

MINUTES OF THE HOUSE COMMITTEE ON TOURISM AND PARKS.

The meeting was called to order by Chairperson Becky Hutchins at 3:35 p.m. on February 24, 2003 in Room 243-N of the Capitol.

All members were present except: Representative Carol Edward Beggs - excused
Representative Broderick Henderson - excused
Representative Mary Kauffman - excused
Representative Clark Schultz - excused

Committee staff present: Mary Torrence, Revisor of Statutes' Office
Hank Avila, Legislative Research Department
Sarah Samuelson, Committee Secretary

Conferees appearing before the committee:

proponents: Todd Johnson, Kansas Livestock Association
Steve Swaffar, Kansas Farm Bureau
Representative Ethel Peterson

neutral: Chris Tymeson, Kansas Department of Wildlife and Parks

Others attending: see attached list

HB 2123 - Hunting on certain land without permission when in pursuit of wounded animal

Todd Johnson, representing the Kansas Livestock Association, addressed the committee as a proponent of the bill (Attachment 1). He said the bill would help to protect property rights and prevent trespassing. Currently, landowners are often frustrated by hunters who claim that an animal was wounded and then came onto their property, when the landowners have solid reason to believe that the animal was actually taken on their property.

Representative Hayzlett requested further definition the phrase "every reasonable effort." Mr. Johnson agreed that this is somewhat ambiguous, but he said this could be addressed by the Department of Wildlife and Parks. He suggested that it could be specified to include such measures as leaving a voice-mail message on the owner's machine, contacting the KDWP, and/or leaving one's weapon off the property as an expression of goodwill and legitimacy.

Representative Osborne suggested that perhaps a written request left at the door of the nearest residence would suffice. Mr. Johnson agreed that this is a good idea.

Representative Schwab said that in some cases, a wounded animal can pose a danger to an unarmed hunter who approaches it; he suggested that a small weapon, such as a sidearm, could be permitted on the land when pursuing wounded game.

Steve Swaffar, representing the Kansas Farm Bureau, addressed the committee as a proponent of the bill (Attachment 2). He said that **HB 2123** extends the "purple paint law" to offer protection to landowners adjacent to land where hunting permission has been given. However, he expressed concern over the

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possible difficulties in interpretation and enforcement of this provision, because of the ambiguous phrase “every reasonable effort.” He suggested, in response to Representative Schwab’s comment about needing some self-defensive weapon in approaching a wounded animal, that perhaps such weapon could be left unloaded as a sign of the hunter’s goodwill and intent.

Representative Ethel Peterson addressed the committee as a proponent of the bill ([Attachment 3](#)). She said this bill was requested by landowners in her district who felt that some hunters were taking advantage of Section 1, part (c) of K.S.A. 32-1013. This bill would serve to protect authentic hunters and landowners from poachers who simply trespass on posted land to hunt and, when seen there, use the excuse that they are pursuing wounded game. Representative Peterson remarked that if the committee were to take action on this bill, a slight amendment would need to be made to correct a typographical error: in lines 34 and 38, the references to *subsection (b)* should read *subsection (c)*.

Representative Hutchins asked whether landowners who allow hunting on their land would be liable for the trespassing of their approved hunters on adjacent land. Representative Peterson said that the liability would not change because of this bill; those landowners are already as liable as they would be under the proposed legislation.

Chris Tymeson, representing the Kansas Department of Wildlife and Parks, addressed the committee from a neutral standpoint ([Attachment 4](#)). He said that as the law stands, a person pursuing wounded game must leave the property if instructed by the landowner. The Department is fully supportive of the concept behind the bill, the active and vigorous enforcement of trespass laws and the deterrence of poachers. However, Mr. Tymeson expressed reservations about the bill’s interpretation and enforceability as currently worded; it makes the undefined phrase “every reasonable effort” a matter of opinion to be decided first by the officer enforcing the law, then by the prosecutor, and finally by the judge or jury.

Representative Peterson asked what improvements in wording the Department would prefer. Mr. Tymeson had no specific suggestions to offer. He said that the current wording is quite subjective compared to the current law, which allows a landowner to require a hunter to leave the property.

