

SESSION OF 2004

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR
SENATE BILL NO. 496**

As Recommended by Senate Committee on
Natural Resources

Brief*

Sub. for SB 496 would amend the criminal hunting statute (KSA 21-3728) to clarify that the provision which permits a person licensed to hunt to follow or pursue a wounded game bird or animal upon land of another without permission does not authorize the person to remain on the land if instructed to leave by the owner or other authorized person. This provision also would be amended to require the court to notify the Department of Wildlife and Parks (KDWP) of any conviction or diversion for criminal hunting. The bill further would provide for the forfeiture of a fur harvesting license in addition to hunting or fishing licenses under this portion of current law.

In addition, the bill would create a new crime of intentional criminal hunting. Under the bill, intentional criminal hunting would be hunting, shooting, fur harvesting, pursuing any bird or animal, or fishing upon any land or non-navigable body of water of another by a person who knows they are not authorized or privileged to do so, and

1. The person remains on the land and continues to hunt, shoot, fur harvest, pursue any bird or animal, or fish in defiance of an order not to enter or to leave the premise or property personally communicated to the person by the owner or other authorized person, or
2. The premises or property is posted in a manner consistent with KSA 32-1013 (posted hunting, fishing, or trapping with written permission only or marked with purple paint which indicates the need for written permission to hunt, fish, or trap).

Intentional criminal hunting would be a Class B misdemeanor.

*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>

Upon conviction, a person would be sentenced to not less than 48 consecutive hours of imprisonment which must be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole, except that the judge may choose to impose a sentence of 100 hours of community service instead of imprisonment upon the first conviction. Upon the first conviction or a diversion agreement for intentional criminal hunting, the court would be required to impose forfeiture of the person's hunting, fishing, or fur harvesting license, or all, or in the case where there is a combination license, the court would require forfeiture of a part or all of this type of license for six months. The forfeiture of the license would be in addition to the sentence imposed by the court.

Upon the second conviction of intentional criminal hunting, and in addition to the authorized sentence outlined above, the court would require the forfeiture of the convicted person's license for one year. Upon the third or subsequent conviction of intentional criminal hunting, the court would be required to impose the sentence and require forfeiture of a license for five years. The court would be required to notify KDWP of any conviction or diversion for intentional criminal hunting.

Finally, the bill would amend KSA 32-1013 to make a person, who is following or pursuing a wounded animal on land which is posted and who has been instructed to leave the land, subject to intentional criminal hunting when the person fails to leave the land when instructed to do so.

Background

This bill was a Committee bill. At the hearing on the original bill, the only conferee was a spokesperson from KDWP. The spokesperson testified in support of the original bill and stated that the agency firmly supports and is committed to fair and effective conservation law enforcement for the citizens of the state.

The Chairperson of the Committee appointed a subcommittee to address the issues raised by the bill and by the only conferee. The substitute bill constitutes the recommendations of the subcommittee.

The fiscal note on the original bill indicates that the Kansas

Department of Wildlife and Parks estimates that hunting license revenue would decline by \$3,400 annually with the passage of SB 496. The note states that this amount is based on data the Department maintains for convictions and diversions of such offenses. In addition, the note states that enhancements to the licensure database and tracking of cases would be necessary and indicates the cost of doing this is not known. The fiscal note states that the creation of a revocation system sufficient to comply with the bill would entail approximately \$25,000 in administrative and judicial hearing costs and approximately \$73,250 in personnel costs for staff to manage the system and defend Department actions in the hearing process. These expenditures would be from the Wildlife Fee Fund and would be in addition to the amounts contained in *The FY 2005 Governor's Budget Report*.