

Approved: 2/24/94
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Jerry Moran at 9:00 a.m. on February 11, 1994 in Room 254-E of the Capitol.

All members were present except: Senator Feleciano (excused)

Committee staff present: Mike Heim, Legislative Research Department
Gordon Self, Revisor of Statutes
Darlene Thomas, Committee Secretary

Conferees appearing before the committee:

Senator Sheila Frahm
James Clark, Kansas County and District Attorneys
Bill Fuller, Assistant Director of Public Affairs, Kansas Farm Bureau
Mike Beam, Kansas Livestock Association
Darrell Monte, Department of Wildlife
Spencer Tomb, Wildlife Association

Others attending: See attached list

Senator Sheila Frahm thanked the Committee for scheduling SB 517 and gave background on the introduction of the bill. Senator Frahm introduced the conferees in favor of SB 517.

There was concern that Section 1, line 13(a) "A law enforcement officer may prepare and deliver..." gives discretion, however, on page 2(g) states "Any officer violating any of the provisions of this section is guilty of misconduct in office and shall be subject to removal from office." Chairman Moran stated the only change in current law was on page 1, line 20 "21-3728".

Jim Clark, Kansas County and District Attorneys Association testified in support of SB 517. He said SB 517 extends authority to issue a notice to appear, or traffic citation, under K.S.A. 8-2106 to include violations of K.S.A. 21-3738, criminal hunting, a class C misdemeanor (Attachment No. 1)

Bill Fuller, Assistant Director of Public Affairs, Kansas Farm Bureau testified in favor of SB 517 and provided written testimony (Attachment No. 2).

Mike Beam, Kansas Livestock Association testified in support of SB 517 and provided written testimony (Attachment No. 3).

Darrell Monte, Department of Wildlife and Parks testified in support of SB 517 and provided written testimony (Attachment No. 4).

Spencer Tomb, Kansas Wildlife Federation, Inc. provided written testimony in support of SB 517 (Attachment No. 5).

A motion was made by Senator Bond, seconded by Senator Emert to make a technical amendment to SB 517 to clarify sub-section(g), line 33 by striking "this section" and insert "sub-section(f)" and to report the bill favorably as amended. The motion carried.

The meeting adjourned at 10:00 a.m.

The next meeting is scheduled for February 14, 1994.

GUEST LIST

COMMITTEE:

Senate Judiciary

DATE:

2/11/94

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EXECUTIVE DIRECTOR, JAMES W. CLARK, CAE • CLE ADMINISTRATOR, DIANA C. STAFFORD

Testimony in Support of

SENATE BILL NO. 517

The Kansas County and District Attorneys Association appears in support of Senate Bill No. 517. The bill merely extends authority to issue a notice to appear, or traffic citation, under K.S.A. 8-2106 to include violations of K.S.A. 21-3728, criminal hunting, a class C misdemeanor. While the bill appears simple, it is an attempt to solve a large and complex problem: protecting the interests of landowners and agricultural operations without discouraging or impeding the activities of law-abiding hunters.

The effect of the bill is to allow a wildlife and parks or other law enforcement officer to issue a citation at the time the violation is observed, without having to take statements, write a report, and more importantly, without requiring the landowner to come to the prosecutor's office to sign a long-form complaint. The bill thereby enhances enforcement and reduces the time and effort required by officers, prosecutors, and landowners.

The changes made in the bill will not preclude a landowner's filing of a complaint against violators who have not been initially apprehended by an officer. It also does not depart from legislative policy. An examination of the legislative history of 8-2106 shows that virtually every year the statute is extended to include another set of crimes. Presently such offenses as driving under the influence, open container, and furnishing alcohol to minors may be charged under this statute.

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attachment 1-1



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON JUDICIARY

RE: S.B. 517 - Issuing citations for unlawful hunting/trespassing.

February 11, 1992
Topeka, Kansas

Presented by:
Bill Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Chairman Moran and members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We certainly appreciate this opportunity to express our support for S.B. 517.

S.B. 517 adds "unlawful hunting" to the list of violations that authorizes law enforcement officers to issue citations. Adoption of this process would add another tool for law enforcement. We are told the current process is time consuming. We are assured adoption of S.B. 517 would speed up the process and provide the opportunity for more changes to be filed.

S.B. 517 addresses "unlawful hunting". Frankly, most landowners are more concerned about "trespassing"! We support S.B. 517 because "trespassing" often results from "unlawful hunting". Protecting private property rights is the #1 priority established by Kansas Farm

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Bureau and on the national level by the American Farm Bureau Federation. While our farm and ranch members would like to see stronger deterrents to "hunting/fishing without permission" and "trespass", we consider S.B. 517 a positive step.

KFB support of S.B. 517 is based upon new policy adopted by the 426 Voting Delegates representing the 105 County Farm Bureaus at the 75th Annual Meeting in Wichita on November 20, 1993. A Section of the KFB Resolution on "Hunting and Fishing Regulations" states:

"We believe those who hunt and fish should possess written permission, signed by the landowner or operator, stating the days hunting or fishing is permitted and giving a description and the location of land on which permission is granted. We urge enactment of legislation requiring law enforcement officers to issue citations containing a notice to appear in court if individuals hunting and fishing do not have proof of permission to be on such property..."

We commend Senator Frahm and her staff for their interest and their leadership in bringing landowner, wildlife, law enforcement and state agency representatives together. We all discovered the issue of trespass was complicated. After a number of meetings and hours of debate, the task force recommended the introduction of S.B. 517. Again, Kansas Farm Bureau supports S.B. 517 and respectfully asks for your support. Thank you!