From the gallery, Spencer Tomb, of the Kansas Wildlife Federation, remarked that federal law requires hunters to attempt to retrieve wounded game, so the state legislators should take care not to contradict this law and put hunters in a position of having to choose which law to defy.

From the gallery, Ron Klataske, a private citizen, said that the intent of the legislation is good, to protect both landowners and ethical hunters from those who hunt without permission. However, the term “every reasonable effort” must be defined. He suggested that the 800 number for reporting game thieves could be used by legitimate hunters wishing to pursue wounded game.

Chairperson Hutchins read the Fiscal Note for **HB 2123**, which states that the bill will have no fiscal effect.

The hearing on **HB 2123** was closed.

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HB 2083 - Establishment of fund for use to advertise tourism opportunities in Kansas, use of certain income and sales tax revenues.

Chairperson Hutchins proposed an amendment (Attachment 5) and explained its provisions:

- Removing income tax from the calculation of revenue, restricting it to sales taxes only; this greatly simplifies the administration of the bill. This restriction is present in **SB 140**, which is almost a mirror bill.
- Changing “taxable year” to “calendar year” because the income taxes have been removed from the calculation, and sales tax data is maintained according to the calendar year.
- Changing Standard Industry Classification (SIC) codes to North American Industry Classification System (NAICS) codes. The NAICS codes are a newer classification of businesses, and the codes needed to be updated.
- Setting a rolling cap of \$1 million per year, as the maximum that could be credited to KTAF in any given calendar year.

Representative Long requested clarification of the term “rolling cap.” Representative Hutchins replied that this simply means that the amount of transfer in any given year could not exceed the cap; however, money could remain in the fund from year to year, accumulating to an amount above the cap.

Representative Peterson expressed approval that the issue of sales tax versus income tax had been resolved.

Representative Osborne made a motion for adoption of the amendment. Representative Peterson seconded the motion. The motion carried.

Representative Osborne remarked that since funds will not be transferred unless there is increased revenue, there would be no reason not to begin implementing the program sooner. He proposed an amendment (Attachment 6) which makes the following change:

- In lines 22, 29, and 35, the dates of implementation of the formula for determining increase in revenue have been back-dated by one year, i.e. 2003 is changed to 2002.

Representatives Schwab and Hayzlett asked if that would be possible, considering that the year 2002 is already past. Staff member Mary Torrence replied that it was, because the data required for the sales tax calculations has already been collected by the Department of Revenue. The 2002 date simply provides a benchmark from which further data is calculated.

Representative Novascone asked what would happen if there was no increase in revenues from one year to the next. Mary Torrence replied that in that case, no transfer of funds would occur.

Representative Osborne made a motion for adoption of the amendment. Representative Beggs seconded the motion. The motion carried.

Representative Peterson made a motion to recommend **HB 2083** favorable for passage as amended. Representative Osborne seconded the motion. The motion carried. Representative Beggs will carry the

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bill on the floor.

HB 2078 - Deer hunting permits and commercialization of wildlife

Representative Ray Merrick, chairman of the subcommittee on HB 2078, presented the subcommittee's report to the committee. The subcommittee recommended that the sunset provision be changed from 2008 to 2005 (Attachment 7), which would give the committee an opportunity to consider the issue more carefully and revisit it next year. In the meantime, the subcommittee recommended that the committee accept the consensus of the Working Group, which is, for the most part, reflected in the bill.

Chairperson Hutchins thanked the members of the subcommittee for their work.

Representative Osborne made a motion for the adoption of the amendment revising the sunset provision. Representative Morrison seconded the motion. The motion carried.

Representative Merrick made a motion to recommend **HB 2078** favorable for passage as amended. Representative Schwab seconded the motion. The motion carried. Representative Merrick will carry the bill on the floor.

Chairperson Hutchins distributed an informational sheet about Boone and Crockett's point system of scoring trophy deer (Attachment 8). This information may be useful in the next session, when this topic will be revisited. Chairperson Hutchins thanked the members who attended the Czars exhibition last Wednesday, and reminded the committee that this Wednesday there will be no meeting.

The minutes from Feb 17 were distributed and approved without amendment.

Chairperson Becky Hutchins adjourned the meeting at 4:20 p.m.

The next meeting is scheduled for March 10, 2003.