

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2177** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed as Senate Substitute for House Bill No. Senate substitute for 2177, as follows:

On page 1, by striking all in lines 4 through 36;

By striking all on page 2;

On page 3, by striking all in lines 1 through 27; following line 27, by inserting:

"Section 1. K.S.A. 2014 Supp. 32-1001 is hereby amended to read as follows: 32-1001.

(a) It is unlawful for any person to:

(1) Participate or engage in any activity for which such person is required to have obtained a license, permit, stamp or other issue of the Kansas department under the wildlife, parks and tourism laws of this state or under rules and regulations of the secretary unless such person has obtained a currently valid such license, permit, stamp or other issue issued to such person;

(2) fail to carry in such person's possession a currently valid license, permit, stamp or other issue of the department, issued to such person, while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife, parks and tourism laws of this state or under rules and regulations of the secretary;

(3) refuse to allow examination of any license, permit, stamp or other issue of the

department while participating or engaging in any activity for which such person is required to have obtained such license, permit, stamp or other issue under the wildlife, parks and tourism laws of this state or under rules and regulations of the secretary, upon demand by any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary;

(4) while participating or engaging in fishing or hunting: (A) Fail to carry in such person's possession a card or other evidence which such person is required to carry pursuant to K.S.A. 32-980, and amendments thereto; or (B) refuse to allow inspection of such card or other evidence upon demand of any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary; or

(5) make any false representation to secure any license, permit, stamp or other issue of the department, or duplicate thereof, or to make any alteration in any such license, permit, stamp or other issue.

(b) No person charged with violating subsection (a)(1) for failure to obtain a vehicle or camping permit for use of any state park, or any portion thereof or facility therein, or any other area or facility for which a vehicle or camping permit is required pursuant to rules and regulations of the secretary shall be convicted thereof unless such person refuses to purchase such permit after receiving a permit violation notice, which notice shall require the procurement of: (1) The proper daily permit or permits and payment within 24 hours of a late payment fee of \$15; or (2) an annual vehicle or camping permit, as the case may be, if such permit has been established by rule and regulation and adopted by the secretary.

(c) (1) In any prosecution charging a violation of subsection (a)(1) for failure to obtain

a permit required by K.S.A. 32-901, and amendments thereto, proof that the particular vehicle described in the complaint was in violation, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the time when and place where the violation occurred.

(2) Proof of a written lease of, or rental agreement for, a particular vehicle described in the complaint, on the date and at the time of the violation, which lease or rental agreement includes the name and address of the person to whom the vehicle was leased or rented at the time of the violation, shall rebut the prima facie evidence that the registered owner was the person who parked or placed the vehicle at the time when and place where the violation occurred.

(d) No person who is a resident of this state and charged with violating subsection (a) (1) or (a)(2) shall be convicted thereof if such person produces in court or the office of the arresting officer the appropriate license, permit, stamp or other issue of the department, lawfully issued to such person and valid at the time of such person's ~~arrest~~ alleged violation.

(e) Any person convicted of violating provisions of this section shall be subject to the penalties prescribed in K.S.A. 32-1031, and amendments thereto, except as provided in K.S.A. 32-1032, and amendments thereto, relating to big game and wild turkey.

Sec. 2. K.S.A. 2014 Supp. 32-1041 is hereby amended to read as follows: 32-1041. (a) (1) Upon the first conviction of violating any provision of the wildlife, parks and tourism laws of this state or rules and regulations of the secretary, and in addition to any authorized sentence imposed by the convicting court, such court may: (A) Order such person to refrain from engaging in any activity, legal or illegal, the activity for which convicted for up to one year from

the date of conviction; and (B) order the forfeiture of any license, permit, stamp or other issue of the department, other than a lifetime license, which is held by the convicted person and pertains to the activity for which the person was convicted for up to one year from the date of conviction.

