

SESSION OF 2012

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2709**

As Recommended by House Committee on
Agriculture and Natural Resources

Brief*

Sub. for HB 2709 would make amendments to current law impacting trespassing and big game hunting. Among those changes are the following:

- Provide that if premises or property are posted as provided by provisions in the statutes dealing with wildlife and parks that individuals could be guilty of criminal trespass;
- Provide that if premises or property are posted as provided by provisions in the statutes dealing with wildlife and parks that individuals could be guilty of criminal hunting if a person is knowingly hunting, shooting, fur harvesting, pursuing any bird or animal, or fishing without written permission of the landowner or person in lawful possession of the land, with no requirement of a culpable mental state;
- Permit a court convicting a person of the crime of commercialization of wildlife to not only confiscate all equipment used in the commission of the crime (current law), but to revoke for life or any other period of time all licenses and permits issued to the convicted person by the Kansas Department of Wildlife, Parks and Tourism (KDWPT) (current law is for a period of up to ten years)

*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>

- Change the color of posting of land by the painting of trees or posts from purple to bright orange;
- Modify the penalty for the unlawful intentional taking of a trophy big game animal from \$5,000 to not less than \$5,000;
- Create restitution values for deer, elk, and antelope if taken in violation of certain statutes relating to KDWPT by using a gross score for each;
- Provide that the Secretary of KDWPT establish rules and regulations to determine gross scores by taking measurements (more than 125 inches for deer, more than 250 inches for elk, and more than 75 inches for antelope);
- Establish formulas governing calculation of the restitution value for each species;
- Provide that no drying time be required for the measurement to occur; and
- Require that moneys collected from restitution penalties be dedicated to the Wildlife Fee Fund.

Background

The original bill was introduced at the request of Representative Mast. At the hearing on the bill, Representative Mast indicated that there was a need to enhance penalties for those who poach deer for the purpose of obtaining a trophy rack. Several other individuals appeared in support of the original bill, indicating that attempted poaching had resulted in the death of a young man in the Emporia area. A representative of the Quality Deer Management Association appeared in support of the bill. Other written proponent testimony was provided by a member of the Quality Deer Management Association, a representative of the Kansas Bowhunter's Association, Mossy

Oak Properties, and several other individuals.

Also at the hearing on the bill, a spokesperson from KDWPT appeared in opposition to the original bill for a variety of reasons including the requirement that the agency bring civil actions, the lack of direction for where restitution moneys would be deposited, the lack of provisions for other big game species in the State, and the complexity of the statutory changes. Written testimony in opposition to the bill was provided by the Kansas Wildlife Federation. This testimony indicated that Federation would support the bill if certain changes were made.

After the hearing on the bill, the Chairperson of the Agriculture and Natural Resources Committee appointed a subcommittee to further consider the various issues addressed by the bill and the conferees. The subcommittee recommended the substitute bill.

The fiscal note on the original bill indicated that the Kansas Department of Wildlife, Parks and Tourism, in calendar year 2011 the Department had 304 criminal wildlife cases involving deer. According to the original fiscal note, the cost to the agency to file 300 civil cases would be approximately \$275,500 annually. This estimate includes \$30,000 in district court filing fees for 300 civil cases (\$100 per case X 300 cases); \$148,000 for two attorneys who would travel and file cases statewide (two attorneys X \$74,000 each for salaries and benefits); \$20,000 for startup costs to equip the attorneys with computers, office space, office furniture, and other necessities; \$37,500 for annual travel for the attorneys (\$125 per day X 150 cases per year); and \$40,000 for two vehicles, gas, and maintenance. While the agency assumes that there would be some revenue resulting from the civil cases, it is unable to estimate an amount and states that it appears from the bill that all of the revenue would go to the State General Fund. The agency indicates that its lack of control over civil restitution funds could result in diversion and potentially jeopardize federal funding for the Department. Any fiscal effect associated with HB 2709 is not reflected in *The*

FY 2013 Governor's Budget Report. The original fiscal note would no longer be applicable because of the adoption of the substitute bill.