

## Article 7.-GENERAL PROVISIONS

**32-701. Definitions.** As used in the wildlife, parks and tourism laws of this state, unless the context otherwise requires or specifically defined otherwise:

- (a) "Big game animal" means any antelope, deer or elk.
- (b) "Commission" means the Kansas wildlife, parks and tourism commission created by K.S.A. 32-805, and amendments thereto.
- (c) "Department" means the Kansas department of wildlife, parks and tourism.
- (d) "Fish," as a verb, means take, in any manner, any fish.
- (e) "Furbearing animal" means any badger, beaver, bobcat, grey fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, red fox, spotted skunk, striped skunk, swift fox or weasel.
- (f) "Furharvest" means:
  - (1) Take, in any manner, any furbearing animal; or
  - (2) trap or attempt to trap any coyote.
- (g) "Game animal" means any big game animal, wild turkey or small game animal.
- (h) "Game bird" means any grouse, partridge, pheasant, prairie chicken or quail.
- (i) "Hunt" means:
  - (1) Take, in any manner, any wildlife other than a fish, bullfrog, furbearing animal or coyote; or
  - (2) take, in any manner other than by trapping, any coyote.
- (j) "Motor vehicle" means a vehicle, other than a motorized wheelchair, which is self-propelled.
- (k) "Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person that is incapable of a speed in excess of 15 miles per hour.
- (l) "Nonresident" means any person who has not been a bona fide resident of this state for the immediately preceding 60 days.
- (m) "On a commercial basis" means for valuable consideration.
- (n) "Person" means any individual or any unincorporated association, trust, partnership, public or private corporation or governmental entity, including foreign governments, or any officer, employee, agent or agency thereof.
- (o) "Private water fishing impoundment" means one or more water impoundments:
  - (1) Constructed by man rather than natural, located wholly within the boundary of the lands owned or leased by the person operating the private water impoundments; and
  - (2) entirely isolated from other surface water so that the impoundment does not have any connection either continuously or at intervals, except during periods of floods, with streams or other bodies of water so as to permit the fish to move between streams or other bodies of water and the private water impoundments, except that the private water impoundments may be connected with a stream or other body of water by a pipe or conduit if fish will be prevented at all times from moving between streams or other bodies of water and the private water impoundment by screening the flow or by other means.
- (p) "Resident" means any person who has maintained the person's place of permanent abode in this state for a period of 60 days immediately preceding the person's application for any license, permit, stamp or other issue of the department. Domiciliary intent is required to establish that a person is maintaining the person's place or permanent abode in this state. Mere ownership of property is not sufficient to establish domiciliary intent. Evidence of domiciliary intent includes, without limitation, the location where the person votes, pays personal income taxes or obtains a driver's license.
- (q) "Secretary" means the secretary of wildlife, parks and tourism.
- (r) "Small game" means any game bird, hare, rabbit or squirrel.
- (s) "Species" includes any subspecies of wildlife and any other group of wildlife of the same species

or smaller taxa in common spatial arrangement that interbreed when mature.

(t) “Take” means harass, harm, pursue, shoot, wound, kill, molest, trap, capture, collect, catch, possess or otherwise take, or attempt to engage in any such conduct.

(u) “Wildlife” means any member of the animal kingdom, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg or offspring thereof, or the dead body or parts thereof. Wildlife does not include agricultural livestock (cattle, swine, sheep, goats, horses, mules and other equines) and poultry (domestic chickens, turkeys and guinea fowl).

**History:** L. 1989, ch. 118, sec. 1; L. 1992, ch. 166, sec. 6; L. 1993, ch. 185, sec. 1; L. 1995, ch. 164, sec. 1; L. 2004, ch. 99, sec. 1; L. 2012, ch. 47, sec. 20; July 1.

Source or prior law:

32-104, 32-104a, 32-110a, 32-156, 32-157, 32-158, 32-167, 32-172a, 32-174, 32-311, 32-502, 74-4509b.

**32-702. Policy Statement.** It shall be the policy of the state of Kansas to protect, provide and improve outdoor recreation and natural resources in this state and to plan and provide for the wise management and use of the state's natural resources, thus contributing to and benefiting the public's health and its cultural, recreational and economic life. For these purposes, the secretary, the commission and the department are hereby vested with the duties and powers hereinafter set forth.

**History:** L. 1955, ch. 355, sec. 1; L. 1989, ch. 118, sec. 2; July 1.

Source or prior law: 32-212, 74-4501, 74-4527.

#### CASE ANNOTATIONS

1. Liability of parties involved with capsizing of Whippoorwill Showboat discussed; trial court erred in granting summary judgement for concessionaire. *Griffin v. Rogers*, 232 K. 168, 170, 653, P.2d 463 (1982).

2. Cited; condition in deed requiring use of donated land for specific purposes construed. *Kinney v. Kansas Fish & Game Commn*, 238 K. 375, 381, 710 P.2d 1290 (1985).

**32-703. State of ownership of wildlife.** The ownership of and title to all wildlife, both resident and migratory, in the state, not held by private ownerships, legally acquired, shall be, and are hereby declared to be in the state.

**History:** L. 1911, ch. 198, sec. 11; R.S. 1923, 32-107. L. 1989, ch. 118, sec. 3; July 1.

Source or prior law: 32-107.

**32-704. Continuation of rules and regulations, fees.** (a) All rules and regulations of the secretary in effect on June 30, 1989, shall remain in full force and effect until amended or revoked.

(b) Notwithstanding any other provision of law to the contrary, all fees for issues of the department, whether fixed by the statute or rules and regulations, which are in effect on June 30, 1989, shall remain in full force and effect until otherwise fixed by rules and regulations of the secretary.

**History:** L. 1989, ch. 118, sec. 194; July 1.

**32-705. Severability.** If any provisions of this act or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provisions or application and to this end the provisions of this act are severable.

**History:** L. 1989, ch. 118, sec. 195; July 1.

## Article 8. ORGANIZATION AND POWERS

**32-801. Establishment of department; secretary.** (a) In order to reorganize the administration, planning and regulation of the state's parks, wildlife and other natural resources, there is hereby established within the executive branch of government the Kansas department of wildlife, parks and tourism, which shall be administered under the direction and supervision of a secretary of wildlife, parks and tourism who shall be appointed by the governor, with the consent of the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as secretary shall exercise any power, duty or function as secretary until confirmed by the senate.

(b) The secretary shall be fully qualified by education, training and experience in wildlife, parks or natural resources, or a related field, and shall have a demonstrated executive and administrative ability to discharge the duties of the office of secretary. The secretary shall serve at the pleasure of the governor. The secretary shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary to be fixed by the governor.

(c) The provisions of the Kansas governmental operations accountability law apply to the Kansas department of wildlife, parks and tourism, and the department is subject to audit, review and evaluation under such law.

**History:** L. 1987, ch. 417, sec. 1; L. 1989, ch. 118, sec. 4, L. 1992, ch. 116, sec. 26; L. 2012, ch. 47, sec. 21; July 1.

Source or prior law: 5-3901.

**32-802. Assistant secretaries; employees; offices; wildtrust program .** (a) The secretary shall appoint an assistant secretary for administration, an assistant secretary for wildlife, fisheries and boating and an assistant secretary for parks and tourism. The assistant secretary for administration shall be fully qualified by education, training and experience in administration. The assistant secretary for wildlife, fisheries and boating shall be fully qualified by education, training and experience in wildlife, natural resources or a related field. The assistant secretary for parks and tourism shall be fully qualified by education, training and experience in parks, tourism or related field. All assistant secretaries shall have a demonstrated executive and administrative ability to discharge the duties of the office of assistant secretary. The assistant secretaries shall serve at the pleasure of the secretary. The assistant secretaries shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary with the approval of the governor. The secretary also may appoint such other staff assistants and employees as are necessary to enable the secretary to carry out the duties of the office. Except as otherwise provided in this section, K.S.A. 75-2935 and 32-801, and amendments thereto, such staff assistants and employees shall be within the classified service under the Kansas civil service act.

(b) The assistant secretaries and such other staff assistants and employees shall have such powers, duties and functions as are assigned to them by the secretary or are prescribed by law. The assistant secretaries, staff assistants and employees shall act for and exercise the powers of the secretary to the extent authority to do so is delegated by the secretary.

(c) The assistant secretary for administration shall maintain an office in Shawnee county, Kansas. The assistant secretary for wildlife, fisheries and boating shall maintain an office in Pratt county, Kansas. The assistant secretary for parks and tourism shall maintain an office in Shawnee county, Kansas. The secretary may maintain offices and facilities to carry out the functions of the department in other locations in this state.

(d) The secretary shall supervise the wildtrust program which shall be responsible for the receipt and expenditure of moneys through gifts and donations.

**History:** L. 1987, ch. 417, sec. 2; L. 1989, ch. 118, sec. 5; L. 2012, ch. 47, sec. 22; July 1.

Source or prior law: 75-3902.

**32-803. Department and secretary continuation of fish and game commission.**

(a) Except as otherwise provided by law, whenever the Kansas fish and game commission, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the department.

(b) Except as otherwise provided by law, whenever the director of the fish and game commission, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary.

(c) All rules and regulations of the Kansas fish and game commission or the director of the fish and game commission in existence on July 1, 1987, shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(d) All orders and directives of the Kansas fish and game commission or the director of the fish and game commission in existence on the effective date of this order shall continue to be effective and shall be deemed to be orders and directives of the secretary until revised, amended or nullified pursuant to law.

(e) The secretary shall succeed to whatever right, title or interest the Kansas fish and game commission has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after July 1, 1987, whenever any statute, contract, deed or other document concerns the power or authority of the Kansas fish and game commission or the director of the fish and game commission to acquire, hold or dispose of real property or any interest therein, the secretary shall succeed to such power or authority.

(f) The department and the secretary, respectively, shall be continuations of the Kansas fish and game commission and the office of the director of the fish and game commission.

**History:** L. 1987, ch. 417, sec. 3; L. 1989, ch. 118, sec. 6; July 1.

Source or prior law: 75-3903.

**32-804. Department and secretary continuation of park and resources authority.**

(a) Except as otherwise provided by law, whenever the state park and resources authority, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the department.

(b) Except as otherwise provided by law, whenever the director of the state park and resources authority, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary.

(c) All rules and regulations of the state park and resources authority or the director of the state park and resources authority in existence on July 1, 1987, shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

(d) All orders and directives of the state park and resources authority or the director of the state park and resources authority in existence on the effective date of this order shall continue to be effective and shall be deemed to be orders and directives of the secretary until revised, amended or nullified pursuant to law.

(e) The secretary shall succeed to whatever right, title or interest the state park and resources authority has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after July 1, 1987, whenever any statute, contract, deed or other document concerns the power or authority of the state park and resources authority or the director of the state park and resources authority to acquire, hold or dispose of real property or any interest therein, the

secretary shall succeed to such power or authority.

(f) The department and the secretary, respectively, shall be continuations of the state park and resources authority and the director of the state park and resources authority.

**History:** L. 1987, ch. 417, sec. 4; L. 1989, ch. 118, sec. 7; July 1.

Source or prior law: 75-3904.

**32-805. Wildlife and parks commission.** (a) There is hereby created within and as a part of the department the Kansas wildlife, parks and tourism commission which shall be composed of seven members. The governor shall appoint residents of this state to be members of the commission. One member of the commission shall be chosen from each fish and wildlife administration region as established by the department. In the appointment of members of the commission, the governor shall give consideration to the appointment of licensed hunters, fishermen and furharvesters, park users and to nonconsumptive users of wildlife and park resources. No more than a majority of the members shall be of the same political party. Each member of the commission shall hold office for a term of four years and until a successor is appointed and qualified, except that in appointing the original commission members, the governor shall designate one member for a term ending July 1, 1988, one member for a term ending July 1, 1989, and two members for terms ending July 1, 1990. The governor shall fill any vacancy on the commission prior to the expiration of a term by appointment for the unexpired term.

(b) Each member of the commission shall take and subscribe an oath or affirmation as required by law before taking office.

(c) The governor may remove a commissioner after opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act. If the commissioner is removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such commissioner and the governor's findings thereon, together with a complete record of the proceedings.

(d) The commission shall have such powers, duties and functions as prescribed by law. Other than rules and regulations pertaining to personnel matters of the department, the secretary shall submit to the commission all proposed rules and regulations. The commission shall either approve, modify and approve, or reject such proposed rules and regulations.

The secretary shall adopt such rules and regulations so approved or so modified and approved. Fees established for licenses, permits, stamps and other issues of the department shall be subject to the approval of the commission. It also shall be the duty of the commission to serve in an advisory capacity to the governor and the secretary in the formulation of policies and plans relating to the department.

(e) The governor shall designate one commission member to serve as chairperson of the commission. Members of the commission attending meetings of the commission, or attending a subcommittee meeting

thereof authorized by the commission, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. A majority of the members of the commission shall constitute a quorum for the transaction of business. Meetings may be called by the chairperson and shall be called on the request of a majority of the members of the commission.

**History:** L. 1987, ch. 417, sec. 5; L. 1989, ch. 118, sec. 8; L. 2007, ch. 143, sec. 2; L. 2012, ch. 47, sec. 23; July 1.

**32-806. Organization of department; policies governing administration; accounting for compensation from leases of real property.** The secretary of wildlife, parks and tourism may organize the Kansas department of wildlife, parks and tourism in the manner the secretary deems most efficient, so long as the same is not in conflict with the provisions of this order or with the provisions of law, and the secretary may establish policies governing the transaction of business of the department and

the administration of the department. The secretary shall cause any compensation received by the Kansas department of wildlife, parks and tourism, whether monetary, in-kind or otherwise, from leases of real property under the control and jurisdiction of the secretary to be accounted for and reflected in the budget of the Kansas department of wildlife, parks and tourism.

**History:** L. 1987, ch. 417, sec. 6; L. 1998, ch. 40, sec. 1; L. 2012, ch. 47, sec. 24; July 1.  
Source or prior law: 75-3906.

**32-807. Powers of secretary.** The secretary shall have the power to:

(a) Adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations as necessary to implement, administer and enforce the provisions of the wildlife, parks and tourism laws of this state;

(b) enter into such contracts and agreements as necessary or incidental to the performance of the powers and duties of the secretary;

(c) employ or contract for, and fix the compensation of, consulting engineers, attorneys, accountants and construction and financial experts, all of whom shall be in the unclassified service under the Kansas civil service act;

(d) designate an official seal and alter it at the secretary's pleasure;

(e) sue, be sued, plead and be impleaded in the name of the department;

(f) purchase, lease, accept gifts or grants of or otherwise acquire in the name of the state such water, water rights, easements, facilities, equipment, moneys and other real and personal property, and interests therein, including any property abandoned on department lands and waters, and maintain, improve, extend, consolidate, exchange and dispose of such property, as the secretary deems appropriate to carry out the intent and purposes of the wildlife, parks and tourism laws of this state;

(g) acquire, establish, develop, construct, maintain and improve state parks, state lakes, recreational grounds, wildlife areas and sanctuaries, fish hatcheries, natural areas, physical structures, dams, lakes, reservoirs, embankments for impounding water, roads, landscaping, habitats, vegetation and other property, improvements and facilities for the purposes of wildlife management, preservation of natural areas and historic sites and providing recreational or cultural opportunities and facilities to the public and for such other purposes as suitable to carry out the intent and purposes of wildlife, parks and tourism laws of this state;

(h) operate and regulate the use of state parks, state lakes, recreational grounds, wildlife areas and sanctuaries, fish hatcheries, natural areas, historic sites and other lands, waters and facilities under the jurisdiction and control of the secretary, so as to promote the public health, safety and decency and the purposes for which such lands, waters and facilities are maintained and operated and to protect and safeguard such lands, waters and facilities, including but not limited to:

(1) Regulating the demeanor, actions and activities of persons using or within such lands, waters and facilities;

(2) providing for the inspection of boats, the issuance of permits for operation of watercraft of all kinds and the charging and collection of fees for the inspection and operation of such craft;

(3) prescribing the type, style, location and equipment of all wharves, docks, anchorages, pavilions, restaurants and other structures or buildings which may be constructed along the shores or upon the water of any body of water or land controlled by the department, and providing for the licensing, inspection and supervision of such structures or buildings;

(4) granting and imposing charges for permits and for all commercial uses or purposes for which any of the properties of the department may be used;

(5) charging fees to use special facilities provided for the public or giving written authorization to lessees of the department to charge such fees; and

(6) operating, renting or leasing any such lands, waters and facilities which in the judgment of the

secretary are necessary or desirable for the use and pleasure of visitors or for management of such lands, waters and facilities and fixing and collecting reasonable fees, tolls, rentals and charges for the use or operation thereof. All contracts or leases for the exercise of any concession shall be entered into only upon the basis of sealed proposals which shall be made and let by the secretary except that:

(A) Where a concessionaire has an existing lease with the secretary or any agency of the federal government which the secretary desires to renew, renegotiate or acquire and sublease, such lease or sublease may be negotiated directly in accordance with rules and regulations of the secretary and without compliance with the requirements hereinbefore specified;

(B) any such contract or lease for a term of 30 days or less may be made by the secretary directly in accordance with rules and regulations of the secretary; and (C) the secretary shall have authority to reject any or all proposals;

(i) have exclusive administrative control over state parks, state lakes, recreational areas, wildlife areas and sanctuaries, fish hatcheries, natural areas and other lands, waters and facilities under the jurisdiction of the secretary;

(j) provide for protection against fire and storm damage to the lands, waters and facilities under the jurisdiction of the secretary;

(k) contract with the federal government pursuant to public law 89-72 in order to acquire land by purchase, lease, agreement or otherwise on El Dorado and Hillsdale reservoir project lands;

(l) apply for, receive and accept from any federal agency any federal grants available for the purposes of the wildlife, parks and tourism laws of this state;

(m) have authority, control and jurisdiction over all matters relating to the development and conservation of wildlife and recreation resources of the state insofar as it pertains to forests, woodlands, public lands, submarginal lands, prevention of soil erosion, habitats and the control and utilization of waters, including all lakes, streams, reservoirs and dams, except that this subsection shall not prohibit any political subdivision of the state or private corporation from having full control of any lake now constructed and owned by it;

(n) conduct research in matters relating to the purposes of the wildlife, parks and tourism laws of this state and disseminate information relating thereto for the public use and benefit;

(o) publicize to the citizens of this and other states the natural resources and facilities existing in Kansas and encourage people to visit Kansas by disseminating available information as to the natural resources and recreational advantages of the state;

(p) develop public recreation as related to natural resources and implement a state recreational plan which may include, but shall not be limited to, the general location, character and extent of state lands, waters and facilities for public recreational purposes and methods for better use of lands, waters and facilities which are within the scope of the plan or the purpose of the wildlife, parks and tourism laws of this state but, before implementation of such plan or any part thereof, the secretary shall submit it to any state agency affected thereby for such agency's advice and recommendations;

(q) provide for the preservation, protection, introduction, distribution, restocking and restoration of wildlife, and the public use thereof, in this state, including, but not limited to:

(1) Establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, open seasons when wildlife may be taken or transported in the state of Kansas, or in any part or area of the state designated by counties, major streams, federal impoundments or federal, state or county highways, or by other recognizable boundaries, which open seasons may be established for a specified time in one year only or for a specified time in an indefinite number of years and which open seasons on migratory birds shall not extend beyond or exceed those in effect under federal laws and regulations;

(2) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the number of wildlife which may be taken by a person, as the legal limit for any one calendar

day and for the open season, which limit on migratory fowl shall not extend beyond or exceed those limits in effect under federal laws and regulations;

(3) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the legal size limits of fish or frogs which may be taken;

(4) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the conditions, procedure and rules under which any person may sell, purchase, buy, deal or trade in wildlife in the state of Kansas; and

(5) capturing, propagating, transporting, selling, exchanging, giving or distributing any species of wildlife, by any means or manner, needed for stocking or restocking any lands or waters in this state, except that the power to capture any species of wildlife for any purpose shall not apply to private property except by permission of the owners of the property or in the case of an emergency threatening the public health or welfare;

(r) establish, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the period of time that a license, permit, stamp or other issue of the department shall be in effect, unless such period is otherwise established by law, and provisions for acceptance of any issue of the department before its effective date as a valid issue if the secretary determines such acceptance best serves the public good; and

(s) do such other acts and things as necessary and proper to carry out the intent and purpose of the wildlife, parks and tourism laws of this state and to better protect, conserve, control, use, increase, develop and provide for the enjoyment of the natural resources of this state.

**History:** L. 1989, ch. 118, sec. 9; L. 1993, ch. 185, sec. 2; L. 2012, ch. 47, sec. 25 July 1.

Source or prior law:

32-101, 32-152, 32-160, 32-164, 32-178, 32-189, 32-214, 32-215, 32-216, 32-221, 32-222, 32-224, 74-3302, 74-3302c, 74-3308, 74-4507, 74-4509, 74-4510, 74-4543.

**32-808. Provides for conservation officers and employees; training requirements; powers and authority.** (a) The secretary shall employ conservation officers and other employees, regardless of title, to exercise law enforcement authority as provided in subsection (b), if such officers and other employees successfully complete the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center pursuant to K.S.A. 74-5607a and amendments thereto, and employees appointed on a provisional or probationary basis for a period of not more than one year, except that such provisional or probationary employee shall meet at least the criteria on appointment specified in K.S.A. 74-5605 and amendments thereto, and shall not be issued a firearm until such employee has been instructed and trained in the use thereof by the department. An employee appointed on a provisional or probationary basis, who does not receive the certificate required under subsection (a) of K.S.A. 74-5607a and amendments thereto, within one year following the date of the person's original appointment shall not have authority to enforce the laws of the state as provided in subsection (b). The secretary may appoint conservation officers and employees of the department, including appointment in the capacity as deputy conservation officers, and may appoint Kansas law enforcement officers temporarily assigned by their employer to the department. All deputy conservation officer appointments shall be on a voluntary basis and shall expire on December 31 following the date of any such appointment.

(b) Conservation officers, deputy conservation officers and other employees who have completed the course of instruction as provided in subsection (a), provisional or probationary employees who have met the requirements of subsection (a) and any other Kansas law enforcement officers authorized to enforce the laws of the state of Kansas shall have the power and authority to:

(l) Enforce all statutory provisions of chapter 32 of the Kansas Statutes Annotated or any rules and regulations promulgated thereunder, or any other laws of the state anywhere within the state, including



but not limited to chapter 8 of the Kansas Statutes Annotated, and amendments thereto, except that nothing in this act shall grant conservation officers, deputy conservation officers and other employees authority that supersedes that of the local law enforcement authority having jurisdiction over the matter. The secretary shall establish a policy under which the department's officers and other employees primarily direct such officers' and employees' efforts toward the protection, conservation and management of natural resources of this state and the provision of safe and orderly lands controlled by the department. Such officers shall also have the powers of arrest set forth in K.S.A. 22-2401, and amendments thereto, and are empowered to make arrests, pursuant to K.S.A. 22-2307, and amendments thereto, as required by any policy adopted by the secretary. A conservation officer acting under authority of this subsection shall be considered an employee of the department and shall be subject to its direction, benefits and legal protection.

(2) Serve anywhere within the state warrants issued for the examination, investigation or trial of all violations of all laws of the state as provided in subsection (b).

(3) Carry firearms or weapons, concealed or otherwise, in the performance of their duties but only if the officer or employee has completed the required course of instruction for law enforcement officers at the Kansas law enforcement training center, unless otherwise qualified pursuant to K.S.A. 74-5608a and amendments thereto or as to a provisional or probationary employee who has met the requirements of subsection (a).

**History:** L. 1927, ch. 221, sec. 5; L. 1939, ch. 290, sec. 2; L. 1943, ch. 173, sec. 1; L. 1945, ch. 307, sec. 1; L. 1947, ch. 400, sec. 1; L. 1949, ch. 414, sec. 1; L. 1953, ch. 369, sec. 1; L. 1959, ch. 320, sec. 1; L. 1961, ch. 389, sec. 2; L. 1967, ch. 443, sec. 13; L. 1969, ch. 211, sec. 1; L. 1974, ch. 361, sec. 67; L. 1978, ch. 332, sec. 30; L. 1982, ch. 315, sec. 1; L. 1985, ch. 250, sec. 1; L. 1985, ch. 251, sec. 1; L. 1985, ch. 252, sec. 1; L. 1989, ch. 118, sec. 10; L. 1993, ch. 150, sec. 1; L. 1997, ch. 168, sec. 8; May 22.

Source or prior law: 74-3302.

#### CASE ANNOTATIONS

1. Right to condemn property on which duck hunting to be permitted determined. *Ottawa Hunting Ass'n v. State*, 178 K. 460, 463, 389 P. 2d 754.

**32-809. State agricultural production fund.** (a) Unless otherwise provided by law, all moneys received from agricultural production on state-owned property under the control and jurisdiction of the secretary of wildlife, parks and tourism shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the state agricultural production fund, which is hereby created in the state treasury.

(b) The Kansas department of wildlife, parks and tourism shall establish separate accounts of the state agricultural production fund for each state-owned property under the control and jurisdiction of the secretary of wildlife, parks and tourism. Such accounts shall be used for costs and expenses associated with management practices as determined for each property.

(c) All expenditures from the state agricultural production fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, parks and tourism.

**History:** L. 1998, ch. 40, sec. 2; L. 2012, ch. 47, sec. 26; July 1.

**32-810 to 32-823. Reserved.**

#### INTERGOVERNMENTAL RELATIONS

**32-824. Federal assistance for land and water conservation; department official agency.** The state of Kansas hereby designates the department as the official state agency to apply for, accept, administer and disburse federal assistance and benefits under the provisions of the -land and water conservation fund act of 1965 (78 Stat. 897, P.L. 88-578), as amended.

**History:** L. 1965, ch. 453, sec. 1; L. 1989, ch. 118, sec. 11; July 1.  
Source or prior law: 74-4532, 74-4533.

**32-825. Same; powers of department.** The department, as the administrative agency of the state for such federal assistance and benefits as may be available under the land and water conservation fund act of 1965, shall have the right and is authorized and empowered to:

(a) Apply for such assistance and benefits as may be available to the state under such act, and the state treasurer is hereby authorized and empowered to receive and disburse such moneys upon proper voucher by the department.