(2) Upon any subsequent conviction of violating any provision of the wildlife, parks and tourism laws of this state, or rules and regulations adopted thereunder, and in addition to any authorized sentence imposed by the convicting court, such court shall: (A) Order such person to refrain from any activity, legal or illegal, related to the activity for which convicted for one year from the date of conviction; and (B) order the forfeiture of any license, permit, stamp or other issue of the department, other than a lifetime license, which is held by the convicted person and pertains to the activity for which the person was convicted for one year from the date of conviction.

(b) (1) Upon the first conviction of violating any provision of the wildlife, parks and tourism laws of this state, or rules and regulations adopted thereunder, by a person who has been issued a lifetime hunting or fishing license or a combination thereof, and in addition to any authorized sentence imposed by the convicting court, such court may order the suspension of such license for up to one year from the date of conviction.

(2) Upon any subsequent conviction of violating any provision of the wildlife, parks and tourism laws of this state, or rules and regulations adopted thereunder, by a person who has been issued a lifetime hunting or fishing license or a combination thereof, and in addition to any authorized sentence imposed by the convicting court, such court shall order the suspension of such license for one year from the date of conviction.

(c) If a convicted person has been issued a combination hunting and fishing license or a

combination lifetime license, only that portion of such license which pertains to the activity for which such person is convicted shall be subject to forfeiture or suspension pursuant to this section. In such case, the order of conviction shall indicate that part of the license which is forfeited or suspended, and such order shall become a temporary license under which the offender may either hunt or fish as the order indicates.

(d) Whenever a judge orders forfeiture or suspension of a license, permit, stamp or other issue of the department pursuant to this section, such physical license, permit, stamp or other issue shall be surrendered to the court and the judge shall forward it, along with a copy of the conviction order, to the department.

(e) A person whose license, permit, stamp or other issue of the department has been forfeited or suspended pursuant to subsection (a)(1) or (b)(1) shall not be eligible to purchase another such issue within 30 days of the conviction. A person whose license, permit, stamp or other issue of the department has been forfeited or suspended pursuant to subsection (a)(2) or (b)(2) shall not be eligible to purchase another such issue within one year from the date of conviction.

(f) A judge, upon a finding of multiple, repeated or otherwise aggravated violations by a defendant, may order forfeiture or suspension of the defendant's license, permit, stamp or other issue of the department for a period longer than otherwise provided by this section and may order the defendant to refrain from any activity, legal or illegal, related to the activity for which convicted for a period longer than otherwise provided by this section.

Sec. 3. K.S.A. 2014 Supp. 32-1047 is hereby amended to read as follows: 32-1047. (a) ~~Subject to the provisions in subsection (b),~~ The department is hereby empowered and directed to

seize and possess any wildlife which is taken, possessed, sold or transported unlawfully, and any steel trap, snare or other device or equipment used in taking or transporting wildlife unlawfully or during closed season. The department ~~is hereby authorized to shall~~:

(1) Offer the seized item, if the item is unlawfully taken wildlife parts, to the landowner or tenant on whose property the wildlife parts were unlawfully taken, provided:

(A) The wildlife parts are no longer needed as evidence;

(B) the location of the violation can be positively ascertained;

(C) there is no dispute between landowners or tenants as to who may receive the wildlife parts; and

(D) the landowner or tenant did not commit the violation for which the wildlife parts were seized; and,

(E) ~~the wildlife parts are transferred within two years of adjudication of the violation;~~

(2) The provisions of subsection (a)(1) are construed to be and shall be applied retroactively as they relate to antlers, antler sheds and horns seized by the department after January 1, 2005, and in the care, custody, control, management or possession of the department as of January 1, 2015, when the landowner or tenant whose property on which the antlers, antler sheds or horns were unlawfully taken, requests such wildlife parts to be returned to such landowner or tenant. This subsection shall apply to antlers, antler sheds and horns in the possession of the department or in the possession of some other entity pursuant to an agreement with the department.

