

SENATE BILL No. 384

By Committee on Ways and Means

1-28

AN ACT concerning wildlife, parks and tourism; relating to the nongame and endangered species act; amending K.S.A. §2-958, §2-960a and 32-961 and repealing the existing sections.

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

Section 1. ~~[K.S.A. 32-958 is hereby amended to read as follows: 32-958. As used in the nongame and endangered species conservation act:~~

~~(a) "Conserve," "conserving" and "conservation" mean the use of all methods and procedures for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such numbers. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law-enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, regulated taking and, when and where appropriate, the periodic or total protection of species or populations of wildlife. With respect to threatened species and endangered species, the terms mean the use of all methods and procedures, including but not limited to those described above, which are necessary to bring any threatened or endangered species to the point at which the methods, procedures and measures provided for such species pursuant to the nongame and endangered species conservation act are no longer necessary.~~

~~(b) (1) "Critical habitat" means any specific area within a geographical area occupied by a threatened or endangered species listed in accordance with the provisions of K.S.A. 32-960, and amendments thereto which contain physical or biological features essential to the conservation of such species and may require special management consideration or protection.~~

~~(2) "Critical habitat" does not include the entire geographical area which can be occupied by the threatened or endangered species, unless the secretary makes a determination that specific areas outside the geographical area occupied by the species at the time it is listed in accordance with K.S.A. 32-960 and amendments thereto are essential for the conservation of the species.~~

~~(b) (c) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both]~~

Balloon Amendments for SB 384
Senate Committee on Natural Resources
Prepared by Tamera Lawrence
Office of Revisor of Statutes
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1 [necessary for the maintenance of life.

2 ~~(c) (d) "Endangered species" means any species of wildlife whose~~
3 ~~continued existence as a viable component of the state's wild fauna is~~
4 ~~determined to be in jeopardy. That term also includes any species of~~
5 ~~wildlife determined to be an endangered species pursuant to Pub. L. No.~~
6 ~~93-205 (December 28, 1973), the endangered species act of 1973, and~~
7 ~~amendments thereto.~~

8 ~~(d) (e) "Nongame species" means any species of wildlife not legally~~
9 ~~classified as a game species, furbearer, threatened species or an endangered~~
10 ~~species by statute or by rule and regulation adopted pursuant to statute.~~

11 ~~(e) (f) "Optimum carrying capacity" means that point at which a~~
12 ~~given habitat can support healthy populations of wildlife species, having~~
13 ~~regard to the total ecosystem, without diminishing the ability of the habitat~~
14 ~~to continue that function.~~

15 ~~(f) (g) "Threatened species" means any species of wildlife which~~
16 ~~appears likely, within the foreseeable future, to become an endangered~~
17 ~~species. That term also includes any species of wildlife determined to be a~~
18 ~~threatened species pursuant to Pub. L. No. 93-205 (December 28, 1973),~~
19 ~~the endangered species act of 1973, and amendments thereto.~~

20 ~~(g) (h) "Wildlife" means any member of the animal kingdom,~~
21 ~~including, without limitation, any mammal, fish, bird, amphibian, reptile,~~
22 ~~mollusk, crustacean, arthropod or other invertebrate, and includes any part,~~
23 ~~product, egg or offspring thereof, or the dead body or parts thereof.~~

24 ~~See 2.] K.S.A. 32-960a is hereby amended to read as follows: 32-~~
25 ~~960a. (a) On or before January 1, 1998, the secretary shall adopt, in~~
26 ~~accordance with K.S.A. 32-805, and amendments thereto, rules and~~
27 ~~regulations establishing procedures for developing and implementing~~
28 ~~recovery plans for all species listed as in need of conservation, threatened~~
29 ~~or endangered. The secretary shall give priority to development of~~
30 ~~recovery plans for particular species based on a cumulative assessment of~~
31 ~~the scientific evidence available. Based on the priority ranking, the~~
32 ~~secretary shall develop and begin implementation of recovery plans for at~~
33 ~~least two listed species on or before January 1, 1999.~~

34 ~~(b) Whenever a species is added to the list of threatened or~~
35 ~~endangered species, the secretary shall establish a volunteer local advisory~~
36 ~~committee composed of members broadly representative of the area~~
37 ~~affected by the addition of the species to the list. Members shall include~~
38 ~~representatives of specialists from academic institutions, agribusiness and~~
39 ~~other trade organizations, state, environmental and conservation~~
40 ~~organizations and other interested organizations and individuals. In~~
41 ~~addition, the membership shall include, if appropriate, landowners and~~
42 ~~public officials representing state, local and tribal governments. To the~~
43 ~~maximum extent possible, committee membership shall evenly balance the~~

1 interests of all potentially affected groups and institutions.