(b) develop, operate, and maintain outdoor recreation areas and facilities of the state and acquire land, water and interest in land and water for such areas and facilities, the title of such land, water or interest to be in the state of Kansas;

(c) enter into contracts and agreements with individuals, political subdivisions, governmental agencies and the United States or any appropriate agency thereof;

(d) keep financial and other records relating thereto and furnish appropriate officials and agencies of the state and of the United States such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under such act;

(e) coordinate its activities with and represent the interests of all individuals, agencies and political subdivisions of the state, subject to the provisions of K.S.A. 1989 Supp. 32-824, 32-825 and 32-826, in the planning, development, and maintenance of outdoor recreation resources and facilities within the state; and

(f) do and perform such other acts as may be necessary to comply with federal requirements in securing for the state the assistance and benefits provided by the land and water conservation fund act of 1965.

**History:** L. 1965, ch. 453, sec. 3; L. 1988, ch. 301, sec. 17; L. 1989, ch. 118, sec. 12; July 1.  
Source or prior law: 74-4534.

**32-826. Same; restrictions.** The department shall make no commitment nor enter into any agreement pursuant to the exercise of authority under K.S.A. 1989 Supp. 32-824 and 32-825 until it has determined that sufficient funds are available to it for meeting the state's share, if any, of project costs. The department may enter into and administer agreements with the United States or any appropriate agency thereof, for planning, acquisition, and development projects involving participating federal-aid funds on behalf of any subdivision or subdivisions of this state, except that such subdivision or subdivisions shall be required to give necessary assurance to the department that they have available sufficient funds to meet their share, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of such subdivision or subdivisions for public outdoor recreation use.

**History:** L. 1965, ch. 451, sec. 4; L. 1988, ch. 301, sec. 18; L. 1989, ch. 118, sec. 13; July 1.  
Source or prior law: 74-4535.

**32-827. Federal assistance for development of natural resources; department official agency.**

The department is hereby designated as the agency of the state of Kansas for the purpose of making application for and procuring aid from the federal government in all matters pertaining to the development of natural resources insofar as it pertains to the control and utilization of waters, prevention

of soil erosion and flood control and is authorized and empowered to act for and represent the state of Kansas in making application for and securing such labor, aid and projects as may be offered, designated, required or made available by the federal government.

The department shall have charge of all funds which may be procured for the purposes specified by this section and shall have charge of all projects constructed with such funds, except that this section shall not prohibit any political subdivision of the state now qualified to obtain loans or grants from the federal government from making applications for and receiving such loans or grants.

**History:** L. 1933, ch. 108, sec. 1 (Special Session); L. 1935, ch. 268, sec. 1; L. 1989, ch. 118, sec. 14; July 1.

Source or prior law: 74-3308.

**32-828. Assent to wildlife restoration act; use of fees.** (a) The state of Kansas hereby assents to the provisions of the wildlife restoration act (16 U.S.C. 669 et seq.), as amended. The secretary is hereby authorized and directed to perform such acts as necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in such act, in compliance with such act and with rules and regulations promulgated by the secretary of the interior thereunder. The state treasurer is hereby authorized to receive and disburse all money apportioned to the state in accordance with the provisions of such act.

(b) No moneys accruing to the state of Kansas from fees paid for hunting or furharvester licenses, permits or stamps shall be used for any purpose other than the administration of the department and the protection, propagation, preservation, management and investigation of wildlife.

**History:** L. 1938, ch. 67, sec. 1; L. 1989, ch. 118, sec. 15; July 1.

Source or prior law: 74-3314, 74-3320.

**32-829. Assent to fish restoration and management projects act; use of fees.** (a) The state of Kansas hereby assents to the provisions of the fish restoration and management projects act (16 U.S.C. 777 et seq.), as amended. The secretary is hereby authorized and directed to perform such acts as necessary to the conduct and establishment of cooperative fish restoration projects, as defined in such act, in compliance with such act and rules and regulations promulgated by the secretary of the interior thereunder. The state treasurer is hereby authorized to receive and disburse all moneys apportioned to the state in accordance with the provisions of such act.

(b) No moneys accruing to the state of Kansas from fees paid for fishing licenses, permits or stamps shall be used for any purpose other than the administration of the department and the protection, propagation, preservation, management and investigation of wildlife.

**History:** L. 1951, ch. 284, sec. 1; L. 1989, ch. 118, sec. 16; July 1.

Source or prior law: 74-3320.

**32-830. Local governments; conveyances to department.** Notwithstanding any contrary provision of law, all state agencies and all counties, cities, townships and other political subdivisions are hereby authorized to lease, lend, grant or convey to the department at the request of the secretary any lands or facilities which may be necessary or convenient to the effectuation of the purposes of the department. Such lease, loan, grant or conveyance shall be upon such terms and conditions as the proper authorities of such agencies, counties, cities, townships and political subdivisions deem reasonable and fair and no advertisement, order of court or other action or formality shall be necessary, other than the regular and formal action of the authorities concerned.

**History:** L. 1955, ch. 355, sec. 12; L. 1969, ch. 374, sec. 6; L. 1989, ch. 118, sec. 17; July 1.

Source or prior law: 74-4512.

**32-831. Cooperation with state and local agencies.** In carrying out its functions and duties, the department shall cooperate and coordinate its activities with the state department of economic development and with all other state agencies and such municipal, county and township planning boards and commissions as are concerned with matters under the supervision of the department. The department may also cooperate and coordinate its activities with federal agencies and with other states.

All state agencies shall, upon request, furnish to the department, within a reasonable time, such available information as it shall require in the performance of its duties and functions.

The state department of transportation may construct, reconstruct, maintain and improve, in cooperation with and under the supervision of the department, access and service roads, trails and parking areas, including necessary bridges within and adjacent to lands and waters, under the supervision and control of the department. The secretary is vested with and shall exercise jurisdiction over the use of all such roads, trails and parking areas and shall adopt and enforce reasonable rules and regulations regarding their use.

**History:** L. 1955, ch. 355, sec. 11; L. 1963, ch. 407, sec. 10; L. 1989, ch. 118, sec. 18; July 1.  
Source or prior law: 74-4511.

**32-832. Cooperation with citizen-support organizations.** (a) The Kansas department of wildlife, parks and tourism is authorized to cooperate with and assist citizen-support organizations. For the purposes of this act, the term “citizen-support organization” means an organization which:

(1) Is a bona fide not-for-profit organization exempt from the payment of federal income taxes pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as in effect on January 1, 1990;

(2) does not engage in, and has no officer, director or member who engages in, any prohibited transaction, as defined by section 503(b) of the internal revenue code of 1986, as in effect on January 1, 1990;

(3) is domiciled in this state;

(4) the secretary determines its activities are conducted in a manner consistent with the goals, objectives and programs of the department and state policies as established by K.S.A. 32-702, and amendments thereto; and

(5) provide equal employment and membership opportunities to all persons regardless of race, color, national origin, religion, sex or age.

(b) The secretary may assist organizers of a citizen-support organization with its creation. The secretary may authorize any citizen-support organization to use under such conditions as the secretary may prescribe, department property, facilities or personnel to pursue the goals, objectives and purposes of the department.

(c) A citizen-support organization which uses department property, facilities or personnel shall provide for and disclose to the secretary an annual audit of its financial records and accounts in such manner and at such times as may be required by the secretary.

(d) A citizen-support organization which receives funding from the department shall not use such funding for purposes of lobbying as defined by K.S.A. 46-225, and amendments thereto.

**History:** L. 1990, ch. 137, sec. 1; L. 2012, ch. 47, sec. 27; July 1.

**32-833. Authority to purchase land; conditions and limitations.** (a) (1) Notwithstanding the provisions of K.S.A. 32-807(f), and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife, parks and tourism shall not purchase any land unless:

(A) The secretary of wildlife, parks and tourism has certified that the land proposed to be purchased is in compliance with the provisions of article 13 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, concerning control and management of noxious weeds after consultation with

the county weed supervisor and has developed a written plan for controlling and managing noxious weeds on the land to be purchased;

(B) the secretary of wildlife, parks and tourism shall agree to make payment of moneys in lieu of taxes comparable to the ad valorem tax payments of surrounding lands for any land purchased which is exempt from the payment of ad valorem taxes under the laws of the state of Kansas; and

(C) the secretary of wildlife, parks and tourism has developed a management plan for the property proposed to be purchased.

(2) In addition to the requirements prescribed by this section and otherwise by law, any proposed purchase of a tract or tracts of land which are greater than 160 acres in the aggregate shall be subject to approval by act of the legislature, either as a provision in an appropriation act pertaining to the specific property to be purchased or by any other act of the legislature that approves the acquisition of the specific property proposed to be purchased, or by approval by the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and amendments thereto.

(3) The provisions of this subsection shall not apply to any purchase of land by the secretary, which is less than 640 acres in the aggregate and owned by a private individual, if the purchase price is an amount less than such land's appraised valuation.

(b) (1) Notwithstanding the provisions of K.S.A. 32-807(f), and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife, parks and tourism shall adopt guidelines and procedures prescribing public notice requirements that the secretary shall comply with before the selling of any land which shall include, but not be limited to, the following:

(A) A written notice shall be posted in a conspicuous location on such land stating the time and date of the sale, or the date after which the land will be offered for sale, and a name and telephone number of a person who may be contacted concerning the sale of such land;

(B) the secretary shall cause to be published in a newspaper of general circulation in the county the land is located once a week for three consecutive weeks, the secretary's intent to sell the land which shall include a legal description of the land to be sold, the time and date of the sale or the date after which the land will be offered for sale, the general terms and conditions of such sale, and a name and telephone number of a person who may be contacted concerning the sale of such land; and

(C) the secretary shall publish in the Kansas register public notice of the secretary's intent to sell the land which shall include a legal description of the land to be sold, the time and date of the sale or the date after which the land will be offered for sale, the place of the sale, the general terms and conditions of such sale, and a name and telephone number of a person who may be contacted concerning the sale of such land.

(2) The secretary shall have the land appraised by three disinterested persons. In no case shall such land be sold for less than the average of its appraised value as determined by such disinterested persons.

(3) The secretary shall list such land with a real estate agent who is licensed by the Kansas real estate commission as a salesperson under the real estate brokers' and salespersons' license act, and who shall publicly advertise that such land is for sale.

(4) Prior to closing the transaction on a contract for the sale of such land, the secretary shall cause a survey to be conducted by a licensed land surveyor. Such survey shall establish the precise legal description of such land and shall be a condition precedent to the final closing on such sale.

(c) Any disposition of land by the secretary shall be in the best interest of the state.

(d) The provisions of paragraph (a)(2) shall not apply to lands of less than 640 acres purchased with natural resource damage and restoration funds in the southeast Kansas counties of Cherokee, Crawford, Labette and Neosho.

**History:** L. 2006, ch. 150, sec. 5; L. 2011, ch. 65, sec.2; L. 2012, ch. 47, sec. 28; L. 2015, ch. 19, sec. 1; July 1.

**32-834. Reserved.**

**32-835. Purchase of land in Cherokee county.** (a) Subject to the provisions of K.S.A. 2013 Supp. 32-833, and amendments thereto, the secretary of wildlife, parks and tourism is hereby authorized to acquire by purchase the following tract of land located in Cherokee county, Kansas, more particularly described as:

The Southeast Quarter (SE 1/4), the Northwest Quarter (NW 1/4), and the West Half of the Northeast Quarter (W 1/2 NE 1/4), Section 29, Township 34 South, Range 22 East, in Cherokee County, Kansas, containing 397 acres more or less.

(b) Prior to payment for the purchase authorized by this section, the secretary of wildlife, parks and tourism shall determine that the requirements prescribed by K.S.A. 2013 Supp. 32-833, and amendments thereto, have been met.

(c) The provisions of K.S.A. 75-3043a and 75-3739, and amendments thereto, shall not apply to the acquisition authorized by this section or any contracts required therefor.

(d) In the event that the secretary of wildlife, parks and tourism determines that the legal description of the parcel described by this section is incorrect, the secretary of wildlife, parks and tourism may purchase the property utilizing the correct legal description.

**History:** L. 2014, ch. 135, sec. 1; July 1.

**32-836. Purchase of land in Pottawatomie county.** (a) Subject to the provisions of K.S.A. 2013 Supp. 32-833, and amendments thereto, the secretary of wildlife, parks and tourism is hereby authorized to acquire by purchase the following tract of land located in Pottawatomie county, Kansas, more particularly described as:

The Southeast Quarter (SE 1/4) of Section 12, Township 6 South, Range 7 East, and the Northeast Quarter (NE 1/4) and the North Half (N 1/2) of the Southwest Quarter (SW 1/4) of Section 13, Township 6 South, Range 7 East, and part of the Northeast Quarter (NE 1/4) and Southeast Quarter (SE 1/4) of Section 17, Township 6 South, Range 7 East, and part of the Northwest Quarter (NW 1/4) and the North Half (N 1/2) of the Southwest Quarter (SW 1/4) of Section 18, Township 6 South, Range 8 East in Pottawatomie County, Kansas, containing 484 acres more or less.

(b) Prior to payment for the purchase authorized by this section, the secretary of wildlife, parks and tourism shall determine that the requirements prescribed by K.S.A. 2013 Supp. 32-833, and amendments thereto, have been met.

(c) The provisions of K.S.A. 75-3043a and 75-3739, and amendments thereto, shall not apply to the acquisition authorized by this section or any contracts required therefor.

(d) In the event that the secretary of wildlife, parks and tourism determines that the legal description of the parcel described by this section is incorrect, the secretary of wildlife, parks and tourism may purchase the property utilizing the correct legal description.

**History:** L. 2014, ch. 135, sec. 2; July 1.

## LANDS

**32-837. State Parks.** (a) The following parks have been designated as a part of the state park system: (1) Kanopolis-Mushroom Rock state park in Ellsworth county; (2) Cross Timbers state park at Toronto Lake in Woodson county; (3) Fall River state park in Greenwood county; (4) Cedar Bluff state park in Trego county; (5) Tuttle Creek state park in Pottawatomie and Riley counties; (6) Pomona state park in Osage county; (7) Cheney state park in Kingman and Reno counties; (8) Lake Crawford state park in Crawford county; (9) Lovewell state park in Jewell county; (10) Lake Meade state park in Meade county; (11) Prairie Dog state park in Norton county; (12) Webster state park in Rooks county; (13) Wilson state park in Russell county; (14) Milford state park in Geary county; (15) Lake Scott state park

in Scott county; (16) Elk City state park in Montgomery county; (17) Perry state park in Jefferson county; (18) Glen Elder state park in Mitchell county; (19) El Dorado state park in Butler county; (20) Eisenhower state park in Osage county; (21) Clinton state park in Douglas and Shawnee counties; (22) Sand Hills state park in Reno county; (23) Hillsdale state park in Miami county; (24) Kaw River state park in Shawnee county; and (25) Prairie Spirit rail trail state park in Franklin, Anderson and Allen counties.

(b) No state park named in subsection (a) shall be removed from the state park system without legislative approval.

(c) The hours that Kaw River state park in Shawnee county is open to the public may be limited to those hours that parks of the city of Topeka are open, except that such state park shall be open at all hours for prescheduled events.

**History:** L. 1969, ch. 374, sec. 1; L. 1971, ch. 252, sec. 1; L. 1973, ch. 317, sec. 1; L. 1974, ch. 330, sec. 1; L. 1981, ch. 305, sec. 1; L. 1989, ch. 118, sec. 23; L. 1990, ch. 138, sec. 2; L. 2002, ch. 64, sec. 3; L. 2004, ch. 130, sec. 1; L. 2007, ch. 85, sec. 1; L. 2010, ch. 162, sec. 1; July 1.  
Source or prior law: 74-4501a.

### **32-838. Reserved.**

**32-838a. Cross Timbers state park; name.** The name of Toronto state park in Woodson county is hereby changed to Cross Timbers state park at Toronto Lake.

**History:** L. 2002; ch. 64, sec. 2, April 25.

**32-838b. Kaw River state park; name.** The name of state park no. 24 in Shawnee county is hereby changed to Kaw river state park.

**History:** L. 2007; ch. 85, sec. 2; July 1.

**32-839. Steve Lloyd Wetlands designated.** The Cane creek area within stage 1 of the Milford lake wetlands wildlife habitat restoration project, in Clay county, near the city of Wakefield, is hereby designated as the Steve Lloyd wetlands. The secretary of wildlife, parks and tourism shall cause placement of suitable signs and an observation deck to indicate the area is the Steve Lloyd wetlands. The secretary may accept and administer gifts and donations for the purpose of obtaining and installing such signs and observation deck.

**History:** L. 1998, ch. 49, sec. 2; L. 2012, ch. 47, sec. 29; July 1.

**32-840. Eminent domain.** (a) The secretary, in the name of the state of Kansas, may exercise the right of eminent domain in accordance with the eminent domain procedure act (K.S.A. 26-501 *et seq.*, and amendments thereto) for the purpose of acquiring lands, water and water rights necessary to:

(1) Carry out the provisions of the wildlife, parks and tourism laws of this state and the purposes for which the department is created; or

(2) protect, add to and improve state parks, state lakes, recreational areas, wildlife areas and sanctuaries, natural areas, fish hatcheries and other lands, waters and facilities provided for by K.S.A. 32-807, and amendments thereto.

(b) The taking, using and appropriating of property as authorized by subsection (a)(2) for the purposes of protecting lands, waters and facilities and their environs and preserving the view, appearance, light, air, health and usefulness thereof by reselling such property with such restrictions in the deeds of resale as will protect the property taken for such purposes is hereby declared to be taking, using and appropriating of such property for public use. The proceeds arising from the resale of any property so taken shall be used by the secretary for the purpose of improving lands, waters and facilities under the

jurisdiction and control of the secretary.

(c) Upon request of the secretary, the attorney general shall proceed by proper action to acquire by condemnation all lands, or rights therein or thereon, and all water or water rights required by the department pursuant to this section.

**History:** L. 1927, ch. 221, sec. 7; L. 1943, ch. 172, sec. 1; L. 1989, ch. 118, sec. 19; L. 2012, ch. 47, sec. 30; July 1.

Source or prior law: L. 1925, ch. 257, sec. 3; 32-213, 32-221, 32-222, 74-4510.

#### CASE ANNOTATIONS

1. Section cited in determining condemnation of property for public use, and compensation therefor. *State v. Nelson*, 126 K. 1, 266 P. 107.

2. Cities in construing and applying 26-201, 26-202. *State v. Boicourt Hunting Ass'n*. 177 K. 637, 638, 282 P.2d 395.

3. Condemning property for preserve and duck hunting; public or private use. *Ottawa Hunting Ass'n v. State*, 178 K. 460, 461, 463, 289 P.2d 754.

4. Condemnation procedure governed by 26-201 to 26-210. *State v. Boicourt Hunting Ass'n*. 183 K. 187, 189, 326 P.2d. 277.

**32-841. Donated lands; remission of taxes.** Whenever any person donates or has donated real estate to the state of Kansas for use as a state park upon which real estate taxes have been levied and assessed and upon which penalties and charges have accrued, the board of county commissioners of the county in which such real estate is situated is hereby authorized and directed to remit and cancel all such taxes, penalties and charges.

**History:** L. 1933, ch. 124, sec. 1; (Special Session); L. 1989, ch. 118, sec. 20; July 1.  
Source or prior law: 32-223.

**32-842. Acquisition of land under fish and wildlife coordination act; notice and hearing.** (a) Prior to acquiring land under a license with the United States army corps of engineers pursuant to the fish and wildlife coordination act, the secretary shall give notice of the proposed acquisition to the board of commissioners of every county in which such land is located. The board of county commissioners shall call and hold a public hearing on the proposed acquisition. If the land is located in two or more counties, a joint public hearing may be held if approved by a majority of the boards of county commissioners of such counties. Notice of the time, date and location of the hearing shall be published once each week for two consecutive weeks in the official county newspaper. The second publication shall be no sooner than 10 days prior to the public hearing. At such hearing, the secretary or the secretary's designee shall give a description of the land proposed to be acquired and the reasons for the acquisition. After the public hearing, the secretary may enter into the license to acquire the land.

(b) The provisions of this section shall not apply to land acquired pursuant to the wildtrust program nor to license entered into with respect to Hillsdale reservoir project lands.

**History:** L. 1984, ch. 275, sec. 1; L. 1988, ch. 299, sec. 1; L. 1989, ch. 118, sec. 21; July 1.  
Source or prior law: 74-3308a.

**32-843. Same; legislative approval.** (a) On or before the 30th calendar day of each regular legislative session, the secretary shall transmit to the state house of representatives, the state senate and the secretary of state copies of each license entered into with the United States army corps of engineers pursuant to the fish and wildlife coordination act since the 30th day of the immediately preceding regular legislative session. The copies transmitted to the secretary of state shall be available for public inspection during regular business hours. At any time after the 30th calendar day of the regular



legislative session when a license is transmitted as provided in this session, the legislature may disapprove and revoke such license by adoption of a concurrent resolution so providing. No such license shall be subject to revocation by the legislature after the 90th calendar day of such regular legislative session.

(b) The provisions of this section shall not apply to licenses entered into with respect to Hillsdale reservoir project lands.

**History:** L. 1984, ch. 275, sec. 2; L. 1988, ch. 299, sec. 2; L. 1989, ch. 118, sec. 22; July 1. Source or prior law: 74-3308b.

**32-844. Real estate transactions proposed or entered into; report to legislature.** (a) The secretary of wildlife, parks and tourism shall submit a report to the legislature at the beginning of each regular session detailing all real estate transactions which are proposed or agreements which have been entered into between the Kansas department of wildlife, parks and tourism and any other party, other than another state agency, which relate to any acquisition or disposition of any real estate, or interest in real estate, by the Kansas department of wildlife, parks and tourism or any such contracting party.

(b) (1) With regard to executed agreements, the report required by this section shall include for each such acquisition to be reported: (A) The legal description of the real estate or interest acquired; (B) the purchase price; (C) if appropriation of state moneys is required for the acquisition, the appraised value of the real estate or interest acquired; and (D) if the real estate or interest therein will remain subject to ad valorem property taxation.

(2) With regard to proposed real estate transactions, the report required by this section shall include for each such proposed transaction to be reported: (A) The legal description of the real estate or interest acquired; (B) if appropriation of state moneys is required for the proposed transaction, the appraised value of the real estate or interest proposed to be acquired; and (C) if the real estate or interest therein will remain subject to ad valorem property taxation.

(c) The reporting requirements of this section shall not apply to real estate or interest therein acquired under the wildtrust program until such time as the deeds are filed for record.

(d) Agreements which have been entered into and are required to be reported pursuant to this section shall be published in the Kansas register within 30 days of the execution of any such agreement.

**History:** L. 1993, ch. 185, sec. 18; L. 2006, ch. 150, sec. 6; L. 2012, ch. 47, sec. 31; July 1

**32-845. Contracts with federal agencies; legislative approval, when.** (a) Neither the Kansas department of wildlife, parks and tourism, nor any officer or employee of the state on behalf of the department, shall enter into any contract for the acquisition or lease of real estate with the corps of engineers or the bureau of reclamation which will require any future appropriation unless the contract is first approved by the legislature as provided by subsection (b).

(b) A contract subject to the provisions of subsection (a) shall be approved by the legislature by:

(1) Law or concurrent resolution; or

(2) approval of the contract by the legislative coordinating council.

(c) Any contract entered into without approval of the legislature when required by this section is null and void.

(d) The provisions of this section shall not apply to contracts requiring future appropriations of only: (1) Moneys that are received from the corps of engineers or the bureau of reclamation or from a private source; or (2) moneys to be expended in response to a major disaster declared by the president of the United States. In addition, the provisions of this section shall not apply to lease renewals with the corps of engineers or bureau of reclamation, except the department shall notify the chairperson, vice-chairperson and ranking minority member of both the house and senate energy and natural resources committees on or before the first day of a legislative session of any such lease renewals pending for that calendar year.

(e) As used in this section, “future appropriation” means an appropriation for a fiscal year commencing more than one year after the date the contract is entered.

**History:** L. 1996, ch. 107, sec. 1; L. 2012, ch. 47, sec. 32; July 1.

**32-846. Approval of agreement and lease for Milford Lake wetlands.** (a) Pursuant to K.S.A. 32-845, and amendments thereto, the Kansas department of wildlife, parks and tourism is hereby authorized to enter into a project cooperative agreement and related lease with the U.S. department of the army to modify and restore approximately 2,550 acres of permanent and seasonal wetland habitat located on the Republican River floodplain within the flood control pool of Milford Lake subject to the following: The proposed project shall be developed in the following three stages and moneys to pay the nonfederal share of project costs for each stage shall be secured before commencement of such stage: (1) Stage 1, in the areas of Lower Refuge, Cane Creek, Mall Creek and Smith Bottoms, totaling approximately 1,030 acres; (2) stage 2, in the areas of Quimby Creek, Smith Bottoms addition, Beichter Bottoms, East Broughton 1 and 3 and West Broughton 1 and 2, totaling approximately 895 acres; and (3) stage 3, in the areas of West Broughton 3 and 4, Martin, East Broughton 2 and 4 and Sugar Bowl, totaling approximately 415 acres.

(b) The Kansas department of wildlife, parks and tourism is hereby authorized to assume costs associated with the operation, maintenance, repair, replacement and rehabilitation of the area in each stage of the Milford Lake wetlands wildlife habitat restoration project after completion of such stage by the U.S. department of the army. Such costs shall be paid from wildlife-related fee funds of the department and from any nonstate moneys available for that purpose.

**History:** L. 1998, ch. 49, sec. 1; L. 1999, ch. 73, sec. 1; L. 2012, ch. 47, sec. 33; July 1.

**32-847 to 32-849. Reserved.**

**32-850. Mineral leases; authorization.** The secretary is hereby authorized to lease any of the lands under the secretary's control, the title of which is vested in the state of Kansas, for the production of oil, gas or other minerals, which the secretary deems valuable for that purpose. All such leases shall be on such terms and conditions as the secretary prescribes, except that such leases shall not be for a period of more than 10 years, and so long as oil, gas or other minerals are produced in paying quantities thereon.

**History:** L. 1945, ch. 313, sec. 1; L. 1989, ch. 118, sec. 49; July 1.

Source or prior law: 74-3315.

