Kansas Livestock Association who supports the passage of SB 487.

Guided and non guided hunts have become a significant portion of many of our members operations in recent years. These producers view this activity as a way to diversify their operation and provide additional income from their land's natural resources. In many cases, farmers and ranchers have used hunting and guide services as a means to provide enough additional income to allow a family member to become actively involved in the farming or ranching operation. All of the income generated from these activities is subject to income tax.

In other situations, farmers and ranchers have begun leasing the hunting rights on their property to individuals and/or to guides and outfitters. Once again, these leases are subject to income tax. When the original bill was introduced, we asked the Senate Assessment and Taxation Committee to clarify that hunting leases were exempt from sales tax. You'll see this language, lines 34-35 on page 3, specifically clarifies these leases are not to be subject to taxation.

In conclusion, hunting leases and guide services have become a vital part to many farming and ranching operations in the state of Kansas. The income generated off of these activities is subject to income tax; therefore, it is our belief that these types of activities should not be subject to sales tax in Kansas.

Thank you.

HS Ag & Nat'l. Resources  
2-21-08  
Attachment 10

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Testimony to the House Committee on Agriculture and Natural Resources

David Corbin

February 21, 2008

**Department Concerns with Senate Bill 487**

Representative John Faber, Chair, and Members of the Committee:

Senate Bill 487 would reverse the Department's interpretation stated in Notice 07-08 (attached) explaining the sales tax imposition in K.S.A. 79-3603(m) on the gross receipts derived from the participation in guided and non-guided hunts, the gross receipts from fees and charges for sporting clays, and the gross receipts for the sale of game birds. If Senate Bill 487 is enacted, such charges will be exempt after the effective date. The bill also exempts fees and charges for participation in fishing expeditions and hunting or fishing leases, although Notice 07-08 provides that the Department does not currently consider charges for hunting or fishing leases to be subject to sales tax.

The Department of Wildlife and Parks reports that for 2006, the following number and types of hunting licenses were issued to non-residents:

644	non-resident combined hunting and fishing
57,944	non-resident hunting
9,986	controlled shooting area
593	48-hour water fowl
2,294	non-resident junior (under 16)

Fees and charges from participation in hunting—particularly from non-residents—is a growing business in Kansas. This exemption will cause further shrinkage of the sales tax base. The Department's fiscal note is attached.

Our neighbor state, Missouri, does impose sales tax on fees for participation in hunting.

## Notice

Notice Number: 07-08  
Tax Type: Kansas Retailers' Sales Tax  
Brief Description: Sales Tax Treatment of Charges for Participation in Guided vs. Non-guided hunting and Retail Sale of Game Birds  
Keywords:  
Approval Date: 02/04/2008

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Body:

### KANSAS DEPARTMENT OF REVENUE

February 4, 2008

#### Revised Notice 07-08

#### **Sales Tax Treatment of Charges for Participation in Guided vs. Non-guided Hunting and Retail Sale of Game Birds**

**This notice sets forth the Department's guidance on the sales tax treatment of charges for guided and non-guided hunts, and on the retail sale of game birds. To the extent this guidance is inconsistent with prior statements or interpretations issued by the Department, this guidance shall control.**

#### **Charges for Participation in Guided vs. Non-guided Hunting**

The gross receipts derived from the participation in guided and non-guided hunts, as well as sporting clays are subject to Kansas retailers' sales tax. Kansas law imposes tax on the gross receipts received from the sale of tangible personal property, enumerated services and certain admissions. K.S.A 79-3603(m) imposes sales tax on the gross receipts received from fees and charges by public and private clubs, drinking establishments, organizations and businesses for participation in sports, games and other recreational activities. K.A.R 92-19-22b(a)(1) defines "sports, games, and other recreational activities" as follows:

diversions that restore or refresh strength and spirits by means of pastime, exercise, or similar activities that involve strength, speed, dexterity, stamina, or training. These activities shall include golf, pool, billiards, skating, bowling, swimming, skiing, baseball, softball, basketball, volleyball, racquetball, handball, squash, tennis, carnival rides, motor sports, batting practice, skeet, trap, target shooting, horse riding, pinball, darts, electronic games, physical fitness services, and all other similar activities.

Hunting falls within the category of "sports, games, and other recreational activities," and any fees or other charges for participation in hunting, whether a guide is or is not included, are subject to Kansas sales tax.



The lease or rental of hunting rights to real property is considered a real property interest, and lease or rental payments made pursuant thereto are not subject to sales tax.

### **Retail Sale of Game Birds**

The retail sale of game birds within Kansas is subject to Kansas retailers' sales tax (the seller should collect sales tax on the selling price). Kansas sales tax is also due on the sale of game birds when sold as pets, when sold directly to the consumer who will use them as a food source, and when the purchaser cannot produce a valid Kansas Exemption Certificate.

The seller is not required to collect Kansas sales tax on sale of game birds shipped or delivered by common carrier to point outside of the State of Kansas. The seller should retain for audit purposes shipping documents, such as the bill of lading or invoice showing the shipping address indicating the out-of-state delivery.

