

As Amended by House Committee

Session of 2015

SENATE BILL No. 113

By Committee on Judiciary

1-29

1 AN ACT concerning the department of wildlife, parks and tourism;
2 relating to licenses, permits, stamps and other issues of the department;
3 **citations**; amending K.S.A. 2014 Supp. 32-1001 and, 32-1041 **and 32-**
4 **1049** and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2014 Supp. 32-1001 is hereby amended to read as
8 follows: 32-1001. (a) It is unlawful for any person to:

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

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

21 (3) refuse to allow examination of any license, permit, stamp or other
22 issue of the department while participating or engaging in any activity for
23 which such person is required to have obtained such license, permit, stamp
24 or other issue under the wildlife, parks and tourism laws of this state or
25 under rules and regulations of the secretary, upon demand by any officer or
26 employee of the department or any officer authorized to enforce the laws
27 of this state or rules and regulations of the secretary;

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

35 (5) make any false representation to secure any license, permit, stamp
36 or other issue of the department, or duplicate thereof, or to make any

1 alteration in any such license, permit, stamp or other issue.

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

12 (c) (1) In any prosecution charging a violation of subsection (a)(1) for
13 failure to obtain a permit required by K.S.A. 32-901, and amendments
14 thereto, proof that the particular vehicle described in the complaint was in
15 violation, together with proof that the defendant named in the complaint
16 was at the time of the violation the registered owner of such vehicle, shall
17 constitute in evidence a prima facie presumption that the registered owner
18 of such vehicle was the person who parked or placed such vehicle at the
19 time when and place where the violation occurred.

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

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

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

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

1 forfeiture of any license, permit, stamp or other issue of the department,
2 other than a lifetime license, which is held by the convicted person and
3 pertains to the activity for which the person was convicted for up to one
4 year from the date of conviction.

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

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

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

27 (c) If a convicted person has been issued a combination hunting and
28 fishing license or a combination lifetime license, only that portion of such
29 license which pertains to the activity for which such person is convicted
30 shall be subject to forfeiture or suspension pursuant to this section. In such
31 case, the order of conviction shall indicate that part of the license which is
32 forfeited or suspended, and such order shall become a temporary license
33 under which the offender may either hunt or fish as the order indicates.

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

39 (e) A person whose license, permit, stamp or other issue of the
40 department has been forfeited or suspended pursuant to subsection (a)(1)
41 or (b)(1) shall not be eligible to purchase another such issue within 30 days
42 of the conviction. A person whose license, permit, stamp or other issue of
43 the department has been forfeited or suspended pursuant to subsection (a)

1 (2) or (b)(2) shall not be eligible to purchase another such issue within one
2 year from the date of conviction.

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

10 **Sec. 3. K.S.A. 2014 Supp. 32-1049 is hereby amended to read as**
11 **follows: 32-1049. (a) Whenever a person is charged for any violation of**
12 **any of the wildlife, parks and tourism laws of this state or the**
13 **provisions of article 11 of chapter 32 of the Kansas Statutes**
14 **Annotated, and amendments thereto, or rules and regulations adopted**
15 **thereunder, punishable as a misdemeanor and is not immediately**
16 **taken before a judge of the district court as required or permitted**
17 **pursuant to K.S.A. 32-1048 and ~~32-1178~~ 32-1179, and amendments**
18 **thereto, the officers shall may prepare a written citation containing a**
19 **notice to appear in court, the name and address of the person, the**
20 **offense charged, the time and place when and where the person shall**
21 **appear in court and such other pertinent information as may be**
22 **necessary.**

23 (b) The time specified in the citation must be at least five days
24 after the alleged violation unless the person charged with the violation
25 shall demand an earlier hearing.

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

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

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

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

43 ~~Sec. 4.~~ K.S.A. 2014 Supp. 32-1001 and, 32-1041 and 32-1049 are

1 hereby repealed.

2 Sec. ~~4~~ **5**. This act shall take effect and be in force from and after its

3 publication in the statute book.