**32-851. Same; procedure.** Before entering into any such oil, gas or other mineral lease, the secretary shall give not less than 30 days' public notice in the Kansas register of the intention to enter the lease. Leases shall be made only upon competitive bids and shall be awarded to the highest responsible bidder. The right to reject any and all bids for leases shall be reserved by the secretary.

**History:** L. 1945, ch. 313, sec. 2; L. 1981, ch. 324, sec. 23; L. 1989, ch. 118, sec. 50; July 1.

Source or prior law: 74-3316.

**32-852: Same; liability for damages.** The lessee, under any oil, gas or other mineral lease executed by the secretary, shall be liable in damages to any surface lessee and to the state for any and all injury, damages or loss, caused by any negligent act or omission of the lessee, to any property of the surface lessee or to any property of the state located upon or used in connection with the lands subject to the mineral lease.

**History:** L. 1945, ch. 313, sec. 3; L. 1989, ch. 118, sec. 51; July 1.

Source or prior law: 74-3317.

**32-853. Same; restriction as to uses or occupancy.** All leases entered pursuant to K.S.A. 1989 Supp. 32-850 through 32-852, and the uses or occupancy thereunder, shall not interfere materially with the purposes for which the lands subject to the mineral lease were granted to the state of Kansas.

**History:** L. 1945, ch. 313, sec. 4; L. 1989, ch. 118, sec. 52; July 1.  
Source or prior law: 74-3318.

**32-854. Same; disposition of proceeds.** The rentals, delay rentals, bonuses, royalties and all proceeds from mineral leases and production shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. 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 or the park fee fund, as directed by the secretary.

**History:** L. 1945, ch. 313, sec. 5; L. 1989, ch. 118, sec. 53; L. 2001, ch. 5, sec. 98; July 1.  
Source or prior law: 74-3319.

**32-855, 32-856. Reserved.**

**32-857. Revenue bonds; authority to issue.** (a) The secretary shall have power and is hereby authorized to issue negotiable bonds of the department, from time to time, in anticipation of the collection of revenues of a specific project or a dedicated revenue source, for the purpose of constructing, acquiring, reconstructing, improving, bettering or extending any properties which the secretary is authorized to acquire, maintain or operate hereunder and may pledge to the payment of the interest on and principal of such bonds all income received from operation of the specific project or from the dedicated revenue source. There may be included, in the cost for which bonds are to be issued, reasonable allowances for legal, engineering and fiscal services, interest during construction and for six months after the estimated date of completion of construction and other incidental expenses. Such bonds shall be authorized by resolution of the secretary and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding 40 years from their respective dates, may bear interest at such rate or rates not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009 and amendments thereto, may be in such form either coupon or registered, may be executed in such manner, may be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, and may contain such terms, covenants and conditions as such resolution or subsequent resolution may provide. Such bonds may be issued for money or property and may be sold in such manner and upon such terms as the secretary determines, except that the interest cost to maturity of the bonds shall not exceed the maximum rate of interest prescribed by K.S.A. 10-1009 and amendments thereto, payable semiannually. Pending all preparations of the definitive bonds, interim receipts or certificates in such form and with such provisions as secretary determines may be issued to the purchaser or purchasers of bonds sold pursuant to K.S.A. 1989 Supp. 32-857 through 32-864. Such bonds and interim receipts and certificates shall be fully negotiable within the meaning of and for all purposes of the uniform negotiable instruments law of this state.

(b) Any resolution authorizing the issuance of bonds under this section may contain covenants, including but not limited to: (1) The purpose or purposes to which the proceeds of the sale of bonds may be applied, and the deposit, use and disposition thereof; (2) the use, deposit, securing of deposits and disposition of the revenues of the department in connection with a project, including the creation and maintenance of reserves; (3) the issuance of additional bonds payable from the revenues of the same project of the department or specified revenue source dedicated by the secretary; (4) the operation and maintenance of the project under the jurisdiction and control of the secretary; (5) the insurance to be carried thereon, and the use, deposit and disposition of insurance moneys; (6) books of account and the inspection and audit thereof and the accounting methods of the department; (7) the nonrendering of any

free service by the department; and (8) the preservation of the properties of the department, so long as any of the bonds remain outstanding, from any mortgage, sale, lease or other encumbrance not specifically permitted by the terms of the resolution.

(c) In the discretion of the secretary, any bonds issued under the provisions of this section may be secured by a trust indenture by and between the secretary and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state. Any such trust indenture may pledge or assign the revenues from the operation of a specific project of the department or specified revenue source dedicated by the secretary for which bonds are issued, but shall not convey or mortgage any properties except such revenues. Any such trust indenture or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the department in relation to the acquisition of property; the construction, improvement, maintenance, repair, operation and insurance of the improvements in connection with which such bonds have been authorized; the custody, safeguarding and application of all moneys; and provisions for the employment of consulting engineers in connection with the construction or operation of such improvements. It shall be lawful for any bank or trust company incorporated under the laws of the state, which may act as depository of the proceeds of bonds or of revenues, to furnish such indemnifying bonds or to pledge such securities as may be required by the secretary. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee and may restrict the individual right of action by bondholders as is customary in trust agreement or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust indenture may contain such other provisions as the secretary may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

(d) Moneys received pursuant to the authority of this section, whether as proceeds from the sale of bonds, as revenues from the operations of the properties or as specified revenue sources dedicated by the secretary, shall be deemed to be trust funds, to be held and applied solely as provided in K.S.A. 1989 Supp. 32-857 through 32-864. The resolution authorizing the issuance of bonds of any issue, or the trust indenture securing such bonds, shall provide that any officer to whom, or any bank or trust company to which, such money shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purpose hereof, subject to such regulations as K.S.A. 1989 Supp. 32-857 through 32-864 and such resolution or trust indenture may provide. The secretary is authorized to issue bonds only in connection with a specific project and, unless otherwise provided by law, authorized to pledge for the payment of such bonds and interest thereon only the revenues derived from the operation of the specific project for which the bonds are issued or specific revenues pledged in the resolution issued by the secretary for the payment of such bonds and interest thereon for the specific project for which the bonds were issued.

(e) Bonds may be issued under the provisions of K.S.A. 1989 Supp. 32-857 through 32-864 without obtaining the consent of any department, division, commission, board, bureau or agency of the state and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by K.S.A. 1989 Supp. 32-857 through 32-864.

**History:** L. 1955, ch. 355, sec. 18; L. 1963, ch. 409, sec. 8; L. 1970, ch. 64, sec. 87; L. 1989, ch. 118, sec. 24; July 1.

Source or prior law: 74-4518.

**32-858: Same; disposition of proceeds.** (a) All moneys derived from the sale of bonds as provided in K.S.A. 32-857 through 32-864, and amendments thereto, shall be paid into the state treasury and the state treasurer shall credit the same to a special account for the use of the department to pay the cost of

the specific public improvement or project for which the bonds were issued as shown by the bond indenture executed in connection with the issuance of the bonds. If moneys derived from the sale of bonds exceed the amount necessary to complete the specific public improvement or project for which the bonds were issued, the secretary shall have power by resolution to direct the state treasurer to transfer any surplus from the special account to another account in the department's fee funds for the purpose of retiring the bonds. Upon making any such transfer the state treasurer shall notify the director of accounts and reports and the secretary thereof, who shall make the proper entries in the records of their respective offices to show such transfer.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the special account established in subsection (a), interest earnings based on:

(1) The average daily balance of moneys in the special account established in subsection (a) for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(c) The director of accounts and reports, upon the presentation of properly itemized and executed vouchers, approved by the secretary, is hereby authorized to draw warrants on the state treasurer against the special account created under this section.

**History:** L. 1955, ch. 355, sec. 15; L. 1963, ch. 409, sec. 7; L. 1975, ch. 404, sec. 6; L. 1987, ch. 295, sec. 9; L. 1989, ch. 48, sec. 93; L. 1989, ch. 118, sec. 25; L. 1989, ch. 274, sec. 4; L. 1992, ch. 272, sec. 2; L. 1996, ch. 253, sec. 1; May 23.

Source or prior law: 74-4515.

**32-859. Same; form; validity; negotiability; replacement.** (a) The bonds shall be signed by the secretary or shall bear the secretary's facsimile signature, and any coupons attached thereto shall bear the facsimile signature of the secretary. Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof any or all the persons whose signatures appear thereon shall have ceased to hold such office. The validity of such bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the properties for which the bonds are issued. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to K.S.A. 1989 Supp. 32-857 through 32-864, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(b) All bonds issued under the provisions of K.S.A. 1989 Supp. 32-857 through 32-864 shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the uniform negotiable instruments law of this state.

(c) The secretary may provide for the replacement of any bonds which are mutilated, destroyed or lost.

**History:** L. 1955, ch. 355, sec. 19; L. 1989, ch. 118, sec. 26; July 1.

Source or prior law: 74-44519, 74-4521.

**32-860. Same; pledge of revenues.** (a) The secretary shall, by rules and regulations adopted in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, prescribe and collect reasonable rates, fees, tolls or charges for the services, facilities and commodities rendered and provided at each specific project of the department, the revenues of which have been pledged to the payment of bonds issued under K.S.A. 1989 Supp. 32-857 through 32-864 and shall revise such rates, fees, tolls or charges from time to time whenever necessary to insure that the revenues to be derived therefrom shall be fully sufficient to pay principal of and interest on such bonds. The gross revenues derived by the department from the operation of any part of parts of a specific project of the department may be pledged to the

payment of such principal and interest. It is specifically provided that the department may, on any land under its control, erect and operate or lease cabins, hotels, lodges, restaurants and other facilities for the public and make use of the recreational facilities surrounding such improvements.

(b) The secretary may, in conjunction with any bonds issued for the erection, extension or improvement of any lodges, hotels, cabins, restaurants or other facilities in connection with a specific project, secure leases from competent and reliable individuals or corporations, which leases will provide for rental incomes sufficient to meet the requirements of principal, interest, insurance and maintenance of the property to be constructed. The determination of the secretary that the rental rates from any such lease are sufficient to meet the requirements of principal, interest, insurance and maintenance shall be final and conclusive. All personal property deemed necessary by the secretary to equip such cabins, hotels, lodges and restaurants may be purchased by the department through the purchasing division of the state department of administration. The secretary shall have the power to reject any and all bids. All revenues which may be received by the secretary for the use of such buildings, in whole or in part, shall be regarded as are other revenues of the project and shall be subject to pledge to the payment of any bonds issued in connection therewith. Each bond shall recite in substance that such bond and the interest thereon is payable from the revenues pledged to the payment thereof and that such bond does not constitute a debt of the state of Kansas or of the secretary of department within the meaning of any constitutional or statutory limitation.

(c) The department may collect rates, fees, tolls or charges for the use of specific projects which shall have been improved by funds acquired through bond issuance and such rates, fees, tolls or charges may be pledged for the payment of bonds and interest, except that no tolls or charges shall be imposed by the secretary for the use of highways or bridges unless constructed as a part of the bond project.

**History:** L. 1955, ch. 355, sec. 20; L. 1963, ch. 409, sec. 9; L. 1989, ch. 118, sec. 27; July 1.  
Source or prior law: 74-4520.

**32-861. Same; default on payment; remedies.** It may be provided in any resolution authorizing bonds under K.S.A. 1989 Supp. 32-857 through 32-864 that, in the event of a default in the payment of principal or interest on the bonds or in the performance of any agreement or covenant contained in the resolution, and if such default continues for a prescribed period, the holders of a specified percentage of the outstanding bonds, or a trustee acting in their behalf, for the equal and proportionate benefit of the holders of all the bonds and with or without possession thereof may:

(a) By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the holders of such bonds.;

(b) bring suit upon the defaulted bonds and interest thereon.;

(c) by action or suit in equity require the secretary to act as if the secretary were the trustee or any express trust for the bondholders;

(d) by action or suit in equity enjoin any acts which may be unlawful or in violation of the rights of the holders of the bonds;

(e) after such notice to the secretary as the resolution may provide, declare the principal of all of the bonds due and payable; and

(f) apply as a matter of right for the appointment of a receiver who may enter and take possession of the specific project of the department and operate and maintain the same and fix, collect and receive fees and charges for the use thereof and services rendered thereby, sufficient to provide revenue adequate to carry out all of the provisions of the bond resolution and the costs and disbursement of the proceeding and of the receiver.

Subject to the provision of the constitution of the state of Kansas, the district court of the county in which any of the real estate controlled and operated by the department is located shall have jurisdiction of any suit, action or proceeding provided for by this section and of all property involved therein.

**History:** L. 1955, ch. 355, sec. 21; L. 1963, ch. 409, sec. 10; L. 1983, ch. 49, sec. 95; L. 1989, ch. 118, sec. 28; July 1.

Source or prior law: 74-4521.

**32-862. Same; tax exemptions.** The exercise of the powers granted by K.S.A. 1989 Supp. 32-857 through 32-864 will be in all respects for the benefit of the people of the state, for the increase of their prosperity and for the improvement of their health and living conditions, and as the operation and maintenance of projects by the department will constitute the performance of essential governmental functions, the department shall not be required to pay any taxes or assessments upon the income derived from any project or property acquired or used by the department under the provisions of K.S.A. 1989 Supp. 32-857 through 32-864. Any bonds issued under the provisions of K.S.A. 1989 Supp. 32-857 through 32-864, their transfer and the income therefrom, (including any profit made on the sale thereof), shall at all times be free from taxation within the state.

**History:** L. 1955, ch. 355, sec. 22; L. 1975, ch. 495, sec. 18; L. 1989, ch. 118, sec. 29; July 1.

Source or prior law: 74-4522.

**32-863. Same; investment.** Bonds issued by the secretary under the provisions of K.S.A. 1989 Supp. 32-857 through 32-864 are hereby made securities in which all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

**History:** L. 1955, ch. 355, sec. 23; L. 1989, ch. 118, sec. 30; July 1.

Source or prior law: 74-4523.

**32-864. Same; refunding revenue bonds authorization.** The secretary is hereby authorized to provide by resolution for the issuance of revenue refunding bonds of the department for the purpose of refunding any bonds then outstanding which have been issued under the provisions of 1989 Supp. 32-857 through 32-864, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the secretary, for the additional purpose of constructing improvements, extensions or enlargements of the specific project in connection with which the bonds to be refunded have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the secretary and the department in respect of the same shall be governed by the provisions of K.S.A. 1989 Supp. 32-857 through 32-864 insofar as applicable.

**History:** L. 1955, ch. 355, sec. 24; L. 1963, ch. 409, sec. 11; L. 1989, ch. 118, sec. 31; July 1.

Source or prior law: 74-4524.

**32-865, 32-866. Reserved.**

**32-867. Resort bonds; definitions.** As used in K.S.A. 32-867 through 32-873 and sections 1 through 4, and amendments thereto, unless the context otherwise requires:

(a) "Resort" means the comprehensive collection of land, buildings and facilities authorized to be acquired, constructed and operated for the use of the public for vacation, convention or recreational purposes.

(b) "Facilities" means and includes, but is not limited to, any building, drive, access road, air strip, restaurant, lodge, pavilion, tennis court, golf course, parking lot, beach, bathhouse, dock or other improvement or any equipment necessary, in the opinion of the secretary, for use in connection with the acquisition, construction, operation or management of a resort authorized by K.S.A. 32-867 through 32-873 or sections 1 through 4, and amendments thereto.

(c) "Site" means a geographical location selected by the secretary pursuant to section 4, and amendments thereto, for installation of a resort.

**History:** L. 1972, ch. 298, sec. 1; L. 1989, ch. 118, sec. 32; L. 1998, ch. 92, sec. 5; April 16.  
Source or prior law: 74-4537, 74-4539.

**32-868. Same; resort sites.** The secretary may select sites and lease or acquire, construct, equip and operate, or cause to be operated, resorts for the use and enjoyment of the public upon sites to be selected in accordance with the provisions of K.S.A. 1989 Supp. 32-867 through 32-873.

**History:** L. 1972, ch. 298, sec. 2; L. 1989, ch. 118, sec. 33; July 1.  
Source or prior law: 74-4538.

**32-869. Same; amount of bonds authorized; payment.** The Kansas development finance authority is hereby authorized to issue, pursuant to K.S.A. 32-857 through 32-864, and amendments thereto, revenue bonds in an amount or amounts not to exceed \$30,000,000 for any one resort. The proceeds from the sale of such bonds shall be used, together with any other funds available for such purpose, to construct and equip a resort on state-owned or leased property under the jurisdiction of the Kansas department of wildlife, parks and tourism. The bonds, and interest thereon, issued pursuant to this section shall be payable by the private sector developer from revenues to include, but not limited to, resort charges, rentals and fees, such payment to be in lieu of lease payments and shall never be deemed to be an obligation or indebtedness of the state within the meaning of article 11, section 6 of the Kansas constitution.

**History:** L. 1972, ch. 298, sec. 3; L. 1982, ch. 316, sec. 3; L. 1989, ch. 118, sec. 34; L. 1998, ch. 92, sec. 6; L. 2012, ch. 47, sec. 34; July 1.  
Source or prior law: 74-4539.

**32-870. Same; zoning regulations subject to secretary's approval.** Upon acquisition of a site for a resort as authorized by K.S.A. 1989 Supp. 32-867 through 32-873, the secretary shall have submitted for the secretary's approval or disapproval any proposed zoning ordinance, zoning changes, changes in height or setback requirements, or any other variance or exception to existing zoning regulations, plans or ordinances of any local subdivision of government affecting land located within one mile of the boundaries of the resort site acquired. Such proposed ordinance, change, variance or exception shall be submitted in writing by the governing body of the local subdivision of government having authority to adopt or make such ordinance, change, variance or exception by mailing notice thereof to the office of the secretary in Topeka. If the secretary has not disapproved such proposed ordinance, change, variance or exception within 90 days from the date such written notice was received by the secretary as herein provided, such proposed ordinance, change, variance or exception shall be deemed to be approved. If disapproved by the secretary, the proposed ordinance, change, variance or exception shall be void and the secretary shall be authorized to maintain an action to enforce the secretary's order.

**History:** L. 1972, ch. 298, sec. 4; L. 1989, ch. 118, sec. 35; July 1.  
Source or prior law: 74-4540.

**32-871. Same; site selection.** The secretary shall select sites for resorts which are adjacent to existing or proposed federal reservoirs and are determined to be most feasible from evidence gathered by



the secretary in support of the sale of bonds as authorized by K.S.A. 1989 Supp. 32-867 through 32-873. The secretary may contract for a feasibility study as an aid in determining the location of a site. In determining the exact location of a site prior to acquisition the secretary shall consider, among other factors, ready access from both nearby interstate or interstate connected controlled access highways and public transportation systems and facilities.

**History:** L. 1972, ch. 298, sec. 5; L. 1989, ch. 118, sec. 36; July 1.  
Source or prior law: 74-4541.

**32-872. Same; acquisition of site; construction and operation of resort.** Upon selection of any resort site, the secretary shall proceed with acquisition of the site and construction and operation of the resort under authority of K.S.A. 1989 Supp. 32-867 through 32-873 and, in aid thereof, shall have and exercise all the powers, privileges and immunities granted by law.

**History:** L. 1972, ch. 298, sec. 6; L. 1989, ch. 118, sec. 37; July 1.  
Source or prior law: 74-4542.

**32-873. Same; legislative approval of site.** Notwithstanding the provisions of K.S.A. 32-867 through 32-872, the selection of any site by the secretary of wildlife, parks and tourism and secretary of commerce pursuant to K.S.A. 32-874d, and amendments thereto, shall not become final, nor shall any revenue bonds be issued for the resort development, until the site so selected and the amount of the bonds proposed to be issued have been approved by the legislature or the state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c, and amendments thereto.

**History:** L. 1972, ch. 298, sec. 8; L. 1975, ch. 428, sec. 4; L. 1989, ch. 118, sec. 38; L. 1998, ch. 92, sec. 7; L. 2003, ch. 154, sec. 8; L. 2012, ch. 47, sec. 35; July 1.  
Source or prior law: 74-4544.

**32-874. Lake resorts; feasibility study.** (a) The secretary of commerce and the secretary of wildlife, parks and tourism, together, shall direct and implement a feasibility study regarding the potential of developing lake resorts in Kansas. The study shall consider ready access from nearby interstate and interstate connected controlled access highways, public transportation systems, facilities and any other factors that may affect tourism to a given site. The study shall consider only sites at existing state parks or lakes.

(b) The feasibility study shall be completed by January 1, 1998, with a joint report on the study's results and recommendations derived therefrom to be presented to the legislature, house committee on tourism, senate committee on transportation and tourism and to the governor during the 1998 legislative session.

**History:** L. 1997, ch. 171, sec. 4; L. 2012, ch. 47, sec. 36; July 1.

**32-874a. Same; incentive plan.** The feasibility study required under K.S.A. 32-874, and amendments thereto, being completed, the secretary of commerce, the secretary of wildlife, parks and tourism and the secretary of transportation will develop an incentive plan outlining the state of Kansas' commitment toward building a lake resort which shall include, but not limited to, infrastructure improvements, utility improvements and tax incentives to be offered for sites at, including, but not limited to the six state parks selected in the feasibility study reported to the 1998 legislature: Cheney, Clinton, El Dorado, Hillsdale, Perry and Milford.

**History:** L. 1998, ch. 92, sec. 1; L. 2003, ch. 154, sec. 9; L. 2012, ch. 47, sec. 37; July 1.

**32-874b. Same; negotiations with lake resort communities.** Once the state incentive packages are

agreed upon, the secretary of wildlife, parks and tourism, under K.S.A. 32-807, 32-830 and 32-831, and amendments thereto, and the secretary of commerce under K.S.A. 74-5005, and amendments thereto, will take the incentive package for each lake resort site to communities adjacent to each state park, revealing what the state is willing to commit to the development of a lake resort near each lake resort community and negotiate and determine what each community is willing to offer as an incentive to have the lake resort develop near its community.

**History:** L. 1998, ch. 92, sec. 2; L. 2003, ch. 154, sec. 10; L. 2012, ch. 47, sec. 38; July 1.

**32-874c. Same; negotiations with federal agencies.** The secretary of wildlife, parks and tourism, if necessary, shall negotiate and contract with the United States corps of engineers, bureau of reclamation, or other federal agency under K.S.A. 32-824, 32-825, 32-826 and 32-845, and amendments thereto, regarding a selected site and seek the necessary legislative approval under K.S.A. 32-843, and amendments thereto.

**History:** L. 1998, ch. 92, sec. 3; L. 2012, ch. 47, sec. 39; July 1.

**32-874d. Same; requests for proposals, advertisement, negotiations with developers.** (a) When the incentive packages for each of the lake resorts is determined, the secretary of wildlife, parks and tourism and the secretary of commerce shall develop requests for proposals which include the incentive packages for each site. The proposals received from developers under subsection (h)(6) of K.S.A. 32-807, and amendments thereto, shall be sealed.

(b) The Kansas department of wildlife, parks and tourism and the department of commerce shall advertise for proposal plans with bids for development of sites selected under K.S.A. 32-867, 32-868, 32-871 and 32-872, and amendments thereto. Advertisements for proposals with bids shall be published in the Kansas register and once each week for two consecutive weeks in a newspaper having general circulation in the community at least 60 days before the time for receiving the proposals with bids. The advertisement shall also be posted on readily accessible bulletin boards in all offices of the two departments and on the information network of Kansas. The advertisement shall identify the area to be developed, the purpose of the development and shall state that such further information as is available may be obtained from either departments' office in Topeka.

The two secretaries shall consider all proposals with bids submitted, the financial and legal ability of the private sector developers making such proposals with bids to carry them out and may negotiate with any private sector developer for a proposal with bid. The secretaries may accept such proposal with bid as it deems to be in the public interest and in furtherance of the purposes of this act.

(c) Once proposals are received from developers wishing to contract for building the resort, the secretary of wildlife, parks and tourism utilizing powers and authority granted under K.S.A. 32-807, 32-862, 32-863 and 32-867 through 32-872, and amendments thereto, and the secretary of commerce under K.S.A. 74-5005, and amendments thereto, shall select, negotiate and contract for the construction of a lake resort which shall be operated as a private concession and developed with private funding to include, but not limited to, the issuance of revenue bonds under K.S.A. 32-857 through 32-864, and amendments thereto.

(d) The secretary of wildlife, parks and tourism and the secretary of commerce may engage a private consultant to assist in the development of a contract for the selected site. Consistent with the powers and authority granted to the secretary of wildlife, parks and tourism, the secretary may waive any relevant park fees, obtain revenue from the resort and resort facilities and include penalty provisions in the contract regarding nonperformance by the operator and developer of the resort.

(e) The secretary of wildlife, parks and tourism and the secretary of commerce shall not seek approval under K.S.A. 32-873, and amendments thereto, until the requirements of subsections (a) through (d) are satisfied.

**History:** L. 1998, ch. 92, sec. 4; L. 2003, ch. 154, sec. 11; L. 2012, ch. 47, sec. 40; July 1.

**32-874e. Same; joint report to legislature.** The secretary of wildlife, parks and tourism and the secretary of commerce shall present a joint report concerning negotiations, site selection, and status of the resort to the legislature, house committee on tourism, senate committee on transportation and tourism and to the governor during the 1999 legislative session.

**History:** L. 1998, ch. 92, sec. 9; L. 2003, ch. 154, sec. 12; L. 2012, ch. 47, sec. 41; July 1

**32-875. Reserved.**

**32-876. Hatchery bonds; definitions.** As used in K.S.A. 1989 Supp. 32-876 through 32-885, unless the context otherwise requires:

(a) "Hatchery" means a fish hatchery constructed, maintained, operated, equipped and stocked pursuant to K.S.A. 1989 Supp. 32-876 through 32-885.

(b) "Revenue bonds" means bonds issued pursuant to K.S.A. 1989 Supp. 32-876 through 32-885 and payable as to both principal and interest out of the income derived from hatchery stamps and, in the discretion of the secretary, out of the proceeds of any grant-in-aid which may be received from any source.

(c) "Hatchery stamps" means stamps, punches or any other method of identification of the form and design selected and prescribed in accordance with the rules and regulations adopted by the secretary in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto.