2 (c) The advisory committee shall: (1) Work with the secretary to
3 adapt the listing of the species and the recovery plan for the species to the
4 social and economic conditions of the affected area; and (2) disseminate
5 information to the public about the scientific basis of the decision to list
6 the species, the regulatory process and incentives available to landowners
7 pursuant to this act.

8 (d) If a species in need of conservation receives a priority ranking to
9 develop and begin implementation of a recovery plan, the secretary shall
10 establish a volunteer local advisory committee in the same manner as
11 provided by subsection (b) to work with the secretary to adapt the recovery
12 plan and disseminate information to the public.

13 (e) In implementing a recovery plan for a species, the secretary shall
14 consider any data, recommendations and information provided by the
15 advisory committee.

16 (f) *The secretary shall cause each developed and implemented*
17 *recovery plan to be published and maintained on the official website of the*
18 *department of wildlife, parks and tourism.*

19 Sec. 3. K.S.A. 32-961 is hereby amended to read as follows: 32-961.

20 (a) Whenever any species is listed as a threatened species pursuant to
21 K.S.A. 32-960, and amendments thereto, the secretary shall adopt such
22 rules and regulations pursuant to K.S.A. 32-963, and amendments thereto,
23 as the secretary deems necessary and advisable to provide for the
24 conservation of such species. ~~[The secretary shall not adopt rules and~~
25 ~~regulations: (1) Pertaining to any habitat other than a critical habitat of a~~
26 ~~species of wildlife designated as a threatened or endangered species~~
27 ~~pursuant to K.S.A. 32-960, and amendments thereto; or (2) designating a~~
28 ~~critical habitat for a specific species of wildlife designated as a threatened~~
29 ~~or endangered species pursuant to K.S.A. 32-960, and amendments~~
30 ~~thereto, until a recovery plan has been completed for the species in~~
31 ~~accordance with K.S.A. 32-960a, and amendments thereto.]~~ By rules and
32 regulations adopted pursuant to K.S.A. 32-963, and amendments thereto,
33 the secretary may prohibit with respect to any threatened species included
34 in a list adopted pursuant to K.S.A. 32-960, and amendments thereto,
35 except as provided in subsection (c), any act which is prohibited under
36 subsection (b) with respect to any endangered species included in a list
37 adopted pursuant to K.S.A. 32-960.

38 (b) Except as otherwise specifically provided by this section or rules
39 and regulations adopted pursuant to this section, a special permit is
40 required for any person subject to the jurisdiction of this state to:

41 (1) Export from this state any endangered species included in a list
42 adopted pursuant to K.S.A. 32-960, and amendments thereto;

43 (2) possess, process, sell, offer for sale, deliver, carry, transport or

ship, by any means whatsoever, any such endangered species, or

(3) act in a manner contrary to any rule and regulation adopted by the secretary pursuant to authority provided by K.S.A. 32-957 through 32-963 and 32-1009 through 32-1012, and amendments thereto, which pertains to such endangered species or to any threatened species of wildlife included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto.