(b) If the seized item is not unlawfully taken wildlife or is unlawfully taken wildlife that is not disposed of as described in subsection (a), the department is hereby authorized to:

(2)(1) Sell the seized item, including wildlife parts with a dollar value, and remit the proceeds to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. If the seized item is a firearm that has been forfeited pursuant to K.S.A. 22-2512, and amendments thereto, then it may be sold unless: (4)(A) The firearm is significantly altered in any manner; or (2)(B) the sale and public possession of such firearm is otherwise prohibited by law. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the wildlife fee fund;

(3)(2) retain the seized item for educational, scientific or department operational purposes; or

(4)(3) destroy the seized item.

(b) The department shall give priority to disposing of unlawfully taken wildlife items in accordance with the process provided for in subsection (a)(1).

Sec. 4. K.S.A. 2014 Supp. 32-1049 is hereby amended to read as follows: 32-1049. (a) Whenever a person is charged for any violation of any of the wildlife, parks and tourism laws of this state or the provisions of article 11 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted thereunder, punishable as a misdemeanor and is not immediately taken before a judge of the district court as required or permitted pursuant to K.S.A. 32-1048 and ~~32-1178~~ 32-1179, and amendments thereto, the officer ~~shall~~ may prepare a written citation containing a notice to appear in court, the name and address of the person, the offense charged, the time and place when and where the person shall appear in court and such other pertinent information as may be necessary.

(b) The time specified in the citation must be at least five days after the alleged

violation unless the person charged with the violation shall demand an earlier hearing.

(c) The place specified in the citation must be before a judge of the district court within the county in which the offense is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the alleged violation occurred.

(d) The person charged with the violation may give a written promise to appear in court by signing at least one copy of the written citation prepared by the officer, in which event the officer shall deliver a copy of the citation to the person, and thereupon the officer shall not take the person into physical custody for the violation.

~~(e) Any officer violating any provisions of this section is guilty of misconduct in office and shall be subject to removal from office.~~

~~(f)~~(e) In the event the form of citation provided for in this section includes information required by law and is signed by the officer preparing the same, such citation when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under law.

Sec. 5. K.S.A. 32-1139 is hereby amended to read as follows: 32-1139. (a) On and after January 1, 2001:

(1) No person born on or after January 1, 1989, shall operate on public waters of this state any motorboat or sailboat unless the person possesses a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person as provided by this act.

(2) No owner or person in possession of any motorboat or sailboat shall permit another

person, who is subject to the requirements in subsection (a)(1), to operate such motorboat or sailboat unless such other person either: (A) Has been lawfully issued a certificate of completion of an approved boater safety education course of instruction as provided by this act; or (B) is legally exempt from the requirements of subsection (a)(1).

(3) The requirement in subsection (a)(1), shall not apply to a person 21 years of age or older.

(4) The requirement in subsection (a)(1) shall not apply to a person operating a sailboat that does not have a motor and has an overall length of 16 feet, seven inches or less, while enrolled in an instructor-led class.

(b) The requirement in subsection (a)(1) shall not apply to a person operating a motorboat or sailboat accompanied by and under the direct and audible supervision of a person over 17 years of age who either: (1) Possesses a certificate of completion of an approved boater safety education course; or (2) is legally exempt from the requirements of subsection (a)(1).

(c) No person who is charged with a violation of subsection (a)(1) shall be convicted of the violation if such person produces in court or in the office of the arresting officer a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person and valid at the time of such person's arrest.

Sec. 6. K.S.A. 32-1139 and K.S.A. 2014 Supp. 32-1001, 32-1041, 32-1047 and 32-1049 are hereby repealed.";

Also on page 3, in line 29, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "water; relating to water conservation areas"

and inserting "wildlife, parks and tourism; relating to licenses, permits and stamps; citations; disposal of seized wildlife; boating; safety education courses; certain sailboats; amending K.S.A. 32-1139 and K.S.A. 2014 Supp. 32-1001, 32-1041, 32-1047 and 32-1049 and repealing the existing sections";

And your committee on conference recommends the adoption of this report.

Conferees on part of Senate

Conferees on part of House