**History:** L. 1982, ch. 173, sec. 1; L. 1989, ch. 118, sec. 39; July 1.  
Source or prior law: 32-601.

**32-877. Same; hatchery stamps to pay bonds.** (a) For the purposes of paying the principal of and interest on revenue bonds issued and sold pursuant to K.S.A. 32-876 through 32-885, and amendments thereto, the secretary shall issue and sell hatchery stamps which shall be affixed to all fishing licenses issued by the secretary. The fee for each stamp issued shall be fixed by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto.

(b) If hatchery stamps have been issued by the secretary, no person required to purchase a fishing license shall fish within this state without first procuring a hatchery stamp and having it in possession while fishing.

(c) All moneys collected from the issuance and sale of hatchery stamps in excess of the amount required to pay the principal of and interest and premium, if any, on the revenue bonds shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. 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.

**History:** L. 1982, ch. 174, sec. 1; L. 1989, ch. 118, sec. 40; L. 1994, ch. 61, sec. 1; L. 2001, ch. 5, sec. 99; July 1.

Source or prior law: 32-602.

**32-878. Same; bonds authorized; pledge of revenues; covenants and agreements.** (a) The secretary is hereby authorized to issue and sell revenue bonds of the department for the purpose of paying all or part of the cost of acquiring a site, constructing, reconstructing, improving, expanding, equipping and stocking a fish hatchery. The revenue bonds may be issued from time to time and sold in amounts which the secretary deems necessary for such purposes.

(b) Prior to the issuance of the revenue bonds, the secretary shall:

(l) Pledge the gross revenues derived from the sale of hatchery stamps to the payment of the principal

of and interest on the revenue bonds;

(2) pledge to create and maintain (A) revenue bond funds adequate to promptly pay both the principal of and interest on the revenue bonds when they become due and (B) a reasonable reserve fund;

(3) determine an interest rate to be paid on the principal of the revenue bonds not in excess of the maximum rate of interest prescribed by K.S.A. 10-1009 and amendments thereto;

(4) determine that the revenue bonds will be term or serial bonds maturing not later than 40 years from their date;

(5) fix the purchase price of hatchery stamps in an amount necessary to sell the revenue bonds and assure the prompt payment of the principal of and interest on the revenue bonds as they become due, and sell the revenue bonds in the manner provided by K.S.A. 10-106 and amendments thereto at not less than 90% of the par value thereof;

(6) register the revenue bonds with the state treasurer.

(c) Prior to the issuance of the revenue bonds, the secretary may:

(1) Pledge the proceeds of any grant-in-aid, gift donation, bequest, or other such fund, or the income from any of such sources obtained by the department directly or in trust, to the payment of the principal of and interest on the revenue bonds;

(2) covenant or contract in the resolution authorizing the issuance of revenue bonds, any and all matters consistent with the authority granted herein necessary and convenient in the determination of the secretary to sell the revenue bonds and obtain the most favorable interest rate thereon, including but not limited to, maturities, priority of liens, number of issuances, special funds for security, redemption privileges, security agreements, trust indentures, paying agencies, registration provisions and conversion privileges.

**History:** L. 1982, ch. 173, sec. 3; L. 1989, ch. 118, sec. 41; July 1.

Source or prior law: 32-603.

**32-879. Same; bonds not state indebtedness; contracts binding.** (a) Revenue bonds issued under K.S.A. 1989 Supp. 32-876 through 32-885, including refunding revenue bonds, shall be special obligations of the department in accordance with their terms and shall not constitute an indebtedness of the state of Kansas, the department or the secretary, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(b) All contracts, agreements and covenants contained in the resolution authorizing the issuance of revenue bonds shall be binding in all respects upon the department, its officials, agents, employees and successors. Such agreements, contracts and covenants shall be enforceable by appropriate legal action brought pursuant to the terms of the resolution authorizing the issuance of revenue bonds

**History:** L. 1982, ch. 173, sec. 4; L. 1989, ch. 118, sec. 42; July 1.

Source or prior law: 32-604.

**32-880. Same; refunding revenue bonds authorized.** The secretary may issue revenue bonds for the purpose of refunding revenue bonds issued under K.S.A. 1989 Supp. 32-876 through 32-885 pursuant to the terms and authority of K.S.A. 10-116a and amendments thereto.

**History:** L. 1982, ch. 173, sec. 5; L. 1989, ch. 118, sec. 43; July 1.

Source or prior law: 32-605.

**32-881. Same; disposition of bond proceeds.** The proceeds derived from the sale of all revenue bonds issued under K.S.A. Supp. 32-876 through 32-885, and amendments thereto, shall be deposited to the credit of the department in a bank, banks or depositories designated by the secretary and kept in a separate fund and used solely for the purpose for which the revenue bonds are authorized. The secretary is authorized to make all contracts and execute all instruments which the secretary deems necessary or

advisable for the purpose of acquiring a site, constructing, reconstructing, improving, expanding, equipping and stocking a fish hatchery, and to provide for the manner of disbursement of the funds for such purposes. Except as provided by subsection (c) of K.S.A. 32-877 and amendments thereto, nothing contained in K.S.A. Supp. 32-876 through 32-885, and amendments thereto, shall be construed as placing in the state treasury any moneys collected under such sections or requiring such action, and the legislature hereby declares that funds deposited under this section shall not be subject to the provisions of section 24 of article 2 of the Kansas constitution.

**History:** L. 1982, ch. 173, sec. 6; L. 1989, ch. 118, sec. 44; L. 1994, ch. 61, sec. 2; July 1.  
Source or prior law: 32-606.

**32-882. State; tax exemption.** The revenue bonds issued under K.S.A. 1989 Supp. 32-876 through 32-885 and any refunding revenue bonds authorized to be issued under such sections, and the income derived therefrom, are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas inheritance taxes.

**History:** L. 1982, ch. 173, sec. 7; L. 1989, ch. 118, sec. 45; July 1.  
Source or prior law: 32-607.

**32-883. Same; investment.** Revenue bonds authorized under K.S.A. 1989 Supp. 32-876 through 32-885 shall be proper and legal investment securities for any investment funds of the state of Kansas or any department, agency or institution thereof, or any county, municipal or other public corporation or political subdivision created pursuant to the laws of the state of Kansas. Banks, trust companies and insurance companies organized under the laws of the state of Kansas and the Kansas public employees retirement system may legally and properly purchase revenue bonds issued under K.S.A. 1989 Supp. 32-876 through 32-885, and they are hereby deemed and approved as collateral security for the deposit of any and all funds and for the investment of all trust funds under the jurisdiction of the laws of the state of Kansas.

**History:** L. 1982, ch. 173, sec. 8; L. 1989, ch. 118, sec. 46; July 1.  
Source or prior law: 32-608.

**32-884. Same; authority and powers conferred by act. K.S.A. 1989 Supp. 32-876 through 32-885 constitute full and complete authority for the purposes set out in such sections, and no procedure or proceedings other than those required by such sections shall be necessary for the performance of the provisions thereof.** The powers conferred by K.S.A. 1989 Supp. 32-876 through 32-885 shall be in addition and supplemental to and not in substitution for, and the limitations imposed by such sections shall not affect, the powers conferred on the secretary by any other law.

**History:** L. 1982, ch. 173, sec. 9; L. 1989, ch. 118, sec. 47; July 1.  
Source or prior law: 32-609.

**32-885. Same; notice of intent to issue; actions to contest validity limited.** Prior to the issuance of any revenue bonds under authority of K.S.A. 1989 Supp. 32-876 through 32-885 and after the adoption of a resolution authorizing any revenue bonds under such sections, the secretary shall cause to be published once in the Kansas register a notice to all persons interested that the secretary has determined to issue revenue bonds under authority of K.S.A. 1989 Supp. 32-876 through 32-885. The notice shall state the amount or maximum amount of revenue bonds to be issued pursuant to such resolution, together with a brief statement of the purposes for which the proceeds are to be used, and further, that unless an action to contest the legality of the proposed revenue bonds is filed in a court of law within 30 days from the date of such publication, the right to contest the legality of any revenue bonds issued in compliance with the proceedings taken by the secretary prior to the date of such publication and the right

to contest the validity of the provisions of such proceedings shall cease to exist and no court shall thereafter have authority to inquire into such matters. After the expiration of the 30 days, no one shall have any right to commence an action contesting the validity of such revenue bonds or the provisions of such proceedings and all revenue bonds shall be conclusively presumed to be legal, and no court shall thereafter have authority to inquire into such matters.

**History:** L. 1982, ch. 173, sec. 10; L. 1989, ch. 118, sec. 48; July 1.  
Source or prior law: 32-610.

**32-886. Family oriented lodging sites in state parks.** (a) Contingent upon a favorable response from federal agencies regarding development of shared resources, the secretary of the department of wildlife, parks and tourism shall identify and select sites suitable for the development of commercial, family oriented lodging areas at the following state parks: Clinton, Hillsdale, Kanopolis, El Dorado, Cheney, Wilson, Milford, Tuttle Creek, Pomona and such other state parks as the secretary deems appropriate.

(b) Such identification and selection of the sites shall take into consideration the mission of the facility, the environmental considerations and the availability of needed utilities.

(c) Family oriented lodging shall not include the development of lake resorts.

**History:** L. 1997, ch. 99, sec. 1; L. 2012, ch. 47, sec. 42; July 1.

**32-887. Same; leases for improvements and development.** The secretary of wildlife, parks and tourism is then authorized to negotiate for a long-term lease with a private sector developer for improvement and development of any selected state park site. All such leases shall be on such terms as the secretary prescribes and adhere to the purposes and considerations of K.S.A. 32-886, and amendments thereto.

**History:** L. 1997, ch. 99, sec. 2; L. 2012, ch. 47, sec. 43; July 1.

**32-888. Same; proposals for bids; advertising thereof; negotiations.** The Kansas department of wildlife, parks and tourism shall advertise for proposal plans with bids for development of sites selected under K.S.A. 32-886, and amendments thereto. Advertisements for proposals with bids shall be published once each week for two consecutive weeks in a newspaper having general circulation in the community at least 60 days before the time for receiving the proposals with bids. The advertisement shall also be posted on readily accessible bulletin boards in all offices of the department. The advertisement shall identify the area to be developed, the purpose of the development and shall state that such further information as is available may be obtained from the department's office in Topeka. The secretary shall consider all proposals with bids submitted, the financial and legal ability of the private sector developers making such proposals with bids to carry them out and may negotiate with any private sector developer for a proposal with bid. The secretary may accept such proposal with bid as it deems to be in the public interest and in furtherance of the purposes of this act.

**History:** L. 1997, ch. 99, sec. 3; L. 2012, ch. 47, sec. 44; July 1.

**32-889. Same; property tax exemption; payments in lieu of taxes, disposition.** All improvements of the selected state park site shall be exempt from ad valorem property tax but the owner or owners of the improvements shall be required to make a contract or contracts for payment of service charges in lieu of the ad valorem property tax in an amount equal to the value of the improvements as assessed by the county appraiser under the then existing tax process times 100 mills. All in lieu of moneys received will be divided equally between the county of location and the parks fee fund, established under K.S.A. 32-991, and amendments thereto.

**History:** L. 1997, ch. 99, sec. 4; July 1.

## Article 9.-LICENSES, PERMITS, STAMPS & OTHER ISSUES

**32-9, 100. Resident senior combination hunting and fishing pass.** On and after January 1, 2013, The Kansas department of wildlife, parks and tourism shall offer a resident senior combination hunting and fishing pass to residents of this state who are 65 years of age or more. The fee for such pass shall be an amount not to exceed 1/8 the fee for a general combination lifetime hunting and fishing license. The provisions of this section shall expire on June 30, 2020.

**History:** L. 2012, ch. 154, sec. 1; Jan. 1, 2013.

### PARKS

**32-901. Park and recreation motor vehicle permits; posting of information.** (a) Except as otherwise provided by law or rules and regulations of the secretary, a valid park and recreation motor vehicle permit is required to use a motor vehicle in any state park, or any portion thereof, or in any other area designated by the secretary pursuant to subsection (f), which is posted in accordance with subsection (g).

(b) (1) The secretary shall issue annual and daily park and recreation motor vehicle permits, in addition to permits as provided in K.S.A. 8-134, and amendments thereto.

(2) The annual permit shall be issued for each calendar year as provided in K.S.A. 32-983, 32-984 and 32-985, and amendments thereto, and shall not be transferable. The fee for an annual permit shall be fixed by the secretary by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto. A duplicate permit may be issued upon proof of loss of the original permit for the remainder of the calendar year for a fee fixed by the secretary by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto. If the motor vehicle for which an annual permit has been issued is sold or traded during the calendar year for which the permit was issued and the original permit is surrendered to the department, a new permit effective for the remainder of the calendar year may be issued to the person who sold or traded the motor vehicle for a fee fixed by the secretary by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto. Before any duplicate or new permit is issued, the purchaser thereof must show by evidence that the purchaser was issued the original permit and that the purchaser is the holder of a valid certificate of title to the motor vehicle for which the duplicate or new permit is issued.

(3) A daily permit shall be issued for a day, shall be issued for a specific vehicle and shall not be transferable. The fee for such a daily permit shall be fixed by the secretary by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto.

(c) Except as provided in K.S.A. 8-134, and amendments thereto, the following fees shall be applicable until changed by rules and regulations of the secretary:

(1) Annual motor vehicle permit: \$22.50;

(2) daily motor vehicle permit: \$3.50; and

(3) The fee for a daily permit or annual permit for a motor vehicle registered in Kansas by a resident who is 65 or more years of age or who is a person with a disability and displays a special license plate or placard issued pursuant to K.S.A. 8-1,125, and amendments thereto, shall be an amount equal to 1/2 the fee fixed by the secretary for daily or annual park and recreation motor vehicle permits. A nonresident shall pay the full fee.

(d) The provisions of subsection (a) do not apply to:

(1) A motor vehicle used in the operation or maintenance of state parks or other areas under the secretary's control, emergency motor vehicles, state-owned motor vehicles, law enforcement motor vehicles or private or government motor vehicles being operated on official business for a governmental agency;

(2) a motor vehicle of a nonresident who secures a special fee, license or permit required by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto, relating to the use of the park or other area;

(3) a motor vehicle for which a special permit or pass has been issued pursuant to subsection (d);

(4) a motor vehicle in a state park or other area to which subsection (d) applies on dates designated pursuant to subsection (e); or

(5) a motor vehicle in an area or at a time not designated pursuant to subsection (f) as an area or time which requires a permit.

(e) The secretary may issue a special permit or pass for a motor vehicle used for the purpose of sightseeing, attending a church service, attending an approved special event by members of the news media or emergency reasons, as provided by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

(f) The secretary may designate by resolution two days each calendar year during which persons may use motor vehicles in state parks and other areas under the secretary's control without having a valid park and recreation motor vehicle permit.

(g) The secretary shall designate the state parks and other areas under the secretary's control, or portions thereof, and the time periods in which motor vehicle permits shall be required hereunder. The secretary shall cause signs to be posted and maintained at the entrances to all such designated state parks or other areas, or portions thereof, which signs shall display a legend that a motor vehicle entering and using the state park or area, or portion thereof, is required to display on the motor vehicle a permit of the type described in this section.

(h) All fees, licenses and other charges, and rules and regulations relating to the use of and conduct of persons in a state park or other area under the secretary's control, or any facility therein, shall be posted in a convenient and conspicuous place in each such park, area or facility. Except as otherwise provided in this section, each and every person using any such park, area or facility shall be charged the same fees, licenses and every other charge.

**History:** L. 1965, ch. 444, sec. 2; L. 1966, ch. 39, sec. 1 (Budget Session); L. 1972, ch. 296, sec. 1; L. 1973, ch. 319, sec. 1; L. 1976, ch. 341, sec. 1; L. 1977, ch. 270, sec. 2; L. 1980, ch. 237, sec. 1; L. 1981, ch. 305, sec. 3; L. 1982, ch. 316, sec. 1; L. 1984, ch. 287, sec. 1; L. 1986, ch. 291, sec. 1; L. 1987, ch. 138, sec. 2; L. 1989, ch. 118, sec. 54; L. 1993, ch. 185, sec. 3; L. 2000, ch. 165, sec. 1; L. 2012, ch. 164, sec. 2; Jan. 1, 2013.

Source or prior law: 74-4509b, 74-4509e.

### **32-902 to 32-905. Reserved.**

## **WILDLIFE**

**32-906. Fishing licenses.** (a) Except as otherwise provided by law or rules and regulations of the secretary, a valid Kansas fishing license is required to fish or to take any bullfrog in this state.

(b) The provisions of subsection (a) do not apply to fishing by:

(1) A person, or a member of a person's immediate family domiciled with such person, on land owned by such person or on land leased or rented by such person for agricultural purposes;

(2) a person who is less than 16 years of age;

(3) a resident of this state who is 75 years of age or more;

(4) a person fishing in a private water fishing impoundment unless waived pursuant to K.S.A. 32-975, and amendments thereto;

(5) a resident of an adult care home, as defined by K.S.A. 39-923, and amendments thereto, licensed by the secretary of aging;

(6) a person on dates designated pursuant to subsection (f);



(7) a person fishing under a valid institutional group fishing license issued pursuant to subsection (g);  
or

(8) a participant in a fishing clinic sponsored or cosponsored by the department, during the period of time that the fishing clinic is being conducted.

(c) The fee for a fishing license shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a fishing license is valid throughout the state.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a fishing license is valid from the date of issuance and expires on December 31 following its issuance, except that the secretary may issue a:

(1) Permanent license pursuant to K.S.A. 32-929, and amendments thereto;

(2) lifetime license pursuant to K.S.A. 32-930, and amendments thereto;

(3) nonresident fishing license valid for a period of five days; and

(4) resident or nonresident fishing license valid for a period of 24 hours.

(f) The secretary may designate by resolution two days each calendar year during which persons may fish by legal means without having a valid fishing license.

(g) The secretary shall issue an annual institutional group fishing license to each facility operating under the jurisdiction of or licensed by the secretary of social and rehabilitation services and to any veterans administration medical center in the state of Kansas upon application by such facility or center to the secretary of wildlife, parks and tourism for such license.

All applications for facilities under the jurisdiction of the secretary of social and rehabilitation services shall be made with the approval of the secretary of social and rehabilitation services and shall provide such information as the secretary of wildlife, parks and tourism requires. All applications for any veterans administration medical center shall be made with the approval of the director of such facility and shall provide such information as the secretary of wildlife, parks and tourism requires. Persons who have been admitted to and are currently residing at the facility or center, not to exceed 20 at any one time, may fish under an institutional group fishing license within the state while on a group trip, group outing or other group activity which is supervised by the facility or center. Persons fishing under an institutional group fishing license shall not be required to obtain a fishing license but shall be subject to all other laws and to all rules and regulations relating to fishing.

The staff personnel of the facility or center supervising the group trip, group outing or other group activity shall have in their possession the institutional license when engaged in supervising any activity requiring the license. Such staff personnel may assist group members in all aspects of their fishing activity.

(h) The secretary may issue a special nonprofit group fishing license to any community, civic or charitable organization which is organized as a not-for-profit corporation, for use by such community, civic or charitable organization for the sole purpose of conducting group fishing activities for handicapped or developmentally disabled individuals. All applications for a special nonprofit group fishing license shall be made to the secretary or the secretary's designee and shall provide such information as required by the secretary.

Handicapped or developmentally disabled individuals, not to exceed 20 at any one time, may fish under a special nonprofit group fishing license while on a group trip, outing or activity which is supervised by the community, civic or charitable organization. Individuals fishing under a special nonprofit group fishing license shall not be required to obtain a fishing license but shall be subject to all other laws and rules and regulations relating to fishing.

The staff personnel of the community, civic or charitable organization supervising the group trip, outing or activity shall have in their possession the special nonprofit group fishing license when engaged

in supervising any activity requiring the special nonprofit group fishing license. Such staff personnel may assist group members in all aspects of their fishing activity.

(i) The provisions of paragraph (b)(3) shall expire on June 30, 2020.

**History:** L. 1985, ch. 129, sec. 1; L. 1988, ch. 131, sec. 1; L. 1989, ch. 118, sec. 55; L. 1995, ch. 164, sec. 2; L. 2000, ch. 165, sec. 2; L. 2001, ch. 17, sec. 1; L. 2003, ch. 149, sec. 1; L. 2012, ch. 154, sec. 4; Jan. 1, 2013.

Source or prior law:

32-104, 32-104a, 32-104b, 32-104n, 32-104o, 32-104p, 32-172a, 32-172b, 32-187.

### **32-907 to 32-910. Reserved.**

**32-911. Furharvester licenses.** (a) Except as otherwise provided by law or rules and regulations of the secretary, a valid Kansas furharvester license is required to:

(1) Furharvest in this state; or

(2) sell, ship or offer for sale or shipment any furbearing animal or its raw fur, pelt, skin or carcass.

(b) The provisions of subsection (a)(1) do not apply to furharvesting by:

(1) A person, or a member of a person's immediate family domiciled with such person, on land owned by such person or on land leased or rented by such person for agricultural purposes;

(2) a resident of this state who is less than 14 years of age and is accompanied by a person holding a valid furharvester license;

(3) a nonresident participating in a field trial for dogs, recognized by rules and regulations adopted by the secretary in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto; or

(4) a person authorized pursuant to subsection (g).

(c) The fee for a furharvester license shall be the amount prescribed pursuant to K.S.A. 1989 Supp. 32-988 and amendments thereto.

(d) The provisions of subsection (a)(2) shall not apply to nonresidents selling to Kansas-licensed fur dealers furbearing animals or their raw furs, pelts, skins or carcasses legally taken in another state if such nonresident has been issued and is in possession of a valid license permitting the taking or selling of such animals, furs, pelts, skins or carcasses in the issuing state.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a furharvester license is valid throughout the state.

(f) Unless otherwise provided by law or rules and regulations of the secretary, a furharvester license is valid from the date of issuance and expires on December 31 following its issuance, except that a permanent license may be issued by the secretary pursuant to K.S.A. 1989 Supp. 32-929 and amendments thereto and a lifetime license may be issued by the secretary pursuant to K.S.A. 32-930 and amendments thereto.

(g) The secretary shall adopt rules and regulations in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto which authorize individuals not holding a valid furharvester license to accompany a person holding such a license.

**History:** L. 1989, ch. 118, sec. 56; L. 1999, ch. 120, sec. 1; July 1.

Source or prior law: 32-104, 32-104a, 32-104b.

### **32-912. Furharvester education; certificate of competency.**

No person born on or after July 1, 1966, shall furharvest in this state on land other than such person's land unless the person has been issued a furharvester certificate of competency. If such person is required by law to obtain a furharvester license, the person shall attest to or exhibit proof of possession of a valid furharvester certificate of competency to the person issuing the license at the time of purchasing the license. If such person is not required by law to obtain a furharvesting license, the person shall be in

possession of such certificate while furharvesting.

**History:** L. 1982, ch. 175, sec. 1; L. 1987, ch. 142, sec. 1; L. 1989, ch. 118, sec. 57; L. 2001, ch. 13, sec. 1; July 1.

Source or prior law: 32-106b.

**32-913. Same; instruction requirements; designation of persons to issue certificates.** The secretary shall prescribe a course of instruction of not less than a total of six hours concerning the ethical, humane, safe and selective furharvesting and handling of furbearing animals and coyotes. The secretary shall designate those persons who shall issue furharvester certificates of competency to each person who successfully completes such course of instruction, and such designation and certificate shall be valid until revoked by the secretary.

**History:** L. 1982, ch. 175, sec. 2; L. 1989, ch. 118, sec. 58; July 1.

Source or prior law: 32-106c.

**32-914. Same; courses of instruction; certificates from other jurisdictions.** (a) The secretary shall institute and coordinate a statewide course of furharvester education and, in so doing, may cooperate with local subdivisions of government or with any reputable individual or organization. The secretary, using department personnel or other persons, may conduct such courses in furharvester education and issue furharvester certificates of competency on a temporary basis at times when and in areas where other competent agencies are unable or unwilling to meet the demand for instruction.

(b) Any similar certificate issued outside the state of Kansas by a governmental agency or a public or private association or club in compliance with an approved governmental program having as its objective the promotion of furharvester education shall be accepted as complying with the requirements of K.S.A. 1989 Supp. 32-912.

**History:** L. 1982, ch. 175, sec. 3; L. 1989, ch. 118, sec. 59; July 1.

Source or prior law: 32-106d.

**32-915 to 32-917. Reserved.**

**32-918. Persons in arrearage under a child support order; prohibition against issuance of license, permit, stamp or tag.** (a) Upon request of the secretary of social and rehabilitation services, the secretary of wildlife, parks and tourism shall not allow any license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism to be purchased by any applicant except as provided in this section. The secretary of social and rehabilitation services may make such a request by providing the secretary of wildlife, parks and tourism, on a quarterly basis, a listing of names and other information sufficient to allow the secretary of wildlife, parks and tourism to match applicants against the list with reasonable accuracy. The secretary of social and rehabilitation services may include an individual on the listing if, at the time the listing is compiled, the individual owes arrearages under a support order in a title IV-D case or has failed, after appropriate notice, to comply with an outstanding warrant or subpoena directed to the individual in a title IV-D case. The secretary of social and rehabilitation services shall include an individual on the listing if, at the time the listing is compiled, the individual owes arrearages under a support order, as reported to the secretary of social and rehabilitation services by the court trustee or has failed, after appropriate notice, to comply with a subpoena directed to the individual by the court trustee and as reported to the secretary of social and rehabilitation services by the court trustee.

(b) If any applicant for a license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism is not allowed to complete a purchase pursuant to this section, the vendor of the license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism shall

immediately deliver to the applicant a written notice, furnished by the state of Kansas, stating the basis for the action and how the applicant may dispute the action or request other relief. Such notice shall inform the applicant who owes arrearages in an IV-D case to contact social and rehabilitation services and in a non-IV-D case to contact the court trustee.

(c) Immediately upon receiving a release executed by an authorized agent of the secretary of social and rehabilitation services or the court trustee, the secretary of wildlife, parks and tourism may allow the applicant to purchase any license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism. The applicant shall have the burden of obtaining and delivering the release. The secretary of social and rehabilitation services or the court trustee may limit the duration of the release.