If the buyer provides the seller with a Kansas Exemption Certificate indicating that the purchase of game birds is exempt for Kansas retailers' sales tax, then the seller is not required to collect sales tax. Some of the most common exemptions in the game bird industry are:

(1) Kansas Resale Exemption Certificate – This certificate indicates that the seller should not collect the sales tax because the buyer is going to resell the birds and collect sales tax. A prime example would be the purchase of birds by a sport hunting preserve. (See p. 43, Publication KS-1520).

(2) K.S.A. 79-3606(o) exempts all sales of fowl, the primary purpose of which is for use in the production of offspring or food production. A prime example would be the sale of birds to another producer who is going to use them to as breeding stock or, to a slaughter house that is going to process the birds for human consumption.

(3) Exempt Entity – No sales tax is due when birds are sold to an exempt entity such as a school, state of Kansas, federal government. Each of these exempt entities should have an Exemption Certificate issued to them similar to the one found on page 16 of Publication KS-1520.

# 2008 Senate Bill 487c Fiscal Note

Amended by Senate Committee

## Brief of Bill

Senate Bill 487, as Amended by Senate Committee, amends K.S.A 79-3603 to include sales tax fees and charges for participation in guided and non-guided hunts, fees and charges for sporting clays and fees and charges that would be exempt from sales tax. It also amends K.S.A 79-3606 to add an exemption for sales of game birds the primary purpose of which is use in hunting. As amended by Senate Committee, the exemption is expanded to include fishing expeditions and excursions, clay shooting sports and hunting or fishing leases.

The Act would be effective July 1, 2008.

## Fiscal Impact

The loss of state sales tax revenue in fiscal year 2009 is estimated at \$500,000. Loss to the state general fund would be \$438,500 and \$61,500 to the highway fund. Local sales tax lost is estimated at \$125,000.

The 2006 National Survey of Fishing, Hunting and Wildlife Associated Recreation as published by the U.S. Fish & Wildlife Service provides expenditure data on hunting and fishing in Kansas. Total expenditures for hunting were \$245.4 million and \$245.3 M for fishing, which includes food and lodging, transportation, equipment, auxiliary, other trip costs and other items costs. The "other trip" expenditures amounted to \$10 million for hunting and \$32.4 million for fishing and of that, the amounts expended on guide fees, pack trip or package fees make up 94% (\$9.4 M) for hunting and 10% (3.2 M) for fishing. The loss of state sales tax from these fees and charges would be \$668,000 annually. With the fee and charges for participation in shooting sporting clays and game bird sales exempt, the total fiscal impact is estimated at \$818,000. However, the department has recently issued a notice stating that the leasing of hunting rights (and fishing rights) on private property by individuals are not subject to sales tax. This is estimated to make up approximately one-third of the total costs and would lower the fiscal impact of this proposal to \$500,000 in fiscal year 2009.

Fiscal Year	Total	SGF	Hwy	Local
2009	\$500,000	\$438,500	\$61,500	\$125,000
2010	\$510,000	\$447,270	\$62,730	\$127,500
2011	\$520,200	\$456,215	\$63,985	\$130,050
2012	\$530,604	\$465,340	\$65,264	\$132,651
2013	\$541,216	\$474,647	\$66,570	\$135,304

## Administrative Impact

Sales tax publications would require revision at a cost of \$26,300.

## Administrative Problems and Comments

The proposal would exempt fees and charges for participation in guided and non-guided hunts and fishing trips. Other fees that may be associated with a hunt such as meals, lodging, equipment rental, and transportation charges would continue to be subject to sales tax. The department would require invoices to separately list fees and charges for the hunts separate from other taxable charges in order for the fees and charges for the guided or non-guided hunts to be exempt from tax.

#### **Taxpayer/Customer Impact**

Hunters and fishing persons would no longer be required to pay sales tax on guided and non-guided hunts or the shooting of sporting clays. Sellers of game birds would no longer be required to collect sales tax on their sales.

#### **Legal Impact**

February 19, 2008

The Honorable John Faber, Chairman  
House Committee on Agriculture and Natural Resources  
Statehouse, Room 161-W  
Topeka Kansas 66612

Dear Representative Faber:

SUBJECT: SB#487

The Kansas Bowhunter's Association would like to submit this letter as written testimony in opposition to SB#487.

It is our position that commercially ran hunting and shooting operations should not be granted sales tax exemption on products and services that they provide. These businesses offer recreational shooting and high end hunting opportunities before, during and after normal hunting seasons offered through statute and regulation by the State of Kansas to resident and non-resident hunters alike. These businesses are offering a product, a service, and access to land while charging a fee to generate income much like other commercial businesses operating in Kansas. These hunting and shooting operations are not agriculture related. They are providing a service to those who chose to pay a fee for the opportunity. One could expect that other hunting and shooting related businesses such as Taxidermists, Meat Processors, Bed and Breakfast Inns and Motels, Archery and Firearm Retailers/Suppliers; etc would expect to be sales tax exempt as well should this bill be enacted.

The Kansas Bowhunter's Association respectfully requests that SB#487 not be passed.

Sincerely,



Randy Smith

KBA Legislative Chairman

HS Ag & Nat'l. Resources  
2-21-08  
Attachment 12