

KANSAS OFFICE of
REVISOR of STATUTES
LEGISLATURE of THE STATE of KANSAS
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MEMORANDUM

To: House Committee on Agriculture and Natural Resources

From: The Office of Revisor of Statutes

Date: 3/17/2025

Re: H.B. 2268, as Introduced: Prohibiting nonresidents from hunting migratory waterfowl during certain times and places and increasing fees for migratory waterfowl habitat stamps.

Under current law, individuals must comply with both state and federal requirements to hunt migratory waterfowl¹ in Kansas. Under the Migratory Bird Treaty Act of 1918, a federal migratory bird hunting and conservation stamp (i.e. Federal Duck Stamp) is required for individuals aged 16 or older.² A Federal Duck Stamp is valid in any state. A Kansas hunting license and a valid state migratory waterfowl habitat stamp are also required to hunt migratory waterfowl in Kansas, unless otherwise exempted.³

Section 1 would amend K.S.A. 32-939 to add definitions for the terms "department lands and waters" and "nonresident." The bill would specify that a "nonresident" is someone who has not been a bona fide resident of the state for the preceding 60 days, with certain exceptions. Additionally, section 1 would prohibit nonresidents from hunting or taking migratory waterfowl except on Sundays, Mondays and Tuesdays during any established hunting season for migratory waterfowl. This restriction would explicitly apply to department lands and waters and certain federal lands and waters owned by the United States.⁴ This restriction would not apply to:

¹ "Migratory waterfowl" means any wild goose, duck or merganser. (pg. 1, line 23)

² 16 U.S.C. § 718a

³ [K.S.A. 32-919](#)

⁴ A state can limit out-of-state hunter access to federal waters and lands located within that state if such limitation is not in conflict with federal regulations or statutes. The Property Clause of the U.S. Constitution grants Congress the authority to regulate federal lands and waters, and federal regulations can override conflicting state laws. However, the Migratory Bird Treaty Act of 1918 expressly allows states to make and enforce laws that give more protection to migratory birds than the federal law (16 U.S.C. § 708). For more information, see: Carol Hardy Vincent, Alexandra M. Wyatt, *State Management of Federal Lands: Frequently Asked Questions*, December 16, 2016, Congressional Research Service; <https://sgp.fas.org/crs/misc/R44267.pdf>. Also see [Kleppe v. New Mexico](#), 426 U.S. 529 (1976); [Baldwin v. Fish & Game Comm'n of Montana](#), 436 U.S. 371(1978); and [Schutz v. Thorne](#), 415 F.3d 1128, 1138 (10th Cir. 2005)

- Property enrolled or designated as either a walk-in hunting access area or interactive walk-in hunting access area;
- Navigable rivers in Kansas; or
- The conservation order for light geese season.

The current maximum fee for a Kansas migratory waterfowl habitat stamp is \$8. Section 2 would replace this amount with a \$20 fee limit for residents and a \$100 limit for nonresidents. The fee category for mussel fishing licenses would be stricken.

H.B. 2268 would become effective upon publication in the statute book.