(d) Upon request the secretary of social and rehabilitation services shall issue a release if, as appropriate:

(1) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearages are owed;

(2) an income withholding order in the case has been served upon the applicant's current employer or payor;

(3) an agreement has been completed or an order has been entered setting minimum payments to defray the arrearages, together with receipt of the first minimum payment;

(4) the applicant has complied with the warrant or subpoena or the warrant or subpoena has been quashed or withdrawn; or

(5) the court trustee notifies the secretary of social and rehabilitation services that the applicant has paid the arrearages in full or has complied with the subpoena or the subpoena has been quashed or withdrawn.

(e) Individuals previously included in a quarterly listing may be omitted from any subsequent listing by the secretary of social and rehabilitation services. When a new listing takes effect, the secretary of wildlife, parks and tourism may allow any individual not included in the new listing to purchase any license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism, whether or not the applicant had been included in a previous listing.

(f) Nothing in this section shall be construed to require or permit the secretary of wildlife, parks and tourism to determine any issue related to a child support order or related to the title IV-D case, including questions of mistaken identity or the adequacy of any notice provided pursuant to this section. In a title IV-D case, the secretary of social and rehabilitation services shall provide an opportunity for fair hearing pursuant to K.S.A. 75-3306, and amendments thereto, to any person who has been denied any license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism pursuant to this section, provided that the person complies with the requirements of the secretary of social and rehabilitation services for requesting such fair hearing. In a non-IV-D case, the applicant shall contact the court trustee.

(g) The term "title IV-D" has the meaning ascribed thereto in K.S.A. 32-930, and amendments thereto.

(h) The secretary of social and rehabilitation services and the secretary of wildlife and parks may enter into an agreement for administering the provisions of this section.

(i) The secretary of social and rehabilitation services and the secretary of wildlife, parks and tourism may each adopt rules and regulations necessary to carry out the provisions of this section.

(j) Upon receipt of such list, the secretary of wildlife, parks and tourism shall send by first class mail, a letter to any new individual on the listing who has a current license, permit, stamp, tag or other issue of the Kansas department of wildlife, parks and tourism informing such individual of the provisions of this section.

**History:** L. 2006, ch. 208, sec. 9; L. 2007, ch. 174, sec. 4; L. 2012, ch. 47, sec. 46; July 1.

**32-919. Hunting licenses.** (a) Except as otherwise provided by law or rules and regulations of the secretary, a valid Kansas hunting license is required to hunt in this state.

(b) The provisions of subsection (a) do not apply to hunting by:

(1) A person, or a member of a person's immediate family domiciled with such person, on land owned by such person or on land leased or rented by such person for agricultural purposes;

(2) a resident of this state who is less than 16 years of age;

(3) a resident of this state who is 75 years of age or more;

(4) a nonresident who is participating in a field trial for dogs, recognized by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto, if such field trial is not conducted on a controlled shooting area;

(5) a person who holds a valid permit issued to such person pursuant to subsection (f) and who hunts only waterfowl; or

(6) a resident of this state hunting only prairie dogs, moles or gophers.

(c) The fee for a hunting license shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a hunting license is valid throughout the state, except that the secretary may issue a special controlled shooting area license which is valid only for licensed controlled shooting areas.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a hunting license is valid from the date of issuance and expires on December 31 following its issuance, except that:

(1) The secretary may issue a permanent license pursuant to K.S.A. 32-929, and amendments thereto;

(2) the secretary may issue a lifetime license pursuant to K.S.A. 32-930, and amendments thereto.

(f) A 48-hour waterfowl permit may be issued which authorizes hunting of waterfowl in this state subject to all other provisions of law and rules and regulations of the secretary. The fee for such permit shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto. Such permit is valid throughout the state, is valid from the time designated on the permit and expires 48 hours after such time. Purchase of such permit shall not affect the requirement to purchase any federal migratory bird hunting and conservation stamp or state migratory waterfowl habitat stamp.

(g) The provisions of paragraph (b)(3) shall expire on June 30, 2020.

**History:** L. 1989, ch. 118, sec. 60; L. 2000, ch. 165, sec. 3; L. 2008, ch. 60, sec. 1; L. 2012, ch. 154, sec. 5; Jan. 1, 2013.

Source or prior law: 32-104, 32-104a, 32-104b, 32-158.

**32-920. Hunter education; certificate of completion.** (a) Except as provided by subsections (d) and (e), no person who is born on or after July 1, 1957, and is 16 or more years of age shall hunt in this state on land other than such person's own land unless the person has been issued a certificate of completion of an approved hunter education course. If such person is required by law to obtain a hunting license, the person shall attest to or exhibit proof of completion of such course to the person issuing the license at the time of purchasing the license. If such person is not required by law to obtain a hunting license, is less than 27 years of age but 16 or more years of age or is less than 16 but 12 or more years of age and hunting without adult supervision, the person shall be in possession of the person's certificate of completion of such course while hunting. A person may purchase for another person, under rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto, a lifetime hunting or combination hunting and fishing license without the license recipient's first having been issued a certificate of completion of an approved hunter education course.

(b) A person less than 12 years of age shall not hunt unless under the direct supervision of an adult who is 18 or more years of age.

(c) A person who is 12 or more years of age but less than 16 years of age and who has not been issued a certificate of completion of an approved hunter education course shall not hunt unless under the direct supervision of an adult who is 18 or more years of age.

(d) A person who is 16 or more years of age may obtain two separate deferrals of completion of hunter education. Each such deferral is valid until the end of the license year in which a license is purchased. Such person may purchase an apprentice hunting license but shall not hunt unless under the direct supervision of a licensed adult who is 18 or more years of age.

(e) Completion of an approved hunter education course shall not be required to obtain a special controlled shooting area hunting license valid only for licensed controlled shooting areas.

**History:** L. 1972, ch. 158, sec. 1; L. 1981, ch. 175, sec. 10; L. 1983, ch. 133, sec. 1; L. 1985, ch. 136, sec. 1; L. 1987, ch. 142, sec. 2; L. 1987, ch. 145, sec. 1; L. 1987, ch. 141, sec. 2; L. 1989, ch. 118, sec. 61; L. 2000, ch. 72, sec. 1; L. 2000, ch. 159, sec. 4; L. 2002, ch. 96, sec. 1; L. 2004, ch. 99, sec. 2; L. 2005, ch. 124, sec. 3; L. 2007, ch. 143, sec. 4; L. 2014, ch. 135, sec. 4; July 1.  
Source or prior law: 32-401.

#### CASE ANNOTATIONS

1. Comparative negligence statute (60-258a) applies where injury results from proscribed sales of explosives (21-402a). *Arredondo v. Duckwall Stores, Inc.*, 227 K. 842, 850, 610 P.2d 1107.

**32-921. Same; instruction requirements; designation of persons to issue certificates.** (a) The secretary shall prescribe a course of instruction in hunter education. Except as provided in subsection (c), such course of instruction shall be not less than a total of 10 hours and shall be for persons 11 or more years of age.

(b) The secretary shall designate those persons who shall issue a certificate of completion of an approved hunter education course to each person who successfully completes such course of instruction, and such designation and certificate shall be valid until revoked by the secretary.

(c) The secretary may prescribe a special course of instruction of less than a total of 10 hours for persons residing in other jurisdictions and entering this state to hunt. The secretary shall issue a certificate of completion of an approved special hunter education course to each person who successfully completes such special course of instruction. Such certificate shall be valid only within the state through January 31 of the calendar year following completion of the course. Persons taking such special course of instruction shall submit to the department a sum of \$25 upon registering for the course, of which the department shall remit \$20 to the instructor.

**History:** L. 1972, ch. 158, sec. 2; L. 1985, ch. 136, sec. 3; L. 1989, ch. 118, sec. 62; L. 2004, ch. 99, sec. 3; Jan. 1, 2005.

Source or prior law: 32-402.

**32-922. Same; courses of instruction; certificates from other jurisdictions.** (a) The secretary shall institute and coordinate a statewide course of instruction in hunter education and, in so doing, may cooperate with local subdivisions of government, with reputable individuals, or with any reputable organization having hunter education as one of its objectives.

(b) The secretary using department personnel or other persons, may conduct such courses in hunter education and issue certificates of completion of an approved hunter education course on a temporary basis at times when and in areas where other competent agencies are unable or unwilling to meet the demand for instruction.

(c) Any similar certificate issued outside the state of Kansas by a governmental agency, or by a public or private association or club, in compliance with an approved governmental program having hunter education as one of its objectives shall be accepted as complying with the requirements of K.S.A. 1989 Supp. 32-920.

**History:** L. 1972, ch. 158, sec. 3; L. 1989, ch. 118, sec. 63; July 1.  
Source or prior law: 32-403.

**32-923. Same; issuance of certificate; fee.** The secretary shall issue a certificate of completion of an approved hunter education course to any resident of this state upon submission of evidence of successful completion of a hunter education course approved the secretary prior to July 1, 1973, and such other information as requested by the secretary and upon payment of such fee as may be prescribed pursuant to K.S.A. 1989 Supp. 32-988.

**History:** L. 1982, ch. 172, sec. 1; L. 1983, ch. 133, sec. 2; L. 1985, ch. 136, sec. 2; L. 1989, ch. 118, sec. 64; July 1.  
Source or prior law: 32-405.

**32-924. Same; liability insurance for persons conducting course.**

The committee on surety bonds and insurance, within the limitations of appropriations made therefor, shall purchase such liability insurance as it deems necessary for the protection of persons engaged in conducting an approved hunter education course against any liability for injuries or damages arising from the conducting of such course of instruction by such persons.

**History:** L. 1979, ch. 276, sec. 1; L. 1989, ch. 118, sec. 65; July 1.  
Source or prior law: 32-404.

**32-925 to 32-928. Reserved.**

**32-929. Permanent licenses, American Indians.** (a) Subject to the provisions of K.S.A. 32-912 and 32-920, and amendments thereto, the secretary or the secretary's designee shall issue, free of charge, a permanent license to hunt, fish and furharvest to any person residing in the state who submits to the secretary satisfactory proof that the person: (1) is at least 1/16 Indian by blood and (2) maintains enrollment on a tribal membership roll maintained by a federally recognized tribe. Any such person hunting, fishing or furharvesting in this state shall be subject to the provisions of all rules and regulations relating to hunting, fishing or furharvesting.

(b) For the purposes of this section, a federally recognized tribe means an American Indian group that has petitioned for and obtained recognition by the United States department of the interior under the standards set out in 25 C.F.R. Part 83, as amended.

**History:** L. 1971, ch. 142, sec. 1; L. 1973, ch. 179, sec. 1; L. 1978, ch. 152, sec. 16; L. 1989, ch. 118, sec. 66; L. 1995, ch. 164, sec. 3; Apr. 27.  
Source or prior law: 32-1041.

**32-930. Lifetime hunting and fishing licenses.** (a) Except as provided in subsection (c), the secretary or the secretary's designee is authorized to issue to any Kansas resident a lifetime fishing, hunting or furharvester or combination hunting and fishing license upon proper application made therefor to the secretary or the secretary's designee and payment of a license fee as follows: (1) A total payment made at the time of purchase in the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto; or (2) payment may be made over a two-year period in eight quarter-annual installments in the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto. If payment is in installments, the license shall not be issued until the final installment has been paid. A person making installment payments shall not be required to obtain the appropriate annual license, and each installment payment shall be deemed to be such an annual license for a period of one year following the date of the last installment payment made. If an installment payment is not received within 30 days after it is due and owing, the secretary may consider the payments in default and may retain any payments previously

received. Any lifetime license issued to a Kansas resident shall not be made invalid by reason of the holder thereof subsequently residing outside the state of Kansas. Any nonresident holder of a Kansas lifetime hunting or combination hunting and fishing license shall be eligible under the same conditions as a Kansas resident for a big game or wild turkey permit upon proper application to the secretary. Any nonresident holder of a lifetime fishing license issued before July 1, 1989, shall be eligible under the same conditions as a Kansas resident for a big game or wild turkey permit upon proper application to the secretary.

(b) For the purposes of subsection (a), the term “resident” shall have the meaning defined in K.S.A. 32-701, and amendments thereto, except that a person shall have maintained that person’s place of permanent abode in this state for a period of not less than one year immediately preceding the person’s application for a lifetime fishing, hunting or furharvester or combination hunting and fishing license.

(c) (1) Upon request of the secretary of social and rehabilitation services, the secretary of wildlife, parks and tourism shall not issue a lifetime fishing, hunting or furharvester or combination hunting and fishing license to an applicant except as provided in this subsection. The secretary of social and rehabilitation services may make such a request if, at the time of the request, the applicant:

(A) Owed arrearages under a support order in a title IV-D case being administered by the secretary of social and rehabilitation services;

(B) had outstanding a warrant or subpoena, directed to the applicant, in a title IV-D case being administered by the secretary of social and rehabilitation services;

(C) owes arrearages under a support order, as reported to the secretary of social and rehabilitation services by the court trustee; or

(D) has failed, after appropriate notice, to comply with a subpoena directed to the individual by the court trustee as reported to the secretary of social and rehabilitation services by the court trustee.

(2) Upon receiving a release from an authorized agent of the secretary of social and rehabilitation services or the court trustee, the secretary of wildlife, parks and tourism may issue the lifetime fishing, hunting or furharvester or combination hunting and fishing license. The applicant shall have the burden of obtaining and delivering the release.

(3) The secretary of social and rehabilitation services shall issue a release upon request if, as appropriate:

(A) The arrearages are paid in full or a tribunal of competent jurisdiction has determined that no arrearages are owed;

(B) an income withholding order has been served upon the applicant’s current employer or payor;

(C) an agreement has been completed or an order has been entered setting minimum payments to defray the arrearages, together with receipt of the first minimum payment;

(D) the applicant has complied with the warrant or subpoena or the warrant or subpoena has been quashed or withdrawn; or

(E) the court trustee notifies the secretary of social and rehabilitation services that the applicant has paid the arrearages in full or has complied with the subpoena or the subpoena has been quashed or withdrawn.

(d) (1) Upon request of the secretary of social and rehabilitation services, the secretary of wildlife, parks and tourism shall suspend a lifetime fishing, hunting or furharvester or combination hunting and fishing license to a licensee as provided in this subsection. The secretary of social and rehabilitation services may make such a request if, at the time of the request, the applicant owed arrearages under a support order or had outstanding a warrant or subpoena as stated in subsection (c)(1).

(2) Upon receiving a release from an authorized agent of the secretary of social and rehabilitation services or the court trustee, the secretary of wildlife, parks and tourism may reinstate the lifetime fishing, hunting or furharvester or combination hunting and fishing license. The licensee shall have the burden of obtaining and delivering the release.



(3) The secretary of social and rehabilitation services shall issue a release upon request if the requirements of subsection (c)(3) are met.

(e) Nothing in subsection (c) or (d) shall be construed to require or permit the secretary of wildlife, parks and tourism to determine any issue related to a child support order or related to the title IV-D case including to resolve questions of mistaken identity or determine the adequacy of any notice relating to subsection (c) or (d) that the secretary of wildlife, parks and tourism provides to the applicant.

(f) "Title IV-D" means part D of title IV of the federal social security act (42 U.S.C. § 651 *et seq.*), and amendments thereto, as in effect on December 31, 2001, relating to child support enforcement services.

(g) The secretary, in accordance with K.S.A. 32-805, and amendments thereto, may adopt rules and regulations necessary to carry out the provisions of this section.

**History:** L. 1982, ch. 171, sec. 1; L. 1987, ch. 140, sec. 1; L. 1987, ch. 295, sec. 3; L. 1987, ch. 141, sec. 1; L. 1989, ch. 48, sec. 84; L. 1989, ch. 118, sec. 67; L. 1997, ch. 182, sec. 61; L. 1999, ch. 120, sec. 2; L. 2002, ch. 5, sec. 1; L. 2004, ch. 99, sec. 4; L. 2007, ch. 174, sec. 5; L. 2012, ch. 47, sec. 47; July 1. Source or prior law: 32-104m.

**32-931. Handicapped hunting and fishing permit.** (a) Whenever a disabled person is unable by reason of physical infirmity to hunt and fish in the normal manner, the secretary may issue a handicapped hunting and fishing permit upon receipt of the fee prescribed pursuant to K.S.A. 1989 Supp. 32-988, permitting such person to hunt and fish from land or water vehicles, but such permit shall not authorize any person to shoot from any highway, as defined in K.S.A. 8-1424 and amendments thereto.

(b) The secretary may adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, rules and regulations necessary to implement this section.

**History:** L. 1974, ch. 173, sec. 3; L. 1978, ch. 152, sec. 6; L. 1989, ch. 118, sec. 68; July 1. Source or prior law: 32-154d.

**32-932. Physical disability, crossbow permits.** (a) Any person having a permanent disability to the extent that such person cannot physically use a conventional long bow or compound bow, as certified by a person licensed to practice the healing arts in any state, shall be authorized to hunt and take deer, antelope, elk or wild turkey with a crossbow.

(b) The secretary of wildlife, parks and tourism shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations requiring permits to hunt deer, antelope, elk or wild turkey pursuant to subsection (a) and providing for the approval of applicants for such permits and the issuance thereof. In addition, the secretary may adopt rules and regulations limiting the times and areas for hunting and taking deer, antelope, elk and wild turkey and limiting the number of deer, antelope, elk and wild turkey which may be taken pursuant to subsection (a).

(c) Falsely obtaining or using a permit authorized by this section is a class C misdemeanor.

**History:** L. 1989, ch. 117, sec. 1; L. 1997, ch. 127, sec. 1; L. 2002, ch. 96, sec. 2; L. 2012, ch. 47, sec. 48; July 1.

**32-933. Physical or visual disability; assistance permit.** (a) Any person having a permanent physical or visual disability such that the person cannot safely hunt or fish in accordance with law and rules and regulations of the department, as certified by a person licensed to practice the healing arts in any state or a person licensed to practice optometry in any state, shall be eligible to obtain a disability assistance permit. The permit shall allow the permitholder to designate another person to take, on behalf of and while accompanied by the permitholder, the permitholder's legal limit of game or fish. The person designated by the permitholder shall not be required to hold any licenses, permits, stamps or any

other issues of the department otherwise required for the activity being engaged in but shall remain subject to all other laws and rules and regulations of the department for the activity being engaged in. The permit holder shall accompany into the field and be in close proximity to the person designated by the permit holder. The person designated by the permit holder shall not be a person whose fishing, hunting or fur harvesting license is currently suspended, restricted or revoked. On the determination of the secretary, the disability assistance permit may designate the hunting or fishing activity for which assistance to the permit holder may be provided.

(b) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations providing for the approval of applicants for permits pursuant to subsection (a) and for the issuance of such permits.

(c) Falsely obtaining or using a permit authorized by this section is a class C misdemeanor.

**History:** L. 1997, ch. 127, sec. 2; L. 2002, ch. 96, sec. 3; L. 2004, ch. 75, sec. 1; July 1.

### **32-934 to 32-936. Reserved.**

**32-937. Big game permits.** (a) When used in this section:

(1) "Landowner" means a resident owner of farm or ranch land of 80 acres or more located in the state of Kansas.

(2) "Tenant" means an individual who is actively engaged in the agricultural operation of 80 acres or more of Kansas farm or ranch land for the purpose of producing agricultural commodities or livestock and who:

(A) Has a substantial financial investment in the production of agricultural commodities or livestock on such farm or ranch land and the potential to realize substantial financial benefit from such production; or (B) is a bona fide manager having an overall responsibility to direct, supervise and conduct such agricultural operation and has the potential to realize substantial benefit from such production in the form of salary, shares of such production or some other economic incentive based upon such production. Evidence of tenancy, if requested, shall be provided to the department and may include, but is not limited to, natural resource conservation

services records, farm service agency records, or written agricultural contract or lease documentation.

(3) "Regular season" means a statewide big game hunting season authorized annually which may include one or more seasons restricted to specific types of equipment.

(4) "Special season" means a big game hunting season in addition to a regular season authorized on an irregular basis or at different times of the year other than the regular season.

(5) "General permit" means a big game hunting permit available to Kansas residents not applying for big game permits as a landowner or tenant.

(6) "Nonresident landowner" means a nonresident of the state of Kansas who owns farm or ranch land of 80 acres or more which is located in the state of Kansas.

(7) "Nonresident permit" means a big game hunting permit available to individuals who are not Kansas residents.

(b) Except as otherwise provided by law or rules and regulations of the secretary and in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, valid big game permits are required to take any big game in this state.

(c) The fee for big game permits and game tags shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) Big game permits are valid throughout the state or such portion thereof as provided by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

(e) Unless otherwise provided by law or rules and regulations of the secretary, big game permits are valid from the date of issuance and shall expire at the end of the season for which issued.

(f) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations for each regular or special big game hunting season and for each management unit regarding big game permits. The secretary is hereby authorized to issue big game permits pertaining to the taking of big game. Separate big game permits may be issued for each species of big game. No big game permits shall be issued until the secretary has established, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, a regular or special big game hunting season.

(g) The secretary may authorize, by rule and regulation adopted in accordance with K.S.A. 32-805, and amendments thereto, regular landowner or tenant hunt-on-your-own-land big game permits. Members of the landowner's or tenant's immediate family who are domiciled with the landowner or tenant may apply for resident big game permits as landowners or tenants, but the total number of landowner or tenant regular hunt-on-your-own-land permits issued to a landowner or tenant and a landowner's or tenant's immediate family members for each big game species shall not exceed one permit for each 80 acres owned by such landowner or operated by such tenant. Evidence of ownership or tenancy, if requested, shall be provided to the department. Such permits and applications may contain provisions and restrictions as prescribed by rule and regulation adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

(h) Special hunt-on-your-own-land deer permits may be issued to a landowner's or tenant's siblings and lineal ascendants or descendants, and their spouses, whether or not a Kansas resident, by paying the required fee for a general deer permit. The total number of regular and special hunt-on-your-own-land deer permits issued to a landowner's or tenant's siblings and lineal ascendants or descendants, and their spouses, shall not exceed one deer permit for each 80 acres owned by such landowner or operated by such tenant. Evidence of ownership or tenancy, and sibling or lineal ascending or descending relations, if requested, shall be provided to the department.

(i) Fifty percent of the big game permits authorized for a regular season in any management unit shall be issued to landowners or tenants, provided that a limited number of big game permits have been authorized and landowner or tenant hunt-on-your-own-land big game permits for that unit have not been authorized. A landowner or tenant is not eligible to apply for a big game permit as a landowner or as a tenant in a management unit other than the unit or units which includes such landowner's or tenant's land. Any big game permits not issued to landowners or tenants within the time period prescribed by rule and regulation may be issued without regard to the 50% limitation.

(j) The secretary may issue, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, resident deer hunting permits available on a limited basis and valid for a designated species and sex in designated units, and antlerless-only deer permits in designated units as necessary for management purposes, and, any of the following options:

(1) Either sex white-tailed deer permits valid statewide during any season with the equipment legal for that season;

(2) either species, either sex archery permits valid statewide;

(3) either species, either sex muzzle loader permits valid in designated units; or

(4) either species, either sex firearm permits valid in designated units.

(k) The secretary may issue permits for deer to nonresident landowners, but any such permit shall be restricted to hunting only on lands owned by the nonresident landowner.

(l) The secretary may issue deer hunting permits to nonresidents, subject to the following limitations:

(1) The total number of nonresident deer permits that may be issued for a deer season in a management unit and which may be used to take antlered deer shall be established with the goal of meeting demand for those permits, using a formula developed by the department that will consider adjustment factors, including deer population trends, deer-related vehicle accidents, age structure in the harvest, deer damage, landowner desire for nonresident deer permits, general public

desires and health of habitat. The 2008 permit numbers shall be based on the adjustment factors and an average of nonresident demand for permits in each management unit from the previous six years, establishing at least a 10% increase but not more than 50% increase in permit numbers in each management unit, except in unit 16, where permit numbers shall not increase more than 100%. In subsequent years, the formula shall be used to determine permit allocations based on demand and the adjustment factors.

(2) Nonresident deer permits may be restricted to a particular deer species.

(3) Nonresident deer permits shall be restricted to two adjacent deer management units.

(4) Nonresident deer hunters shall select one season at the time of application.

(5) For an additional fee, nonresident deer hunters applying for a whitetail either sex archery or muzzle loader permit in a designated mule deer unit may also apply for one of the limited number of mule deer stamps. If they are successful in both drawings, they would be issued a permit that will allow them to take either a whitetail deer or a mule deer in that unit.

(m) A big game permit shall state the species, number and sex of the big game which may be killed by the permittee. The secretary may require any big game permittee to provide survey information at the conclusion of the open season.

(n) (1) Prior to April 30, 2013, the secretary shall develop and implement a combination antlered and antlerless deer permit and adopt rules and regulations for the administration thereof.

(2) Prior to April 30, 2013, the secretary shall develop and implement a pre-rut antlerless deer rifle season by deer management unit. The provisions of this paragraph shall expire on July 1, 2015.

(3) The secretary shall develop and implement a deer crossbow hunting pilot project. Such pilot project shall be implemented in no more than four deer management units. The secretary of wildlife, parks and tourism shall study the effects of such pilot project on the deer population and the number of crossbow users in such deer management units and report to the house committee on agriculture and natural resources and the senate committee on natural resources prior to January 31, 2014. The provisions of this paragraph shall expire on January 31, 2014.

(o) The permittee shall permanently affix the carcass tag to the carcass of any big game animal immediately after killing and thereafter take such killed game to a check station as may be required in the rules and regulations, where a check station tag shall be affixed to the big game carcass if the kill is legal. The tags shall remain affixed to the carcass until the carcass is processed for storage or consumption. The permittee shall retain the carcass tag until the carcass is consumed, given to another or otherwise disposed of.

(p) The provisions of this section do not apply to big game animals sold in surplus property disposal sales of department exhibit herds or big game animals legally taken outside this state.