(c) The provisions of subsection (b)(3) shall not apply to:

(1) Normal farming and ranching practices, unless a permit is required by ~~Pub. L. 93-205 (the endangered species act of 1973), and amendments thereto]~~ or such practices involve an intentional taking of a threatened species under K.S.A. 32-1010, and amendments thereto, or involve an intentional taking of an endangered species under K.S.A. 32-1011, and amendments thereto;

(2) development of residential and commercial property on privately owned property financed with private, nonpublic funds unless a permit is required by ~~Pub. L. 93-205 (the endangered species act of 1973), and amendments thereto]~~ or the development involves an intentional taking of a threatened species under K.S.A. 32-1010, and amendments thereto, or ~~[except]~~ an intentional taking of an endangered species under K.S.A. 32-1011, and amendments thereto;

(3) activities for which a person has obtained a scientific, educational or exhibition permit, as provided by K.S.A. 32-952, and amendments thereto; and

~~(4) any publicly funded action, a state or federally assisted action, or an action requiring a permit from another state or federal agency when the public funding, state or federal assistance, or permit from another state or federal government agency is provided to the recipient in accordance with applicable state and federal law after the completion of the action.~~

(d) Subsection (b) does not apply to any endangered species listed pursuant to K.S.A. 32-960, and amendments thereto, and any species of wildlife determined to be an endangered species pursuant to Pub. L. 93-205 (December 28, 1973), the endangered species act of 1973, and amendments thereto, entering the state from another state or from a point outside the territorial limits of the United States and being transported to a point within or beyond the state in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

~~(e)(f)~~ The secretary may issue special permits to authorize, under such terms and conditions as the secretary prescribes, any act described in subsection (b) or any act which is otherwise prohibited by rules and regulations adopted pursuant to subsection (a), for scientific purposes or to enhance the propagation or survival of the affected species. Application for

including government cost-shared agriculture
land treatment measures,

another state or federal agency

another state or federal agency

involves

and

For the purposes of this section, a permit required
by another state or federal agency shall not include
a certification or registration.

(e)

(f)

1 such permit shall be made to the secretary or the secretary's designee and
 2 shall be accompanied by the fee prescribed pursuant to K.S.A. 32-988,
 3 *and amendments thereto*. The secretary shall maintain a list of permit
 4 applications under this subsection. Where such applications have been
 5 approved and special permits have been issued, the secretary shall
 6 maintain a list of such permits, including therein the name and address of
 7 the permittee and the terms and conditions prescribed for each such
 8 permit. The secretary shall keep such lists current and shall file copies
 9 thereof, along with any additions or amendments, with the secretary of the
 10 interior of the federal government.

11 ~~(e)(2)~~ [Threatened or endangered species included in a list adopted
 12 pursuant to K.S.A. 32-960, *and amendments thereto*, may be captured or
 13 destroyed without a permit by any person in an emergency situation
 14 involving an immediate and demonstrable threat to human life.

15 ~~[6d] Except in the case of an intentional taking of a threatened species~~
 16 ~~under K.S.A. 32-1010 and amendments thereto, or an intentional taking of~~
 17 ~~an endangered species under K.S.A. 32-1011, and amendments thereto,~~
 18 ~~any rules and regulations adopted pursuant to this act shall have no force~~
 19 ~~and effect with regard to a specific species of wildlife designated as~~
 20 ~~threatened or endangered until 30 days after the publication of the~~
 21 ~~recovery plan for such species on the official website of the department of~~
 22 ~~wildlife, parks and tourism pursuant to K.S.A. 32-960a, and amendments~~
 23 ~~thereto.]~~

24 Sec. 4. K.S.A. [32-958, 32-960a and 32-961 are hereby repealed.

25 Sec. 5. This act shall take effect and be in force from and after its
 26 publication in the statute book.

(g)

(h)(1) For all new species listed as endangered or threatened
 by the secretary pursuant to this act on and after July 1, 2016,
 recovery plans for such species shall be completed within four
 years after the species is listed. If such recovery plan is not
 completed within four years, no permit shall be required by the
 secretary for any activity that would otherwise require a permit
 pursuant to this act until the recovery plan is complete. The
 provisions of this paragraph shall not apply to any species
 listed as endangered or threatened under the endangered
 species act of 1973 (Pub. L. No. 93-205).

(2) The secretary shall annually submit a report on all species
 listed as endangered or threatened as of June 30, 2016, to the
 senate committee on natural resources and the house committee
 on agriculture and natural resources. Such report shall include:

(A) The status of species with a completed recovery plan;

(B) the status of species with a recovery plan currently in
 process, but not yet complete; and

(C) future goals for completing recovery plans for any listed
 species that does not yet have a recovery plan.

*And by renumbering remaining sections
 accordingly*