

SESSION OF 2015

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2177**

As Agreed to May 14, 2015

**Brief\***

Senate Sub. for HB 2177 would amend laws related to the Department of Wildlife, Parks, and Tourism (the Department).

The bill would amend a provision allowing a Kansas resident charged with violating wildlife, parks and tourism laws related to licenses, permits, stamps, or other documents to produce such documents in court or to the arresting officer and thereby avoid conviction. Specifically, the bill would require such document to have been valid at the time of the alleged violation rather than at the time of such person's arrest. The bill also would clarify that only a physical license, permit, stamp, or other issue would need to be surrendered to the court when the judge orders forfeiture or suspension of such document.

Further, the bill would amend law related to issuance of a citation for misdemeanor violations of any wildlife, parks and tourism laws so that issuance of a citation is permissive, rather than mandatory. The bill would eliminate a provision subjecting an officer to sanctions for failing to issue a citation under this section.

The bill would require the Department to offer unlawfully taken wildlife parts to the landowner or tenant on whose property the wildlife was unlawfully taken before exercising

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the other options for disposing of the wildlife. Current law only authorizes the Department to take this action as one of four options.

This requirement would be applied retroactively as it relates to deer antlers, antler sheds, and horns seized by the Department after 2005, and still in the Department's care, custody, control, management, or possession when the landowner or tenants whose property on which the antlers, antler sheds, or horns were unlawfully taken requests to have such wildlife parts returned to the landowner or tenant.

Finally, the bill would amend existing law relating to boater safety education for operation of a sailboat. Current law requires all persons born on or after January 1, 1989, to possess a certificate of completion of a boater safety course authorized by the Department in order to operate a motorboat or sailboat on Kansas public waters without direct supervision. This requirement does not apply to anyone 21 years of age or older.

The bill would exempt any individual operating a sailboat that does not have a motor and has an overall length of 16 feet, 7 inches or less while participating in an instructor-led sailing class from the requirement to possess a certificate of completion from an approved boater safety education course. The bill also would grant the Department authority to adopt rules and regulations related to this exemption.

The bill would be in effect upon publication in the *Kansas Register*.

### **Conference Committee Action**

The Conference Committee agreed to strike the contents of Senate Sub. for HB 2177, concerning water conservation areas, and add the contents of SB 113, as amended by House Committee on Judiciary; SB 190, as amended by Senate Committee on Transportation; and HB

2341, as recommended by House Committee on Judiciary. The provisions of Senate Sub. for HB 2177 were added to SB 156, which was signed by the Governor on April 16.

## **Background**

### **SB 113**

SB 113 was introduced at the request of the Department in the Senate Committee on Judiciary. In the Senate Committee, a representative of the Department testified in support of the bill, explaining the need for the bill due to the movement toward electronic licensing by the Department. There was no opponent or neutral testimony on the bill.

In the House Committee on Judiciary, the same conferee testified. The House Committee amended the bill to add the provisions of SB 112, related to issuance of a citation. Further background information regarding SB 112 is provided below.

According to the fiscal note prepared by the Division of the Budget, the Department indicates SB 113 would have no fiscal effect.

### **SB 112**

SB 112 was introduced by the Senate Committee on Judiciary at the request of the Department. At the Senate Committee hearing, a representative of the Department testified in support of the bill. There was no opponent or neutral testimony presented.

The Senate Committee adopted a technical amendment correcting a statutory reference.

In the House Committee on Judiciary, a representative of the Department testified in support of the bill. A citizen testified in opposition to the bill. As previously noted, the House Committee added the contents of SB 112 (as amended by Senate Committee) to SB 113.

According to the fiscal note prepared by the Division of the Budget on SB 112, the Department indicates the bill would have no fiscal effect.

### **SB 190**

The bill was introduced by Senator Holland. In the Senate Committee on Transportation, Senator Holland stated the bill would make sailboat training classes more accessible to persons under 21 years of age who do not possess a certificate of completion of an approved boater safety training course. A representative of the Perry Yacht Club also spoke in favor of the bill, stating a number of topics covered in the Kansas course are not relevant to operating small sailboats that do not have motors and could cause some confusion for youth participating in an instructor-led sailing course.

A Department representative testified neutrally on the original bill. The representative outlined the current requirements for boater safety. The representative did note concern with language in the original bill relating to certificates of completion and the length of the sailboat.

The Senate Committee amended the bill to reduce the sailboat length in the exemption from 20 feet or less to 16 feet, 7 inches and to specify the sailboat may not have a motor. The Committee also amended the bill to strike language relating to an exemption for a person who has completed an instructor-led class and can furnish proof of successful completion.

According to the fiscal note prepared by the Division of the Budget on the original bill, the Department indicates

passage of the bill would not have a fiscal effect on the agency.

### **HB 2341**

In the House Committee on Agriculture and Natural Resources, a Kansas land manager appeared in support of the bill. The land manager was a primary proponent for the change enacted in 2014 SB 357 allowing the Department, in some circumstances, to offer the unlawfully taken wildlife parts to the landowner or tenant on whose property the wildlife parts were unlawfully taken. The land manager explained how a deer poached on private property belonging to his family was kept by the Department and is requesting that the legislation be passed to allow the antlers from the poached deer to be returned to him and his family. The landowner of the property on which the deer was poached also appeared in support of the bill and other local landowners offered written proponent testimony.

The Secretary of the Department appeared as an opponent and stated the foundation of fish and wildlife management in North America is based on seven guiding principles, first of which is that wildlife is managed in trust by wildlife agencies for the good of all, a principle that has stood the test of time since the 1800's. The Secretary maintains that wildlife are not privately owned but owned by the state.

The House Committee on Agriculture and Natural Resources took no action on the bill, which subsequently was referred to the House Committee on Appropriations and then to the House Committee on Judiciary.

The fiscal note prepared by the Division of the Budget indicates passage of the bill would cause Department officers to make contact with landowners and tenants to determine if they would like the seized items returned and to make arrangements for any returns. Previously, the Department has sold antlers at public auction with annual revenue over the

last four years varying from \$335 in 2011 to \$6,295 in 2014, with an annual average of \$2,681. If the number of seized items returned to landowners and tenants increases, the Department expects the annual revenue from antlers to decrease. The Department cannot estimate what changes to expenditures or revenues may be associated with the change, however.

Department of Wildlife, Parks, and Tourism

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