**History:** L. 1963, ch. 245, sec. 4; L. 1965, ch. 270, sec. 1; L. 1969, ch. 214, sec. 2; L. 1973, ch. 178, sec. 4; L. 1975, ch. 227, sec. 1; L. 1978, ch. 152, sec. 11; L. 1981, ch. 176, sec. 3; L. 1981, ch. 178, sec. 1; L. 1981, ch. 179, sec. 1; L. 1985, ch. 135, sec. 1; L. 1986, ch. 149, sec. 3; L. 1986, ch. 151, sec. 2; L. 1989, ch. 118, sec. 69; L. 1990, ch. 139, sec. 1; L. 1994, ch. 245, sec. 1; L. 1997, ch. 127, sec. 3; L. 1998, ch. 180, sec. 1; L. 1999, ch. 98, sec. 1; L. 2000, ch. 104, sec. 1; L. 2000, ch. 159, sec. 5; L. 2002, ch. 96, sec. 4; L. 2003, ch. 121, sec. 1; L. 2004, ch. 99, sec. 5; L. 2007, ch. 133, sec. 1; L. 2012, ch. 154, sec. 6; July 1.

Source or prior law: 32-110a, 32-178, 32-179.

**32-938. Same; refund of fees to certain military personnel.** The Kansas department of wildlife, parks and tourism may reissue big game or wild turkey limited draw permits to military personnel forced to forfeit their limited draw permit due to deployment in the event of armed conflict or war upon application and payment of the prescribed fee to the department and sufficient proof of such deployment. The permit, if reissued, shall be the same type, season and species permit that was forfeited and shall be

valid during the next available hunting season upon return from the armed conflict or war by the applicant provided that the secretary may defer the reissuance of a permit to a future hunting season if the overall demand for reissued permits exceeds the anticipated annual sustainable harvest for that species. The reissuance of a permit shall be based on a first come, first served basis.

**History:** L. 1991, ch. 105, sec. 1; L. 2004, ch. 99, sec. 6; L. 2007, ch. 133, sec. 2; L. 2012, ch. 47, sec. 49; July 1.

**32-939. Migratory waterfowl habitat stamp.** (a) As used in this section, "migratory waterfowl" means any wild goose, duck or merganser.

(b) Except as otherwise provided by law or rules and regulations of the secretary and in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, a valid state migratory waterfowl habitat stamp is required to hunt any migratory waterfowl in this state.

(c) The provisions of subsection (b) do not apply to hunting, by legal means, by a person not required by K.S.A. 32-919 to hold a hunting license.

(d) The stamp required by this section is valid throughout the state.

(e) The stamp required by this section is valid from the date of issuance and expires at 12 midnight on June 30 following its issuance.

(f) Each migratory waterfowl habitat stamp shall be validated by the signature of the stamp holder written across the face of such stamp.

**History:** L. 1987, ch. 135, sec. 1; L. 1989, ch. 118, sec. 70; L. 1997, ch. 108, sec. 1; July 1.  
Source or prior law: 32-1,110, 32-1,111

#### **32-940. Reserved.**

**32-941. Commercial harvest permits.** (a) Except as otherwise authorized by law or rules and regulations of the secretary, a commercial harvest permit is required, in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, to take any wildlife in this state on a commercial basis.

(b) Subsection (a) does not apply to:

(1) A person acting within the scope of a valid furharvester or valid fur dealer license issued to such person; or

(2) a private water fishing impoundment.

(c) Subject to the requirements of law and rules and regulations of the secretary, a person may obtain a commercial harvest permit from the secretary or the secretary's designee by making application and paying the fee prescribed pursuant to K.S.A. 1992 Supp. 32-988, and amendments thereto.

(d) The area and period of time for which a commercial harvest permit is valid shall be in accordance with rules and regulations of the secretary.

(e) Any person having a valid hunting license or any person not required to have a hunting license pursuant to K.S.A. 1992 Supp. 32-919, and amendments thereto, may annually obtain a special permit to harvest prairie rattlesnakes on a commercial basis upon payment of the fee prescribed therefor by K.S.A. 1992 Supp. 32-988, and amendments thereto. Any person may annually obtain a special nonfirearm permit to harvest prairie rattlesnakes on a commercial basis upon payment of the fee prescribed therefor by K.S.A. 1992 Supp. 32-988, and amendments thereto.

(f) The secretary may adopt, in accordance with K.S.A. 1992 Supp. 32-805 and amendments thereto, rules and regulations necessary to implement, administer and enforce the provisions of this section and to govern the taking of wildlife on a commercial basis except that, for calendar year 1993, the following provisions shall govern the commercial taking, selling, buying, trading and possession of prairie rattlesnakes:

- (1) The harvest and possession of prairie rattlesnakes for commercial purposes shall occur only between the effective date of this act and June 30;
  - (2) the possession limit shall not exceed 30 prairie rattlesnakes;
  - (3) prairie rattlesnakes may be taken only by hand, snake hook or snake catchers;
  - (4) prairie rattlesnakes legally taken by a commercial prairie rattlesnake harvest permittee may be sold to: (A) A commercial prairie rattlesnake dealer; (B) a person legally authorized by another state to purchase prairie rattlesnakes; or (C) any other person if the prairie rattlesnakes are not purchased for resale or sold;
  - (5) any person desiring to purchase prairie rattlesnakes for resale or export from the state shall obtain a commercial prairie rattlesnake dealer permit;
  - (6) a commercial prairie rattlesnake dealer may possess and sell legally acquired prairie rattlesnakes without regard to time or numbers;
  - (7) the cost of a commercial prairie rattlesnake harvest permit for any person in possession of a valid hunting license issued to such person or any person not required to have a hunting license pursuant to K.S.A. 32-919 and amendments thereto shall be \$5;
  - (8) the cost of a commercial prairie rattlesnake harvest permit for any person without a valid hunting license shall be \$20;
  - (9) the cost of a commercial prairie rattlesnake dealer permit shall be \$50; and
  - (10) commercial prairie rattlesnake harvest permittees and commercial prairie rattlesnake dealer permittees shall report permit activities if requested by the department.
- (g) Rules and regulations adopted by the secretary pursuant to this section may include, with regard to fishing on a commercial basis, establishment and designation of:
- (1) Certain portions of the Missouri river bordering on this state and certain streams, lakes and impoundments, or parts thereof, in this state to be open to commercial fishing for such period of time as the secretary specifies;
  - (2) methods and equipment for the taking of fish on a commercial basis;
  - (3) inspections and frequency of inspections;
  - (4) size and specifications of seines, nets, traps and other commercial fishing equipment and methods of tagging such equipment;
  - (5) procedures for handling, sale or exchange of fish taken on a commercial basis;
  - (6) species of fish subject to commercial fishing and any size or number restrictions; and
  - (7) a bonding requirement for commercial fishing.
- The secretary may limit commercial fishing to contract only, and the contractor shall provide such reports and information as required by the secretary. In addition to any other penalty prescribed by law for a violation of law or rules and regulations of the secretary pertaining to commercial fishing, the secretary may revoke a commercial fishing contract or refuse to issue such contract.

**History:** L. 1989, ch. 118, sec. 72; L. 1993, ch. 139, sec. 1; April 15.

Source or prior law: 32-183, 32-185, 32-188.

**32-942. Fur dealer licenses.** (a) Except as otherwise provided by law or rules and regulations of the secretary, a valid fur dealer license is required to buy, purchase or trade in raw furs, pelts, skins or carcasses of furbearing animals.

(b) Any person may secure a fur dealer license from the secretary or the secretary's designee by making application and paying the fee prescribed pursuant to K.S.A. 1989 Supp. 32-988.

(c) Any person who buys, purchases or trades in raw furs, pelts, skins or carcasses of furbearing animals shall keep a complete up-to-date record, upon forms provided by the secretary, of such information as required by rules and regulations adopted by the secretary in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto.

(d) The secretary may establish, by rules and regulations adopted in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, conditions and procedures under which a person may buy, purchase or trade in raw furs, pelts, skins or carcass of furbearing animals.

**History:** L. 1943, ch. 171, sec. 8; L. 1989, ch. 118, sec. 73; July 1.  
Source or prior law: 32-145, 32-163.

**32-943. Controlled shooting areas; definitions.** As used in K.S.A. 32-943 through 32-950, and amendments thereto, unless the context otherwise requires:

(a) "Game bird" means pheasant, quail, partridge, hand-raised mallard duck, prairie chicken, grouse, exotic game bird or any other bird, except wild turkey, hunted by sportspersons.

(b) "Propagated" means birds which are pen raised, birds raised from eggs purchased for purposes of raising such birds, chicks and full-grown birds purchased to be released in the area, as well as birds hatched from eggs produced on the area.

**History:** L. 1955, ch. 230, sec. 1; L. 1989, ch. 118, sec. 74; L. 1999, ch. 16, sec. 1; L. 2004, ch. 99, sec. 7; Jan. 1, 2005.  
Source or prior law: 32-311.

**32-944. Same; land requirements.** Any person owning, holding or controlling, by lease or otherwise, for a term of five or more years, any contiguous tract of land having an area of not less than 160 acres nor more than 1,280 acres, who desires to establish a controlled shooting area to propagate and shoot game birds thereon shall make application to the secretary for a license to operate a controlled shooting area. If the controlled shooting area is to be used exclusively for the propagation and shooting of hand-raised mallard ducks, the area licensed may be less than the 160 acres required above. The application shall be accompanied by the fee prescribed pursuant to K.S.A. 1989 Supp. 32-988 and amendments thereto.

**History:** L. 1955, ch. 230, sec. 2; L. 1989, ch. 118, sec. 75; L. 1990, ch. 140, sec. 1; July 1.  
Source or prior law: 32-312.

**32-945. Controlled shooting areas; license.** (a) Upon receipt of a new application for a license to operate a controlled shooting area, the secretary shall inspect:

- (1) The proposed licensed area described in such application;
- (2) the premises and facilities where game birds are to be propagated, raised and liberated;
- (3) the cover for game birds on such area; and
- (4) the ability of the applicants to operate a controlled shooting area.

(b) Upon receipt of a renewal application for a license to operate a controlled shooting area, the secretary may inspect as provided in subsection (a).

(c) If the secretary finds that the area contains not less nor more than the number of acres required by K.S.A. 32-944, and amendments thereto, is contiguous and has the proper requirements and facilities for the operation of a controlled shooting area and that the issuing of the license will otherwise be in the public interest, the secretary may approve the application and issue the controlled shooting area license.

(d) A controlled shooting area license expires on June 30 of the operational year for which issued.

(e) The secretary shall limit controlled shooting areas so that the total acreage licensed as controlled shooting areas in a county does not exceed 5% of the total acreage of such county.

**History:** L. 1955, ch. 230, sec. 3; L. 1989, ch. 118, sec. 76; L. 1990, ch. 140, sec. 2; L. 1993, ch. 185, sec. 4; L. 1998, ch. 180, sec. 2; L. 2000, ch. 94, sec. 1; L. 2014, ch. 17, sec. 1; July 1.  
Source or prior law: 32-313, 32-314, 32-321.

**32-946. Same; shooting season; hunting licenses.** No person shall take any game bird upon a controlled shooting area by shooting in any manner except between September 1 and March 31, both dates inclusive, of each year. Controlled shooting area licensees may assess charges to persons hunting on the controlled shooting area, and such charges may include a fee per bird taken. Every person hunting on a controlled shooting area shall possess a valid hunting license or controlled shooting area hunting license, if required by law.

**History:** L. 1955, ch. 230, sec. 9; L. 1959, ch. 192, sec. 1; L. 1969, ch. 216, sec. 2; L. 1989, ch. 118, sec. 77; July 1.

Source or prior law: 32-319, 32-324.

**32-947. Same; special deer permits.** (a) Notwithstanding the provisions of subsection (g) of K.S.A. 32-937, and amendments thereto, the secretary may issue to the licensee of a private membership licensed controlled shooting area special permits for the taking of deer for purchase by persons who are permitted by the licensee to hunt on such area. The fee for each such permit shall be as prescribed pursuant to K.S.A. 32-988, and amendments thereto. No permit issued to a licensee pursuant to this subsection shall be resold by such licensee at a price which exceeds the amount the licensee paid for such permit.

(b) The provisions of K.S.A. 32-937, and amendments thereto, and rules and regulations adopted thereunder, shall be applicable to any person to whom a special permit is issued pursuant to subsection (a). Nothing in this section shall be construed as changing the distribution formula for big game permits established by K.S.A. 32-937, and amendments thereto.

(c) The secretary shall adopt, in accordance with K.S.A. 32-805 and amendments thereto, such rules and regulations as necessary to implement this section.

**History:** L. 1988, ch. 129, sec. 1; L. 1989, ch. 118, sec. 78; L. 2007, ch. 133, sec. 3; Jan. 1, 2008.

Source or prior law: 32-326.

**32-948. Same; rules and regulations.** The secretary may adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, rules and regulations for implementing, administering and enforcing the provisions of K.S.A. 1989 Supp. 32-943 through 32-950, including but not limited to signing requirements, tagging and banding requirements for released or harvested game birds, harvest restrictions, release requirements and reporting requirements.

**History:** L. 1955, ch. 230, sec. 11; L. 1959, ch. 193, sec. 1; L. 1989, ch. 118, sec. 79; July 1.

Source or prior law: 32-315, 32-316, 32-317, 32-318, 32-321.

**32-949. Same; actions against license.** The secretary may suspend, revoke, refuse to issue or refuse to renew any controlled shooting area license if the secretary finds that the licensed area, or the operator thereof, is not complying or does not comply with the provisions of K.S.A. 1989 Supp. 32-943 through 32-950 or that the area is being operated in an unlawful or illegal manner. Orders under this section and proceedings thereon shall be subject to the provisions of the Kansas administrative procedure act.

**History:** L. 1955, ch. 230, sec. 12; L. 1988, ch. 356, sec. 71; L. 1989, ch. 118, sec. 80; July 1.

Source or prior law: 32-322.

**32-950. Same; judicial review of actions against license.** Any action of the secretary pursuant to K.S.A. 1989 Supp. 32-949 is subject to review in accordance with the act for judicial review and civil enforcement of agency actions upon the petitioner's filing, with the clerk of the reviewing court, a bond with two or more sufficient sureties, conditioned on the payment of all costs of the review if the decision of the secretary is sustained.

**History:** L. 1955, ch. 230, sec. 13; L. 1986, ch. 318, sec. 27; L. 1989, ch. 118, sec. 81; July 1.

Source or prior law: 32-323.



**32-951. Game breeder permit.** (a) Except as provided further, a game breeder permit is required to engage in the business of raising and selling game birds, game animals, furbearing animals or such other wildlife as required by rules and regulations adopted by the secretary in accordance with the K.S.A. 32-805 and amendments thereto.

(b) Any person who desires to engage in the business described in subsection (a) may apply to the secretary for a game breeder permit. The application shall give the name and residence of the applicant, the description of the premises, the number and kind of birds or animals which it is proposed to propagate and any other information required by the secretary. The fee prescribed pursuant to K.S.A. 32-988 and amendments thereto shall accompany the application.

(c) If the secretary determines that the application is made in good faith and that the premises are suitable for engaging in the business described in subsection (a), the secretary may issue such permit. The permit shall expire on June 30 of each year.

(d) Game Breeders shall make such reports of their activities to the secretary as required by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto. In addition to any other penalty prescribed by law, failure to make such reports or to comply with the laws of the state of Kansas or rules and regulations of the secretary shall be grounds for the secretary to refuse to issue, refuse to renew, suspend or revoke such permit.

(e) The secretary shall adopt, in accordance with K.S.A. 32-805 and amendments thereto, such rules and regulations as necessary to implement the provisions of this section.

(f) Any person who is engaged in the business of raising domesticated deer shall not be required to have a game breeder permit as required by this section. As used in this section, "Domesticated deer" means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for breeding stock; for any carcass, skin or part of such animal; for exhibition; or for companionship.

(g) The secretary, on a quarterly basis, shall transmit to the livestock commissioner a current list of persons issued a game breeder permit issued pursuant to this section who are raising or selling any member of the family cervidae.

(h) Any person holding a game breeder permit from the secretary is hereby authorized to recapture any game bird that such game breeder is permitted to raise or sell whenever any such game bird has escaped from confinement for any reason. The authorized area for such recapture is hereby limited to a one-quarter mile radius of the game breeder's operation from which the escape from confinement occurred, provided the game breeder has the prior approval of the owner of the land upon which the recapture will occur and has notified the department prior to the recapture.

**History:** L. 1943, ch. 171, sec. 4; L. 1978, ch. 152, sec. 7; L. 1987, ch. 138, sec. 3; L. 1989, ch. 118, sec. 82; L. 1991, ch. 106, sec. 1; L. 1993, ch. 143, sec. 4; L. 2007, ch. 144, sec. 1; July 1.  
Source or prior law: 32-124, 32-125, 32-159.

**32-952. Scientific, educational or exhibition permit.** (a) A scientific, educational or exhibition permit is required to collect, for scientific, educational or exhibition purposes, any wildlife protected by law or rules and regulations of the secretary.

(b) Any person who desires to engage in any activity described in subsection (a) shall apply to the secretary for a scientific, educational or exhibition permit. The fee prescribed pursuant to K.S.A. 1989 Supp. 32-988 shall accompany the application. Upon receipt of the application and fee, the secretary may issue to the applicant a scientific, educational or exhibition permit to collect specimens of wildlife protected by law or rules and regulations of the secretary, subject to rules and regulations adopted by the secretary in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto.

(c) Wildlife protected by law or rules and regulations of the secretary may be possessed at any time

by a person holding a scientific, educational or exhibition permit and may be shipped or transported within or without the state, by permission of the secretary. Application for shipment or transportation shall state the name and address of the person causing the shipping or transporting, the purposes for shipping or transporting, the number and kinds of specimens to be shipped, whether living or dead, and the name and address of the person to whom shipped or transported.

(d) The secretary shall adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, such rules and regulations as necessary to implement this section.

**History:** L. 1911, ch. 198, sec. 25; L. 1913, ch. 199, sec. 4; L. 1921, ch. 196, sec. 12; R.S. 1923, 32-123; L. 1978, ch. 152, sec. 5; L. 1989, ch. 118, sec. 83; July.

Source or prior law: L. 1897, ch. 135, sec. 4; 32-123.

**32-953. Rehabilitation permit.** (a) Except as otherwise provided by law or rules and regulations of the secretary, a rehabilitation permit is required to perform wildlife rehabilitation services.

(b) The provisions of subsection (a) do not apply to a licensed veterinarian.

(c) Any person who desires to perform wildlife rehabilitation services may apply to the secretary for a rehabilitation permit. The fee prescribed pursuant to K.S.A. 1989 Supp. 32-988 shall accompany the application. If the secretary determines that the applicant possesses adequate facilities for and knowledge of wildlife rehabilitation, the secretary may issue a rehabilitation permit under such terms as the secretary considers necessary.

(d) The secretary shall adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, such rules and regulations as necessary to implement the provisions of this section.

**History:** L. 1989, ch. 118, sec. 84; July 1.

**32-954. Field trial permit or commercial dog training permit.** (a) Except as provided in subsection (b), a field trial permit or commercial dog training permit is required to use wild or pen-raised game birds, game animals, coyotes, furbearing animals or other wildlife in a field trial or in training dogs on a commercial basis.

(b) A field trial permit shall not be required for a licensed controlled shooting area to conduct a field trial using game birds during the controlled shooting area operation season as established by K.S.A. 32-946, and amendments thereto.

(c) Any person who desires to conduct any activity described in subsection (a) may apply to the secretary for a field trial permit or commercial dog training permit. The fee prescribed pursuant to K.S.A. 32-988, and amendments thereto, shall accompany the application. Upon receipt of the application and fee, the secretary may issue the requested permit to the applicant.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a field trial permit or commercial dog training permit is valid from the date issued and expires on December 31 following its issuance.

(e) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations as necessary to implement this section. The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations providing for the use of wild or pen-raised game birds, game animals, coyotes, furbearing animals or other wildlife in field trials and in training dogs, establishing conditions and restrictions regulating such use and providing for the hunting, shooting and taking of banded pen-raised game birds for a certain time on a specified area by a dog trainer or by participants in a field trial event sponsored by a recognized group.

(f) In addition to any other penalty prescribed by law, failure to comply with the wildlife laws of this state or rules and regulations of the secretary shall be grounds for the secretary to refuse to issue, refuse to renew, suspend or revoke a field trial permit or commercial dog training permit.

**History:** L. 1963, ch. 250, sec. 2; L. 1969, ch. 213, sec. 2; L. 1979, ch. 117, sec. 3; L. 1989, ch. 118, sec. 85; L. 2008, ch. 60, sec. 2; July 1.  
Source or prior law: 32-174, 32-175.

**32-955. Wildlife damage control permit.** (a) A valid wildlife damage control permit is required to use sodium fluoroacetate, commonly called formula 1080. Such permit may be obtained from the secretary and shall be signed by the secretary and the extension specialist in wildlife damage control at Kansas state university. No such permit shall be issued until the extension specialist in wildlife damage control approves and recommends the use of sodium fluoroacetate.

(b) The secretary may, be rules and regulations adopted in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, require wildlife damage control permits for wildlife damage control by use of poison, poisonous gas, smoke or ferrets or by use of any smoke gun or other device for forcing smoke or any other asphyxiating or deadly gas or liquid into the holes, dens, runways or houses of wildlife.

(c) A permit may be issued pursuant to this section upon application to the secretary and payment of the fee prescribed pursuant to K.S.A. 1989 Supp. 32-988.

(d) The secretary may adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, rules and regulations to administer, implement and enforce the provisions of this section.

**History:** L. 1989, ch. 118, sec. 96; July 1.  
Source or prior law: 32-156.

**32-956. Wildlife importation permits.** (a) The secretary shall adopt, in accordance with K.S.A. 1992 Supp. 32-805 and amendments thereto, rules and regulations concerning the prohibition of certain wildlife from the waters and lands in this state. Such rules and regulations:

(1) Shall contain a list consisting of wildlife prohibited;

(2) shall provide for certain exemptions concerning the use of such wildlife for an experimental, scientific or display purpose and for the issuance of wildlife importation permits therefor; and

(3) may provide for certain exemptions concerning the use of such wildlife for such other purposes as authorized by the secretary under such conditions and restrictions as the secretary deems necessary and for the issuance of wildlife importation permits therefor.

(b) A fee may be prescribed for wildlife importation permits pursuant to K.S.A. 1992 Supp. 32-988 and amendments thereto.

**History:** L. 1976, ch. 201, sec. 1; L. 1989, ch. 118, sec. 95; L. 1993, ch. 185, sec. 5; July 1.  
Source or prior law: 32-108a, 32-111a, 32-115a, 32-145, 32-164a.

**32-957. Nongame and endangered species conservation act; title.** K.S.A. 32-957 through 32-963, 32-1009 through 32-1012, 32-1033 and sections 3 and 4, and amendments thereto, shall be known and may be cited as the nongame and endangered species conservation act.

**History:** L. 1975, ch. 221, sec. 1; L. 1989, ch. 118, sec. 88; L. 1997, ch. 113, sec. 1; July 1.  
Source or prior law: 32-501.

**32-958. Same; definitions.** As used in the nongame and endangered species conservation act:

(a) "Conserve," "conserving" and "conservation" mean the use of all methods and procedures for the purposes of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such numbers. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, regulated taking and, when and where appropriate, the periodic or total protection of species or populations of wildlife. With respect to threatened species and endangered species, the terms

mean the use of all methods and procedures, including but not limited to those described above, which are necessary to bring any threatened or endangered species to the point at which the methods, procedures and measures provided for such species pursuant to the nongame and endangered species conservation act are no longer necessary.

(b) "Ecosystem" means a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life.

(c) "Endangered species" means any species of wildlife whose continued existence as a viable component of the state's wild fauna is determined to be in jeopardy. That term also includes any species of wildlife determined to be an endangered species pursuant to Pub. L. No. 93-205 (December 28, 1973), the endangered species act of 1973, and amendments thereto.

(d) "Nongame species" means any species of wildlife not legally classified a game species, furbearer, threatened species or an endangered species by statute or by rule and regulation adopted pursuant to statute.

(e) "Optimum carrying capacity" means that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem, without diminishing the ability of the habitat to continue that function.

(f) "Threatened species" means any species of wildlife which appears likely, within the foreseeable future, to become an endangered species. That term also includes any species of wildlife determined to be a threatened species pursuant to Pub. L. No. 93-205 (December 28, 1973), the endangered species act of 1973, and amendments thereto.

(g) "Wildlife" means any member of the animal kingdom, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg or offspring thereof, or the dead body or parts thereof.

**History:** L. 1975, ch. 221, sec. 2; L. 1989, ch. 118, sec. 89; July 1.

Source or prior law: 32-502.

**32-959. Same; nongame species.** (a) The secretary shall conduct investigations on nongame species in order to develop information relating to population, distribution, habitat needs, limiting factors and other biological and ecological data to determine conservation measures necessary for their continued ability to sustain themselves successfully. On the basis of such information and determinations, the secretary shall adopt rules and regulations pursuant to K.S.A. 1989 Supp. 32-963 which contain a list of the nongame species deemed by the secretary to be in need of conservation and shall develop conservation programs pursuant to K.S.A. 1989 Supp. 32-962 which are designed to insure the continued ability of such nongame species to perpetuate themselves successfully. The secretary shall conduct ongoing investigations of nongame species.

(b) The secretary shall adopt such rules and regulations pursuant to K.S.A. 1989 Supp. 32-963 which establish limitations relating to taking, possessing, transporting, exporting, processing, selling, offering for sale or shipping as are deemed necessary by the secretary to conserve such nongame species.

**History:** L. 1975, ch. 221, sec. 3; L. 1989, ch. 118, sec. 90; July 1.

Source or prior law: 32-503.

**32-960. Same; threatened or endangered species.** (a) The secretary shall determine whether any species of wildlife indigenous to the state is a threatened species or an endangered species in this state because of any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of its habitat or range;
- (2) the overutilization of such species for commercial, sporting, scientific, educational or other purposes;
- (3) disease or predation;

- (4) the inadequacy of existing regulatory mechanisms; or
- (5) the presence of other natural or man-made factors affecting its continued existence within this state.

(b)(1) The secretary shall make the determinations required by subsection (a) on the basis of the best scientific, commercial and other data available to the secretary and after consultation, as appropriate, with federal agencies, other interested state agencies and interested persons and organizations.

(2) In determining whether any species of wildlife is a threatened species or an endangered species in this state, the secretary shall take into consideration those actions, if any, being carried out or about to be carried out by the federal government, by other states, by other agencies of this state or political subdivisions thereof, or by nongovernmental persons or organizations which may affect the species under consideration.