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Owens and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

February 11, 1994

TO: Senate Judiciary Committee

FROM: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

RE: Supporting Comments of Senate Bill 517

The Kansas Livestock Association represents thousands of farmers and ranchers who own and/or operate much of this state's private land. Trespassing is a common complaint our members have voiced for many years. Because of this situation, we participated last summer and fall in numerous working sessions to determine what could be done to address this problem. Prosecuting attorneys, county sheriffs, sportsmen and Kansas Department of Wildlife and Parks representatives attended these sessions. Many ideas were discussed and debated extensively. It was our intention, and I believe the intention of others who participated in these sessions, to work towards a consensus on initiatives and solutions to the trespass complaints.

Most participants agreed more effort was needed in an educational manner to alert landowners, sportsmen and the general public about our trespass laws and posting (signs) requirements. Starting last fall, KLA has spent considerable effort in educational opportunities so our members are more aware of trespass laws and how they can best protect themselves if they are experiencing trespass problems.

The second area of consensus is the concept contained in Senate Bill 517. This bill simply amends K.S.A. 8-2106, to allow law enforcement officers to issue "notice to appear" citations to anyone who violates the unlawful hunting act (K.S.A. 21-3728). This certainly does not address all trespass situations. It does, however, address most of the complaints that deal with entering private land without permission for hunting and fishing purposes.

Under the current statutes, if a landowner catches someone trespassing on their property, they're forced to file charges against the violator. It just doesn't appear fair that a landowner has to take the initiative to go to the courthouse and burden an overworked county attorney to file charges against someone who was breaking the law. With the procedure authorized in SB 517, the landowner can call the Wildlife and Parks Conservation Officer or the county sheriff. At that point, the law enforcement officer can then treat it like a traffic citation and write them a ticket. It is our hope that Wildlife and Parks Conservation Officers will use this provision to deter trespassing, especially during peak hunting seasons.

Again, this proposal has been discussed thoroughly by all of us who met throughout the summer on this project. I'm confident you'll find that law enforcement representatives and county/district attorneys support this as well. It certainly won't solve all of our problems, but we think it is a positive step to penalize trespassers and deter trespassing.

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21-3728. Unlawful hunting. Unlawful hunting is fishing, or shooting, hunting or pursuing any bird or animal upon any land of another or from any traveled public road or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises.

Unlawful hunting is a class C misdemeanor. Upon the first conviction thereof after the effective date of this act, and in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting or fishing license, or both, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting or fishing, or both, for one (1) year from the date of such conviction. Upon any subsequent conviction thereof, and in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting or fishing license, or both, or, in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting or fishing, or both, for one (1) year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit.

History: L. 1969, ch. 180, § 21-3728; L. 1977, ch. 113, § 1; July 1.

Source or prior law:
32-139.



Joan Finney
Governor

DEPARTMENT OF WILDLIFE & PARKS

Theodore D. Ensley
Secretary

OFFICE OF THE SECRETARY

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S.B. 517

Presented To: Senate Judiciary Committee

Provided By: Kansas Department of Wildlife and Parks

S.B. 517 amends K.S.A. 8-2106 to authorize a law enforcement officer to enforce violations of K.S.A. 21-3728 through use of a notice to appear. K.S.A. 21-3728 addresses hunting and fishing trespass. Currently, a trespass violation requires a long form complaint which must be completed and signed by the landowner or person in charge of the land.

During 1993, the Department participated in discussions with other law enforcement representatives, county attorneys, conservation and firearms organizations and agricultural organizations to address trespass problems and recommend solutions. The effort was undertaken at the request of Senator Frahm who chaired the group.

S.B. 517 is a result of that effort and will improve and simplify the process for landowners to address trespass problems and allow enforcement officers to better respond to trespass violations. Trespass is a serious concern for many landowners and affects landowners/hunter relationships. S.B. 517 addresses those concerns and should help improve those relations. The Department supports S.B. 517 and urges its passage.

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Kansas Wildlife Federation, Inc.

P.O. Box 5715 200 S.W. 30th Street Suite 106

Topeka, Kansas 66611 Phone 913-266-6185

An Affiliate of the National Wildlife Federation

10 February 1994

The Honorable Jerry Moran
Kansas Senate
Kansas Statehouse Rm 255 E
Topeka, Kansas

Dear Senator Moran:

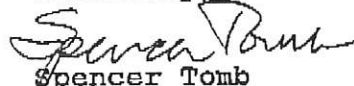
I would like to share with you and your Committee the Kansas Wildlife Federation's position of support for Senate Bill 517. I am sorry that I cannot be at the hearing to answer questions. This bill will allow the use of a short form citation to be issued to those violating Kansas trespass laws.

The Kansas Wildlife Federation is Kansas' largest, broad based, non profit, wildlife conservation and education organization with 6,000 members across the state of Kansas. The Kansas Wildlife Federation is the Kansas affiliate of the National Wildlife Federation whose 10,000 Kansas members join KWF in our concern for natural resource conservation.

This bill represents a consensus among several agricultural groups, KDWP, several legislators and our Federation. We do not think that this bill will solve the problem with trespass, but it will be an additional tool for Wildlife Conservation Officers when they have good reason to believe trespass is occurring. We must reduce trespass. Trespass is one of several wildlife laws that require consistent attention and we consider trespass a valid issue for concern in Kansas. More than 97% of Kansas is private land, and by far most hunting occurs on private land. Those who trespass threaten our continued access to private land.

The Kansas Hunter and Fur Harvester Education Programs have worked very hard to improve the ethics and behavior in these groups, but it is obvious that more needs to be done. Hunting without permission is almost a way of life for a small minority and this bill may help bring more of these violators into court. It is very difficult to change attitudes that have been learned over years of trespassing. A stiff fine for the second offense and publishing wildlife violations in the newspaper may also help. We ask that you pass Senate Bill 517.

Sincerely,



Spencer Tomb

For the KWF Issues and Actions Committee

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