(3) Species of wildlife which occur in this state and which have been determined to be threatened species or endangered species pursuant to Pub. L. No. 93-205 (December 28, 1973), the endangered species act of 1973, and amendments thereto, shall receive full consideration by the secretary to determine whether each such species is a threatened or an endangered species in this state.

(c)(1) The secretary shall adopt, in accordance with K.S.A. 32-805 and amendments thereto, rules and regulations pursuant to K.S.A. 32-963 and amendments thereto which contain a list of all species of wildlife indigenous to this state which have been determined to be endangered species pursuant to this section and a list of all such species which have been determined to be threatened species pursuant to this section. Each list shall refer to the species contained therein by their scientific and common names, if any, and shall specify with respect to each such species the portion of the range of such species within this state in which it is threatened or endangered.

(2) The secretary may not add a species to nor remove a species from any such list unless the secretary has first:

(A) Published a public notice of such proposed action;

(B) notified the governor of any state which shares a common border with this state and in which the subject species is known to occur that such action is being proposed; and

(C)(i) in cases where the secretary determines that an emergency situation exists, published a public notice that such an emergency situation exists, together with a summary of facts that support such determination; or (ii) in all other cases, conducted public informational meetings to coincide with the scientific review outside the agency which will recommend action with regard to the addition of the species to or removal of the species from the list. All documents within the control and custody of the secretary that pertain to adding the species to or removing the species from the list shall be made available to the public in a local repository, such as a public library, courthouse or regional office of the department. The secretary shall also mail a notice of the proposed addition of the species to or removal of the species from the list to federal and state agencies and local and tribal governments that are or may be affected by results of the review and to all individuals and organizations that have requested notification of department action regarding the administration of this act. The secretary shall also issue news releases to publicize the proposed addition of the species to or removal of the species from the list.

(3) Upon the petition of an interested person, the secretary shall conduct a review of any listed or unlisted species of wildlife proposed to be removed from or added to either of the lists adopted pursuant to this subsection (c), but only if the secretary makes a determination and publishes a public notice that such person has presented substantial evidence which warrants such a review. Once the secretary has made a determination that a review is warranted, the process described in subsection (c)(2), including the conducting of a public information meeting, shall apply.

(d) Every five years the secretary shall conduct a review of the species listed pursuant to this act (except for those species listed pursuant to the federal endangered species act of 1973, as amended) and shall submit any proposed changes in the listings to the following for consideration: (1) Federal and state

agencies and local and tribal governments that are or may be affected by results of the change; and (2) all individuals and organizations that have requested notification of departmental action regarding administration of this act. After at least 90 days for comment by the agencies, governments, individuals and organizations to which the proposed changes are submitted, the secretary shall submit to the commission proposed rules and regulations making any changes that the secretary determines should be made in the listings.

**History:** L. 1975, ch. 221, sec. 4; L. 1989, ch. 118, sec. 91; L. 1997, ch. 113, sec. 2; July 1.  
Source or prior law: 32-504.

**32-960a. Same; recovery plans; advisory committees, duties.** (a) On or before January 1, 1998, the secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations establishing procedures for developing and implementing recovery plans for all species listed as in need of conservation, threatened or endangered. The secretary shall give priority to development of recovery plans for particular species based on a cumulative assessment of the scientific evidence available. Based on the priority ranking, the secretary shall develop and begin implementation of recovery plans for at least two listed species on or before January 1, 1999.

(b) Whenever a species is added to the list of threatened or endangered species, the secretary shall establish a volunteer local advisory committee composed of members broadly representative of the area affected by the addition of the species to the list. Members shall include representatives of specialists from academic institutions, agribusiness and other trade organizations, state environmental and conservation organizations and other interested organizations and individuals. In addition, the membership shall include, if appropriate, landowners and public officials representing state, local and tribal governments. To the maximum extent possible, committee membership shall evenly balance the interests of all potentially affected groups and institutions.

(c) The advisory committee shall: (1) Work with the secretary to adapt the listing of the species and the recovery plan for the species to the social and economic conditions of the affected area; and (2) disseminate information to the public about the scientific basis of the decision to list the species, the regulatory process and incentives available to landowners pursuant to this act.

(d) If a species in need of conservation receives a priority ranking to develop and begin implementation of a recovery plan, the secretary shall establish a volunteer local advisory committee in the same manner as provided by subsection (b) to work with the secretary to adapt the recovery plan and disseminate information to the public.

(e) In implementing a recovery plan for a species, the secretary shall consider any data, recommendations and information provided by the advisory committee.

(f) The secretary shall cause each developed and implemented recovery plan to be published and maintained on the official website of the department of wildlife, parks and tourism.

**History:** L. 1997, ch. 113, sec. 3; L. 2016, ch. 99, sec. 1; July 1.

**32-960b. Same; guidelines for enforcement and permit requirements.** The secretary shall adopt, in accordance with K.S.A. 32-805 and amendments thereto, rules and regulations establishing those guidelines prescribed in the operational directive of the secretary dated January 18, 1996, as the guidelines for law enforcement actions and permit requirements relating to the species listed as threatened or endangered pursuant to the Kansas nongame and endangered species conservation act and based on a determination of "intent" as it relates to lawful activities associated with normal farming and ranching practices. In addition, such rules and regulations incorporating the operational directive shall establish guidelines for enforcement activities related to development of residential and commercial property on privately owned property financed with private, nonpublic funds.

**History:** L. 1997, ch. 113, sec. 4; July 1.

**32-961. Same; special permits.** (a) Whenever any species is listed as a threatened species pursuant to K.S.A. 32-960, and amendments thereto, the secretary shall adopt such rules and regulations pursuant to K.S.A. 32-963, and amendments thereto, as the secretary deems necessary and advisable to provide for the conservation of such species. By rules and regulations adopted pursuant to K.S.A. 32-963, and amendments thereto, the secretary may prohibit with respect to any threatened species included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto, except as provided in subsection (c), any act which is prohibited under subsection (b).

(b) Except as otherwise specifically provided by this section or rules and regulations adopted pursuant to this section, a special permit is required for any person subject to the jurisdiction of this state to:

(1) Export from this state any endangered species included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto;

(2) possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any such endangered species; or

(3) act in a manner contrary to any rule and regulation adopted by the secretary pursuant to authority provided by K.S.A. 32-957 through 32-963 and 32-1009 through 32-1012, and amendments thereto, which pertains to such endangered species or to any threatened species of wildlife included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto.

(c) The provisions of subsection (b)(3) shall not apply to:

(1) Normal farming and ranching practices, including government cost-shared agriculture land treatment measures, unless a permit is required by another state or federal agency or such practices involve an intentional taking of a threatened species under K.S.A. 32-1010, and amendments thereto, or involve an intentional taking of an endangered species under K.S.A. 32-1011, and amendments thereto;

(2) development of residential and commercial property on privately owned property financed with private, nonpublic funds unless a permit is required by another state or federal agency or the development involves an intentional taking of a threatened species under K.S.A. 32-1010, and amendments thereto, or involves an intentional taking of an endangered species under K.S.A. 32-1011, and amendments thereto; or

(3) activities for which a person has obtained a scientific, educational or exhibition permit, as provided by K.S.A. 32-952, and amendments thereto.

(d) For the purposes of this section, a permit required by another state or federal agency shall not include a certification or registration.

(e) Subsection (b) shall not apply to any endangered species listed pursuant to K.S.A. 32-960, and amendments thereto, and any species of wildlife determined to be an endangered species pursuant to Pub. L. 93-205 (December 28, 1973), the endangered species act of 1973, and amendments thereto, entering the state from another state or from a point outside the territorial limits of the United States and being transported to a point within or beyond the state in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(f) The secretary may issue special permits to authorize, under such terms and conditions as the secretary prescribes, any act described in subsection (b) or any act which is otherwise prohibited by rules and regulations adopted pursuant to subsection (a), for scientific purposes or to enhance the propagation or survival of the affected species. Application for such permit shall be made to the secretary or the secretary's designee and shall be accompanied by the fee prescribed pursuant to K.S.A. 32-988, and amendments thereto. The secretary shall maintain a list of permit applications under this subsection. Where such applications have been approved and special permits have been issued, the secretary shall maintain a list of such permits, including therein the name and address of the permittee and the terms and conditions prescribed for each such permit. The secretary shall keep such lists current and shall file copies thereof, along with any additions or amendments, with the secretary of the interior of the federal

government.

(g) Threatened or endangered species included in a list adopted pursuant to K.S.A. 32-960, and amendments thereto, may be captured or destroyed without a permit by any person in an emergency situation involving an immediate and demonstrable threat to human life.

(h) (1) For all new species listed as endangered or threatened by the secretary pursuant to this act on and after July 1, 2016, recovery plans for such species shall be completed within four years after the species is listed. If such recovery plan is not completed within four years, no permit shall be required by the secretary for any activity that would otherwise require a permit pursuant to this act until the recovery plan is complete. The provisions of this paragraph shall not apply to any species listed as endangered or threatened under the endangered species act of 1973 (Pub. L. No. 93-205).

(2) The secretary shall annually submit a report on all species listed as endangered or threatened as of June 30, 2016, to the senate committee on natural resources and the house committee on agriculture and natural resources. Such report shall include:

- (A) The status of species with a completed recovery plan;
- (B) the status of species with a recovery plan currently in process, but not yet complete; and
- (C) future goals for completing recovery plans for any listed species that does not yet have a recovery plan.

**History:** L. 1975, ch. 221, sec. 5; L. 1989, ch. 118, sec. 92; L. 2016, ch. 99, sec. 2; July 1.  
Source or prior law: 32-505.

**32-962. Same; programs for conservation.** (a) The secretary shall establish such programs, including acquisition of land or aquatic habitat, as are deemed necessary for the conservation of nongame, threatened and endangered species. The secretary shall utilize all authority vested in the secretary by the laws of this state to carry out the purposes of this section with the exception that the secretary shall not utilize the power of eminent domain to carry out such programs unless a specific authorization and appropriation is made therefor by the legislature.

(b)(1) In carrying out programs authorized by this section, the secretary may enter into agreements with federal agencies, other states, other state agencies, political subdivisions of this state or private persons for administration and management of any area established under this section or utilized for conservation of nongame species, species in need of conservation or threatened or endangered species. Such programs shall include, but not be limited to, the following conservation agreements:

(A) Prelisting conservation agreement: An agreement identifying land where the contracting entity agrees to carry out management activities that increase the likelihood of species survival before a species is listed as threatened or endangered. The intent of such agreement would be to allow the contracting entity to carry out management activities specified in the agreement during the life of the agreement without penalties of law enforcement action or permitting requirements if the species is listed at a later date.

(B) Safe harbor agreement: An agreement in which the contracting entity agrees to maintain or enhance suitable, but currently unoccupied, habitat for a species listed as in need of conservation, threatened or endangered so as to increase utilization of the habitat by a listed species. The intent of such agreement would be to protect the contracting entity from any restrictions on land use that might otherwise occur if a listed species immigrates into the habitat.

(C) No take agreement: An agreement allowing the contracting entity to implement voluntary management activities that maintain, enhance, set aside or create habitat for species listed as in need of conservation, threatened or endangered. The intent of such agreement would be to provide assurance that the management activities specified in the agreement would not lead to penalties of law enforcement action or permitting requirements if future changes in land use are needed.

(2) The initial term of any agreement pursuant to subsection (b)(1) shall be five years. An agreement



may be continued, with or without modification, after the five-year term, subject to review and determination by all parties. In the absence of a mutually satisfactory determination by the parties that an agreement should continue, the agreement will terminate.

(c) The governor shall review other programs administered by the governor and utilize such programs in furtherance of the purposes of the nongame and endangered species conservation act. All state agencies shall cooperate with the secretary in furtherance of the conservation of nongame, threatened and endangered species.

**History:** L. 1975, ch. 221, sec. 6; L. 1989, ch. 118, sec. 93; L. 1997, ch. 113, sec. 5; July 1.  
Source or prior law: 32-506.

**32-963. Rules and regulations.** The secretary may adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, such rules and regulations that the secretary deems necessary to implement and administer the provisions of the nongame and endangered species conservation act.

**History:** L. 1975, ch. 221, sec. 7; L. 1988, ch. 366, sec. 7; L. 1989, ch. 118, sec. 94; July 1.  
Source or prior law: 32-507.

#### **32-964.**

**History:** L. 1990, ch. 141, sec. 1; L. 1992, ch. 292, sec. 1; L. 1993, ch. 278, sec. 1; L. 2001, ch. 107, sec. 2; L. 2001, ch. 185, sec. 2; L. 2003, ch. 108, sec. 1; Repealed, L. 2005, ch. 124, sec. 4; Jan. 1, 2006.

**32-965. Big game control permits.** (a) As used in this section, terms have the meanings provided by K.S.A. 32-701 and amendments thereto.

(b) It shall be a goal of the department to manage big game populations in the state at levels consistent with existing habitat and landowner and community tolerance. For this purpose, the secretary is authorized to issue big game control permits, in addition to big game permits and game tags issued during regularly designated hunting seasons.

(c) For each big game control permit issued, the secretary may designate the period of time, the location and the number and type of big game that may be harvested. Use of any big game control permit shall require the permission of the landowner or tenant of the property where it is to be used.

(d) The secretary shall consult with representatives of farming and ranching organizations, county and city government associations and hunting organizations in the development, modification and implementation of a big game control permit program.

(e) The secretary, in accordance with K.S.A. 32-805 and amendments thereto, may adopt such rules and regulations as necessary to implement to the provisions of this section. Such rules and regulations shall not require an applicant for a big game control permit to attempt to alleviate a problem with big game using any means other than hunting during the regular firearms season for the appropriate species of big game animal.

**History:** L. 1999, ch. 98, sec. 3; L. 2000, ch. 104, sec. 2; L. 2007, ch. 133, sec. 4; Jan. 1, 2008.

**32-966. Deer management plan, reduction of motor vehicle accidents.** The secretary of wildlife, parks and tourism and the secretary of transportation shall cooperate in developing a management plan to address reduction of motor vehicle accidents involving deer in those areas of the state experiencing high numbers of such accidents. The management plan shall include methods to identify those areas and methods to inform and communicate with landowners and tenants in those areas regarding measures to reduce local deer populations.

**History:** L. 2000, ch. 104, sec. 3; L. 2007, ch. 133, sec. 5; L. 2012, ch. 47, sec. 50; July 1.

**32-967. Deer management to reduce property damage.** The secretary shall identify local

geographical areas in which deer populations are causing significant property damage. The secretary is hereby authorized and directed to take such actions as are necessary to reduce the deer populations in such areas for the purpose of reducing damage to private property.

**History:** L. 2003, ch. 121, sec. 6; Jan. 1, 2004.

**32-968. Landowner deer management program; report.** (a) The department is hereby authorized and directed to develop a report containing recommendations for the establishment of a landowner deer management program. The report shall include recommended procedures, requirements and guidelines to provide qualified landowners an allotment of antlered and antlerless deer permits that may be transferred by the landowner to resident or nonresident deer hunters for use on such landowner's property and may include such other recommendations as the department finds appropriate. Such report shall be presented to the senate natural resources committee and the house tourism and parks committee on or before January 15, 2004.

(b) The department is hereby authorized to implement a pilot program not to exceed five project locations for the landowner deer management program. Landowners who participate in the landowner deer management program shall not be eligible to apply for and receive nonresident deer permits pursuant to subsection (o) of K.S.A. 32-937, and amendments thereto. Deer permits authorized for the program shall be restricted to the property described in the individual plan and the number of permits shall be established in an agreement with the landowner and the department using criteria developed by the department. Permits issued through the landowner deer management program shall not be part of the nonresident deer permit allocation allowed under subsection (m) of K.S.A. 32-937, and amendments thereto. The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations providing for the implementation and evaluation of the pilot program and issuance of permits within the landowner deer management program. The provisions of this subsection shall expire January 1, 2008.

**History:** L. 2003, ch. 121, sec. 4; L. 2004, ch. 76, sec. 1; July 1.

**32-969. Wild turkey permits; tags; definitions.** On and after January 1, 2005: (a) Except as otherwise provided by law or rules and regulations of the secretary and in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, a valid wild turkey permit and game tags are required to take any wild turkey in this state.

(b) The fee for wild turkey permits and game tags shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(c) A wild turkey permit and game tags are valid throughout the state or such portion thereof as provided by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a wild turkey permit and game tags are valid from the date of issuance and shall expire at the end of the season for which issued.

(e) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations for each regular or special wild turkey hunting season and for each management unit regarding wild turkey permits and game tags. The secretary is hereby authorized to issue wild turkey permits and game tags pertaining to the taking of wild turkeys. No wild turkey permits or game tags shall be issued until the secretary has established, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, a regular or special wild turkey hunting season.

(f) A wild turkey permit shall state the number and sex of wild turkeys which may be killed by the permittee. The secretary may require a wild turkey permittee to provide survey information at the conclusion of the open season.

(g) If required by the secretary, the permittee shall permanently affix the carcass tag to the carcass of any wild turkey immediately after killing in accordance with rules and regulations adopted by the secretary. Thereafter, the permittee shall take such killed wild turkey to a check station as may be required in the rules and regulations, where a check station tag shall be affixed to the wild turkey carcass if the kill is legal. Any tag shall remain affixed to the carcass until the carcass is processed for storage or consumption. The permittee shall retain the carcass tag until the carcass is consumed, given to another or otherwise disposed of.

(h) Fifty percent of the wild turkey permits authorized for a regular season in any management unit shall be issued to landowners or tenants, provided that a limited number of wild turkey permits have been authorized. A landowner or tenant is not eligible to apply for a wild turkey permit as a landowner or as a tenant in a management unit other than the unit or units which include such landowner's or tenant's land. Any wild turkey permits not issued to landowners or tenants within the time period prescribed by rule and regulation may be issued without regard to the 50% limitation.

(i) Members of the immediate family who are domiciled with a landowner or tenant may apply for a resident wild turkey permit as a land-owner or as a tenant, but the total number of landowner or tenant wild turkey permits issued to a landowner or tenant and a landowner's or tenant's immediate family shall not exceed one permit for each 80 acres owned by such landowner or operated by such tenant. Evidence of ownership or tenancy, if requested, shall be provided to the department.

(j) As used in this section:

(1) "Landowner" means a resident owner of farm or ranch land of 80 acres or more located in the state of Kansas.

(2) "Tenant" means an individual who is actively engaged in the agricultural operation of 80 acres or more of Kansas farm or ranch land for the purpose of producing agricultural commodities or livestock and who:

(A) Has a substantial financial investment in the production of agricultural commodities or livestock on such farm or ranch land and the potential to realize substantial financial benefit from such production; or (B) is a bonafide manager having an overall responsibility to direct, supervise and conduct such agricultural operation and has the potential to realize substantial benefit from such production in the form of salary, shares of such production or some other economic incentive based upon such production. Evidence of tenancy, if requested, shall be provided to the department and may include, but is not limited to, natural resource conservation services records, farm service agency records, or written agricultural contract or lease documentation.

(3) "Regular season" means a statewide wild turkey hunting season authorized annually which may include one or more seasons restricted to specific types of equipment.

(4) "Special season" means a wild turkey hunting season in addition to a regular season authorized on an irregular basis or at different times of the year other than the regular season.

(5) "General permit" means a wild turkey hunting permit available to Kansas residents not applying for wild turkey permits as a landowner or tenant.

(6) "Nonresident permit" means a wild turkey hunting permit available to individuals who are not Kansas residents.

**History:** L. 2004, ch. 99, sec. 12; L. 2007, ch. 133, sec. 6; L. 2008, ch. 17, sec. 1; July 1.

**32-970. Commission permits to take big game; issuance.** (a) The commission may authorize commission permits to take big game. Such permits shall be made available only to local chapters of nonprofit organizations based or operating in Kansas that actively promote wildlife conservation and the hunting and fishing heritage. Organizations that oppose hunting and fishing shall not be eligible for award of a commission permit.

(b) The issuance of commission permits shall be subject to the following limitations:

- (1) Not more than one permit allowing the taking of an antelope shall be issued in a calendar year;
  - (2) not more than one permit allowing the taking of an elk shall be issued in a calendar year;
  - (3) any deer permits may comprise the entire allotment or the balance of the total quota if permits for other species are issued;
  - (4) a total of not more than seven commission permits shall be available in one calendar year; and
  - (5) commission permits shall not be included in nor reduce any limited quota permit allotments set by other rules and regulations of the secretary.
- (c) Not more than one commission permit may be issued to an organization, but this limitation shall not preclude individual chapters of the same organization from being issued permits.
- (d) Organizations receiving commission permits shall market the permit to the public in order to receive the maximum financial benefit available for the organization and the department.
- (e) Application requests by qualified organizations shall be submitted to any member of the commission and shall be provided to the commission as a whole.
- (f) The commission shall conduct a random drawing from the pool of eligible qualified organizations to award commission permits, subject to the approval of the secretary.
- (g) Organizations shall not be eligible to receive a commission permit more than once in a three-year period.
- (h) Organizations awarded commission permits shall pay to the department the price established by rules and regulations for the highest value for the type of permit awarded. No other compensation shall be provided to the commission or the department with regard to issuance of a commission permit. The balance of the sale price for the permit shall be retained by the organization. If the organization is Kansas hunters feeding the hungry, inc., not less than 15% of the amount retained by the organization shall be used to supplement department sponsored or approved projects. For any other organization, not less than 85% shall be used to supplement department sponsored or approved projects.
- (i) Limitations established by law or by rules and regulations adopted by the secretary pursuant to K.S.A. 32-807, and amendments thereto, relating to the ability to receive a same species permit in the future shall apply to the final recipient of the commission permit.
- (j) Commission permits shall only be issued in the name of the final recipient. Once a commission permit is issued in the name of the final recipient, it shall not be transferred to any other individual.
- (k) Any commission permit shall be subject to the restrictions of the season, sex, equipment type or hunt units as issued on the permit by the department.
- (l) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations as necessary to implement the provisions of this section.

**History:** L. 2005, ch. 99, sec. 1; L. 2007, ch. 143, sec. 1; L. 2008, ch. 50, sec. 1; April 10.

**32-971. Youth hunt of a lifetime deer permits; issuance.** (a) The department may authorize youth hunt of a lifetime and wounded warrior deer permits to take deer. Youth hunt of a lifetime permits shall be made available only to nonprofit organizations based or operating in Kansas that actively promote hunting for youth under the age of 21 who are handicapped or experiencing life threatening illnesses. Wounded warrior deer permits shall be made available only to disabled veterans who sustained injuries in combat and have a service-connected disability of not less than 30%.

(b) The issuance of youth hunt of a lifetime and wounded warrior deer permits shall be subject to the following limitations:

- (1) A total of not more than 10 youth hunt of a lifetime permits and not more than 10 wounded warrior permits shall be available in each calendar year;
- (2) youth hunt of a lifetime permits and wounded warrior permits shall not be included in nor reduce any limited quota permit allotments set by other rules and regulations of the secretary.
- (c) The department shall conduct a random drawing from the pool of eligible qualified organizations to

award youth hunt of a lifetime or eligible individuals to award wounded warrior permits, if demand exceeds the allocation of permits, as determined by the department.

(d) Organizations awarded youth hunt of a lifetime permits and individuals awarded wounded warrior permits shall pay to the department the price established by rules and regulations for the highest value for the type of permit awarded.

(e) Youth hunt of a lifetime and wounded warrior permits shall only be issued in the name of the final recipient. Once a youth hunt of a lifetime or wounded warrior permit is issued in the name of the final recipient, it shall not be transferred to any other individual.

(f) Youth hunt of a lifetime and wounded warrior permits shall be subject to the restrictions of the season, sex, equipment type or hunt units as issued on the permit by the department.

(g) Organizations awarded youth hunt of a lifetime permits shall provide the department with a final report on the use of the permit by the final recipient not later than 30 days following the close of the season for which the permit is valid.

(h) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations as necessary to implement the provisions of this section.

**History:** L. 2007, ch. 143, sec. 3; L. 2013, ch. 17, sec. 1; April 11.

**32-972 to 32-973. Reserved.**

## EXCEPTIONS

**32-974. Private water fishing impoundment; exemptions.** The owner or tenant having possession and control of a private water fishing impoundment and desiring to use it for the propagation or raising of fish for private use or to be sold or used commercially may do so without securing or holding any state license, permit or stamp and without being limited as to numbers, time or manner of taking fish from such impoundment.

**History:** L. 1965, ch. 269, sec. 1; L. 1971, ch. 147, sec. 1; L. 1989, ch. 118, sec. 86; July 1.  
Source or prior law: 32-172a.

## CASE ANNOTATIONS

1. Water in county-owned sandpit subject to Kansas fishing regulations. *State v. Powell*, 238 K. 590, 712 P.2d 1264 (1986).

**32-975. Same; waiver of exemptions.** The owner or tenant having possession and control of a private water fishing impoundment and desiring to secure fish stock from the state of Kansas may make application to the department for fish for stocking. If the impoundment is stocked by the department, the owner or tenant waives all of the exemptions provided by K.S.A. 1989 Supp. 32-906, 32-941 and 32-974 thereafter, for a period of 10 years, the impoundment and fishing privileges therein shall be subject to the licensing requirements and all other laws of the state and rules and regulations of the secretary relative to fishing in the state.

**History:** L. 1965, ch. 269, sec. 2; L. 1989, ch. 118, sec. 87; July 1.  
Source or prior law: 32-172b.

**32-976. Private water fishing impoundments; stocking or restocking of fish prohibited, when.** Except for research, scientific or demonstration purposes, the secretary of wildlife, parks and tourism shall not stock or restock fish in any private water impoundment constructed by man and located wholly within lands owned or leased by the individual maintaining such impoundment unless the fish are secured from a private fish grower. These private waters do not include any impoundment constructed,

owned, leased or operated by a federal, state or local governmental agency or by a person who has entered into an agreement with a federal, state or local governmental agency that such impoundment will be open to public access and use.

**History:** L. 1990, ch. 139, sec. 3; L. 2012, ch. 47, sec. 51; July 1.

**32-977 to 32-979. Reserved.**

## APPLICATIONS, FEES AND ISSUANCE

**32-980. Form, content; resident, nonresident; armed forces personnel; students; contribution to Kansas hunters feeding the hungry.** (a) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations prescribing:

(1) Procedures for, the form and content of and the requirements for applications for licenses, permits, stamps and other issues of the department, and duplicates thereof; and

(2) procedures for issuance of and the form and content of licenses, permits, stamps and other issues of the department, and duplicates thereof.

(b) The secretary shall provide for both resident and nonresident licenses, permits, stamps and other issues of the department, and duplicates thereof, except that:

(1) A nonresident who is on active duty with any branch or department of the armed forces of the United States while stationed within this state may purchase licenses, permits, stamps and other issues of the department, except a lifetime fishing, hunting or furharvester or combination hunting and fishing license as provided in K.S.A. 32-930, and amendments thereto, and may engage in any activity authorized by such license, permit, stamp or other issue under the same conditions as a resident of this state. Such person shall carry in the person's possession when fishing, hunting or furharvesting such license, permit, stamp or other issue and a card or other evidence identifying such person as being on active duty in the armed forces of the United States.

(2) A person who is on active duty with any branch or department of the armed forces of the United States and who was a resident of this state immediately prior to entry into the armed forces, and any member of the immediate family of such person who is domiciled with such person, may purchase licenses, permits, stamps and other issues of the department and may engage in any activity authorized by such license, permit, stamp or other issue under the same conditions as a resident of this state.

(3) A nonresident who is a registered full time student in residence of a public or private secondary, postsecondary or vocational school located in this state may purchase licenses, permits, stamps and other issues of the department, except a lifetime fishing, hunting or furharvester or combination hunting and fishing license as provided in K.S.A. 32-930, and amendments thereto, and may engage in any activity authorized by such license, permit, stamp or other issue under the same conditions as a resident of this state. Such person shall carry in the person's possession when fishing, hunting or furharvesting such license, permit, stamp or other issue and a card or other evidence identifying such person as a full time student.

(c) The forms adopted pursuant to this section for hunting licenses shall include a provision for the applicant to make a voluntary contribution of \$2 or more to support the activities of Kansas hunters feeding the hungry, inc.

**History:** L. 1989, ch. 118, sec. 97; L. 1993, ch. 185, sec. 6; L. 1997, ch. 69, sec. 1; L. 1999, ch. 120, sec. 3; L. 2004, ch. 76, sec. 3; L. 2008, ch. 50, sec. 2; April 10.

Source or prior law: 32-104b, 32-104j, 32-104k.

**32-981. Duplicates.** If a person holds a currently valid license, permit, stamp or other issue of the department and such issue is lost or destroyed, such person may secure a duplicate issue of the same

kind as the original by making application to the secretary and paying the fee prescribed pursuant to K.S.A. 1989 Supp. 32-988. A duplicate shall be issued for the remainder of the term of the original issue if:

(a) The right of the applicant to such duplicate is established to the satisfaction of the secretary and such applicant complies with the rules and regulations adopted by the secretary in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto and pertaining to such duplicate ; or

(b)(1) the applicant takes an oath before the issuer of the license, permit, stamp or other issue that the applicant has been issued a currently valid license, permit, stamp or other issue and it has been lost or destroyed;

(2) the applicant forwards such oath to the secretary, together with the certificate of the issuer that the applicants was issued such license, permit, stamp or other issue and a statement containing its date and number and the name of the applicant; and

(3) the right of the applicant to such duplicate is established to the satisfaction of the secretary.

(c) A duplicate issued pursuant to this section shall entitle the rightful holder thereof to the same privilege and shall expire on the same date as the original license, permit, stamp or other issue.

**History:** L. 1927, ch. 221, sec. 18; L. 1931, ch. 191, sec. 3; L. 1933, ch. 187, sec. 3; L. 1937, ch. 239, sec. 1; L. 1951, ch. 280, sec. 1; L. 1957, ch. 249, sec. 1; L. 1959, ch. 191, sec. 1; L. 1971, ch. 141, sec. 1; L. 1978, ch. 152, sec. 3; L. 1982, ch. 175, sec. 7; L. 1987, ch. 139, sec. 1; L. 1989, ch. 118, sec. 98; July 1.

Source or prior law: 32-104b, 74-4509b.

**32-982. Application; procedure.** (a) Except as otherwise provided by law, any person may secure a license, permit, stamp or other issue of the department upon application to any county clerk in this state, to a person appointed pursuant to K.S.A. 1989 Supp. 32-985 or to the secretary or the secretary's designee and payment of the fee prescribed by law or pursuant to K.S.A. 1989 Supp. 32-988.

**History:** L. 1927, ch. 221, sec. 16; L. 1931, ch. 191, sec. 2; L. 1933, ch. 187, sec. 2; L. 1935, ch. 181, sec. 1; L. 1943, ch. 170, sec. 1; L. 1947, ch. 258, sec. 1; L. 1953, ch. 215, sec. 1; L. 1960, ch. 48, sec. 1; L. 1969, ch. 210, sec. 1; L. 1972, ch. 158, sec. 4; L. 1973, ch. 178, sec. 1; L. 1978, ch. 152, sec. 2; L. 1981, ch. 174, sec. 1; L. 1982, ch. 175, sec. 6; L. 1985, ch. 130, sec. 2; L. 1985, ch. 131, sec. 2; L. 1985, ch. 134, sec. 2; L. 1986, ch. 148, sec. 1; L. 1988, ch. 130, sec. 1; L. 1989, ch. 118, sec. 99; July 1.  
Source or prior law: 32-104a.

**32-983. Issuance by department; lost or stolen issues or fees.**

(a) The secretary or the secretary's designated employees shall be authorized, at the headquarters or field offices of the department, to issue any license, permit, stamp or other issue of the department. Subject to the requirements of law or rules and regulations of the secretary, such issue shall be issued to any person upon application and payment of the fee prescribed by law or pursuant to K.S.A. 1989 Supp. 32-988.

(b) Whenever any license, permit, stamp or other issue of the department, or any fee collected from the sale thereof, is lost, stolen or destroyed while in possession of a designated employee of the secretary and the secretary, upon investigation, finds that such issue or fee was lost, stolen or destroyed by a cause beyond the control of the designated employee, the secretary shall relieve the designated employee from payment for such issue or fee. Whenever the secretary finds, upon investigation, that any such issue or fee was lost, stolen or destroyed by a cause within the control of the designated employee, such employee may be liable for payment of all or a portion of the value of such issue or fee.

**History:** L. 1978, ch. 152, sec. 15; L. 1982, ch. 175, sec. 10; L. 1989, ch. 118, sec. 100; July 1.  
Source or prior law: 32-164c.

**32-984. Issuance by county clerk's office; disposition of fees.**(a) The county clerk of each county

or the clerk's designated employees may issue, at the county clerk's office, any license, permit, stamp or other issue of the department which the county clerk is authorized to issue pursuant to law or rules and regulations of the secretary. The county clerk shall issue such license, permit, stamp or other issue under seal.

(b) The county clerk shall pay daily to the county treasurer of the county all moneys collected by the clerk from fees for issues of the department. The county treasurer shall remit all such moneys paid to the county treasurer to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall be credited as provided by K.S.A. 32-990, 32-991 and 32-993, and amendments thereto.

(c) The county clerk may collect and retain a service charge fee, as provided by K.S.A. 32-989 and amendments thereto, for each issue of the department issued or sold by the clerk.

**History:** L. 1927, ch. 221, sec. 17; L. 1989, ch. 118, sec. 101; L. 1993, ch. 185, sec. 7; L. 2001, ch. 5, sec. 100; July 1.

Source or prior law: 32-104a, 32-104c, 74-4509b.

**32-985. Agents; designation; bond; disposition of fees.** (a) The secretary or the county clerk of any county in this state may appoint such number of persons as necessary to serve the convenience of applicants for licenses, permits, stamps and other issues of the department and may authorize such persons to issue such licenses, permits, stamps and other issues to both residents and nonresidents of the state upon the payment of the prescribed fee.

(b) Any person appointed pursuant to this section may purchase the licenses, permits, stamps and other issues for cash from the county clerk, if appointed by the clerk, or from the secretary, if appointed by the secretary, or, in lieu thereof, such person shall be required to execute a special surety bond to the state of Kansas conditioned on payment of all moneys received from fees for licenses, permits, stamps and other issues of the department and on payment of the maximum value for all licenses, permits, stamps and issues of the department not settled for and not returned to the county clerk or secretary appointing such person. The bond shall be in a form prescribed by the secretary and the fee therefor shall be in the amount prescribed pursuant to K.S.A. 1989 Supp. 32-988 and shall be deposited in the manner prescribed by K.S.A. 1989 Supp. 32-990 and 32-991. The bond shall be in an amount fixed by the county clerk, if the person is appointed by the clerk, or in an amount fixed by the secretary, if the person is appointed by the secretary, but such amount shall not be less than the maximum amount which can be realized from the sale of the issues of the department in such person's possession. The bond shall be filed in the office of the county treasurer, if the person is appointed by the county clerk, or with the secretary, if the person is appointed by the secretary.

(c) Any person appointed pursuant to this section and electing to file a bond, upon the execution and filing of the required bond, shall be the agent of the county clerk, if appointed by the clerk, or of the secretary, if appointed by the secretary for the issuance of licenses, permits, stamps or other issues of the department in the county, if appointed by a county clerk, or approved place of business, if appointed by the secretary, during such time as the bond is effective until the appointment expires or is revoked. Persons electing not to file a bond shall become agents immediately upon their appointment.

(d) No agent appointed pursuant to this section shall offer for sale a license, permit, stamp or other issue of the department for an amount less than the fee prescribed pursuant to law or rules and regulations of the secretary for such issue.

(e) All fees collected by the bonded agent for licenses, permits, stamps and other issues of the department shall be paid to the county clerk, if the agent is appointed by the county clerk, or to the secretary, if the agent is appointed by the secretary, at such times and places as the county clerk or secretary, as appropriate, designates, but settlement shall be made at least three days before the



expiration date of the issues in the possession of the agent. Upon receipt of such fees by the county clerk, the clerk shall remit the entire amount thereof to the county treasurer in the manner provided in K.S.A. 1989 Supp. 32-984 for disposition in the manner provided for in that section. Upon receipt of such fees by the secretary, the fees shall be disposed of as provided in K.S.A. 1989 Supp. 32-990, 32-991 and 32-993. All unsold issues of the department shall be returned to the county clerk, if the agent is appointed by the clerk, or to the secretary, if the agent is appointed by the secretary.

(f) The secretary may examine, at any reasonable time, those records of any agent appointed pursuant to this section which relate to issues of the department.

(g) An agent appointed pursuant to this section may collect and retain a service charge fee as provided by K.S.A. 1989 Supp. 32-989 for services in connection with the issuing or selling of licenses, permits, stamps and other issues of the department. The agent shall receive no additional compensation from the county clerk or from the secretary for such services.

**History:** L. 1963, ch. 244, sec. 1; L. 1969, ch. 138, sec. 1; L. 1982, ch. 175, sec. 4; L. 1985, ch. 130, sec. 1; L. 1985, ch. 131, sec. 1; L. 1985, ch. 134, sec. 1; L. 1986, ch. 101, sec. 1; L. 1989, ch. 118, sec. 102; July 1.

Source or prior law: 19-328, 32-103, 74-4509b, 74-4509d.

**32-986. Same; refunds for unsold issues.** (a) Any agent who is appointed by a county clerk pursuant to K.S.A. 1989 Supp. 32-985 and who purchases from the county clerk any licenses, permits, stamps or other issues of the department in quantities of five or more for the purpose of resale may secure a refund for any unused issues by returning them to the county clerk from whom purchased at least 10 days before their expiration. Such refunds shall be paid from the moneys in the possession of the county treasurer received from the sale of such issues.

(b) Any agent who is appointed by the secretary pursuant to K.S.A. 1989 Supp. 32-985 and who purchases from the secretary any licenses, permits, stamps or other issues of the department in quantities of five or more for the purpose of resale may secure a refund for any unused licenses, permits, stamps or other issues by returning them to the secretary at least 10 days before their expiration. Such refunds shall be paid from the moneys of the department received from the sale of such licenses, permits, stamps or other issues.

(c) The secretary may make refunds as specified by law and shall adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, rules and regulations establishing refund procedures.

**History:** L. 1955, ch. 231, sec. 1; 1973, ch. 178, sec. 2; L. 1989, ch. 118, sec. 103, July 1.  
Source or prior law: 32-104i.

**32-987. Issues lost or stolen while in county clerk's possession.** In the event of licenses, permits, stamps or other issues of the department which are lost, stolen or destroyed while in the possession of a county clerk or an agent appointed pursuant to K.S.A. 1989 Supp. 32-985, the secretary may make such investigation as necessary and if the secretary finds that the licenses, permits, stamps or other issues were lost, stolen or destroyed by a cause beyond the control of the county clerk or agent, the secretary may make an adjustment of the amount due for any such licenses, permits, stamps or other issues and may entirely relieve the county clerk or agent for payment of the fees for such licenses, permits, stamps or other issues or may make such lesser adjustment as the secretary considers proper.

**History:** L. 1963, ch. 244, sec. 2; L. 1989, ch. 118, sec. 104; July 1.  
Source or prior law: 19-329, 74-4509b.

**32-988. Fees.** (a) The secretary is authorized to adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations fixing the amount of fees for the following items, subject to the following limitations and subject to the requirement that no such rules and regulations shall be

adopted as temporary rules and regulations:

Big game permits

Resident (other than elk permit): maximum \$100

Nonresident (other than elk permit): maximum \$400

Elk permit: maximum \$350

Nonresident mule deer stamp: maximum \$150

Nonresident applications: maximum \$25

Combination hunting and fishing licenses

Resident: maximum \$50

Lifetime: maximum \$1,000; or 8 quarterly payments, each maximum \$150

Nonresident: maximum \$200

Commercial dog training permits: maximum \$25

Commercial guide permit or associate guide permit

Resident: maximum \$250

Nonresident: maximum \$1,000

Commercial harvest or dealer permits: maximum \$200

Commercial prairie rattlesnake harvesting permits

Resident or nonresident with valid hunting license: maximum \$5

Resident or nonresident nonfirearm without valid hunting license: maximum \$20

Controlled shooting area operator license: maximum \$400

Duplicate licenses, permits, stamps and other issues of the department: maximum \$10

Falconry

Permits: maximum \$300

Examinations: maximum \$100

Field trial permits: maximum \$25

Fishing licenses

Resident: maximum \$25

Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75

Nonresident: maximum \$75

Five-day nonresident: maximum \$25

Institutional group: maximum \$200

Special nonprofit group: maximum \$200

Twenty-four-hour: maximum \$10

Fur dealer licenses

Resident: maximum \$200

Nonresident: maximum \$400

Furharvester licenses

Resident: maximum \$25

Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75

Nonresident: maximum \$400

Game breeder permits: maximum \$15

Handicapped hunting and fishing permits: maximum \$5

Hound trainer-breeder running permits: maximum \$25

Hunting licenses

Resident: maximum \$25

Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75

Nonresident 16 or more years of age: maximum \$125

Nonresident under 16 years of age: maximum \$75

Controlled shooting area: maximum \$25  
 Forty-eight-hour waterfowl permits: maximum \$25  
 Migratory waterfowl habitat stamps: maximum \$8  
 Mussel fishing licenses  
   Resident: maximum \$200  
   Nonresident: maximum \$1,500  
 Rabbit permits  
   Live trapping: maximum \$200  
   Shipping: maximum \$400  
 Raptor propagation permits: maximum \$100  
 Rehabilitation permits: maximum \$50  
 Scientific, educational or exhibition permits: maximum \$10  
 Wildlife damage control permits: maximum \$10  
 Wildlife importation permits: maximum \$10  
 Wild turkey permits  
   Resident: maximum \$100  
   Nonresident: maximum \$400  
   Resident turkey tag: maximum \$20  
   Nonresident turkey tag: maximum \$30  
 Special permits under K.S.A. 32-961: maximum \$100  
 Miscellaneous fees  
   Special events on department land or water: maximum \$200  
   Special departmental services, materials or supplies: no maximum  
   Other issues of department: no maximum  
   Vendor bond: no maximum

(b) The fee for a landowner-tenant resident big game or wild turkey hunting permit shall be an amount equal to 1/2 the fee for a general resident big game or wild turkey hunting permit.

(c) The fee for a big game or wild turkey hunting permit for a resident under 16 years of age shall be an amount not to exceed 1/2 the fee for a general resident big game or wild turkey hunting permit.

(d) The fee for a furharvester license for a resident under 16 years of age shall be an amount equal to 1/2 the fee for a resident furharvester license.

(e) For a resident who is at least 65 years of age, but less than 75 years of age:

(1) The fee for an annual hunting license shall be an amount equal to 1/2 the fee for a general annual hunting license;

(2) the fee for an annual fishing license shall be an amount equal to 1/2 the fee for a general annual fishing license; and

(3) the fee for an annual combination hunting and fishing license shall be an amount equal to 1/2 the fee for a general annual combination hunting and fishing license.

(f) The secretary may establish, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, different fees for various classes and types of licenses, permits, stamps and other issuances of the department which may occur within each item as described under subsection (a).

(g) The provisions of subsection (e) shall expire on June 30, 2020.

**History:** L. 1978, ch. 152, sec. 14; L. 1981, ch. 174, sec. 2; L. 1982, ch. 175, sec. 9, L. 1985, ch. 131, sec. 3; L. 1985, ch. 134, sec. 3; L. 1986, ch. 149, sec. 4; L. 1986, ch. 151, sec. 1; L. 1987, ch. 144, sec. 1; L. 1989, ch. 199, sec. 1; L. 1989, ch. 118, sec. 105; L. 1989, ch. 274, sec. 2; L. 1993, ch. 139, sec. 2; L. 1994, ch. 245, sec. 2; L. 1995, ch. 164, sec. 4; L. 1999, ch. 120, sec. 4; ch. 98, sec. 2; ch. 149, sec. 3; L.

2000, ch. 165, sec. 4; L. 2001, ch. 131, sec. 1; L. 2001, ch. 17, sec. 2; L. 2001, ch. 211, sec. 9; L. 2003, ch. 121, sec. 2; L. 2004, ch. 99, sec. 8; L. 2007, ch. 133, sec. 7; L. 2012, ch. 154, sec. 7; Jan. 1, 2013.  
Source or prior law: 32-164b, 74-4509b.

**32-989. Service charge.** (a) In addition to the fees prescribed pursuant to law or rules and regulations of the secretary, the secretary shall, and the county clerk and any agent appointed pursuant to K.S.A. 32-985, and amendments thereto, may, charge and retain a service charge fee not to exceed \$1.00 for each license, permit, stamp or other issue of the department issued or sold by such secretary, county clerk or agent, except:

(1) When such service charge fee is otherwise established by law, the amount charged shall be the amount otherwise established;

(2) for licenses, permits, stamps or other issues sold by an approved telephone agent or over the internet by an approved internet agent, for which the agent may charge and receive a service fee charge negotiated by the secretary and the agent, in addition to the actual cost remitted to the department of the licenses, permits, stamps or other issues sold during a telephone or internet transaction other than the service charge per issue and the negotiated service charge fee;

(3) in the case of a migratory waterfowl habitat stamp, the service charge fee shall not exceed \$.50; and

(4) the secretary shall not charge service charge fees for issues of the department issued or sold to a person appointed by the secretary pursuant to K.S.A. 32-985, and amendments thereto, to sell such issues.

(b) Any moneys collected by the secretary for fees imposed pursuant to this section shall be disposed of as provided by K.S.A. 32-990, 32-991 and 32-993, and amendments thereto. Any such moneys collected by the county clerk shall be deposited in the county general fund.

**History:** L. 1989, ch. 118, sec. 106; L. 2003, ch. 108, sec. 2; July 1.

Source or prior law:

19-328, 32-104a, 32-1,III, 74-4509b, 74-4509d.

**32-990. Wildlife fee fund.** (a) Unless otherwise directed by law, all moneys received from licenses, permits, stamps and other issues of the department, and duplicates thereof, to take, propagate, rehabilitate, collect, possess, sell, import, export, transport or deal in wildlife, or parts thereof, and all moneys from sources related thereto or allied recreational pursuits, shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit it to the wildlife fee fund, which is hereby created.

(b) All costs and expenses incurred by the department for the following purposes shall be paid from the wildlife fee fund:

(1) Administering, implementing and enforcing the laws of this state relating to wildlife and its protection, propagation, preservation, management, investigation and recreational use; and

(2) acquiring title to lands and rights therein or thereon, waters or water rights, and keeping, improving and maintaining the same for the purposes described in subsection (b) (1).

(c) No moneys derived from sources described in subsections (a) or (d) shall be used for any purpose other than the administration of matters which relate to wildlife and which are under the control, authorities and duties of the secretary and department as provided by law.

(d) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the wildlife fee fund interest earnings based on:

(1) The average daily balance of moneys in the wildlife fee fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(e) All expenditures from the wildlife fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

**History:** L. 1927, ch. 221, sec. 11; L. 1938, ch. 67, sec. 2; L. 1989, ch. 118, sec. 107; L. 1992, ch. 17, sec. 1; L. 1996, ch. 253, sec. 2; May 23.

Source or prior law: L. 1925, ch. 257, sec. 5; 74-3304, 74-3305.

**32-991. Parks fee fund.** (a) Unless otherwise directed by law and except for revenue pledged to payment of revenue bonds issued in connection with specific projects, all moneys received from state park permit fees, tolls, rentals and charges derived from the use, lease or operation of state parks, or any portion thereof or facility therein, including receipts from the park and recreation motor vehicle permit and from fees for duplicate permits and other issues of the department, all moneys derived from the sale of bonds and all moneys from sources related thereto or allied recreational pursuits shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the parks fee fund, which is hereby created.

(b) All costs and expenses incurred by the department for the following purposes shall be paid from the parks fee fund:

(1) Administering, implementing and enforcing the laws of this state relating to state parks and state park facilities and their management and use; and

(2) acquiring title to lands and rights therein or thereon, waters or water rights, and keeping, improving and maintaining the same for the purposes described in subsection (b) (1).

(c) No moneys derived from sources described in subsection (a) shall be used for any purpose other than the administration of matters which relate to state parks and which are under the control, authorities and duties of the secretary and the department as provided by law.

(d) All expenditures from the parks fee fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

**History:** L. 1955, ch. 355, sec. 14; L. 1963, ch. 409, sec. 6; L. 1989, ch. 118, sec. 109; L. 2001, ch. 5, sec. 101; July 1.

Source or prior law: 74-4514.

**32-992. Fees from lifetime licenses; wildlife conservation fund.** (a) All license fees from the sale of lifetime hunting, fishing or furharvesting or combination hunting and fishing licenses shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. The state treasurer shall deposit the entire amount in the state treasury and credit:

(1) To the wildlife fee fund, an amount equal to the amount obtained by multiplying the number of such lifetime licenses issued by the current fee for an annual fishing, hunting or furharvester or combination hunting and fishing license; and

(2) to the wildlife conservation fund, which is hereby created, the remaining balance.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the wildlife conservation fund interest earnings based on:

(1) The average daily balance of moneys in the wildlife conservation fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(c) All expenditures from the wildlife conservation fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

**History:** L. 1989, ch. 118, sec. 109; L. 1989, ch. 274, sec. 7; L. 1992, ch. 272, sec. 3; L. 1996, ch. 253, sec. 3; L. 1999, ch. 120, sec. 5; July 1.

Source or prior law: 32-104m.

**32-993. Migratory waterfowl propagation and protection fund.** (a) All moneys received pursuant to the issuance of the migratory waterfowl habitat stamp shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the migratory waterfowl propagation and protection fund, which is hereby created. All expenditures from such fund shall be in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

(b) No expenditure shall be made from the migratory waterfowl propagation and protection fund except for projects approved by the secretary for the purpose of protecting and propagating migratory waterfowl, including the acquisition, by purchase or lease, of migratory waterfowl habitats in this state, and for the purpose of development, restoration, maintenance or preservation of waterfowl habitats.

**History:** L. 1987, ch. 135, sec. 4; L. 1989, ch. 118, sec. 110; L. 2001, ch. 5, sec. 102; July 1.

Source or prior law: 32-1, 113.

**32-994. Wildlife and parks gifts and donations fund.** (a) All moneys received as bequests, donations or gifts by the department shall be credited to the Kansas department of wildlife and parks private gifts and donations fund which is hereby created.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas department of wildlife and parks private gifts and donations fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas department of wildlife and parks private gifts and donations fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

**History:** L. 1987, ch. 137, sec. 1; L. 1988, ch. 300, sec. 1; L. 1989, ch. 48, sec. 92; L. 1989, ch. 118, sec. 111; L. 1989, ch. 274, sec. 3; L. 1992, ch. 272, sec. 4; L. 1996, ch. 253, sec. 4; May 23.

Source or prior law: 74-3323.

**32-995. Feed the hungry fund; contributions to Kansas hunters feeding the hungry; reports to legislature.** (a) The feed the hungry fund is hereby established in the state treasury. The secretary, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, shall remit to the state treasurer all moneys received by the secretary from contributions pursuant to subsection (c) of K.S.A. 32-980, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the fund.

(b) Moneys in the feed the hungry fund shall be disbursed quarterly to Kansas hunters feeding the hungry, inc., to support its programs.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the feed the hungry fund interest earnings based on:

(1) The average daily balance of moneys in the feed the hungry fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(d) All expenditures from the feed the hungry fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for the purposes set forth in this section.

(e) The secretary shall report annually, beginning on February 1, 2006, to the house committee on tourism and parks and the senate committee on natural resources on the state of contributions to the feed the hungry fund and the disbursements to Kansas hunters feeding the hungry, inc.

**History:** L. 2004, ch. 76, sec. 3; L. 2008, ch. 50, sec. 3; April 10.

**32-996. Wildlife conservation fund, use of federal moneys.** (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the wildlife conservation fund under the control, authorities and duties of the Kansas department of wildlife, parks and tourism, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the wildlife conservation fund federal, which is hereby created. The wildlife conservation fund federal is hereby redesignated as the wildlife restoration fund.

(b) No moneys derived from sources described in subsection (a) or (c) shall be used for any purpose other than the administration of matters which relate to purposes authorized in K.S.A. 32-992, and amendments thereto, and which are under the control, authorities and duties of the secretary of wildlife, parks and tourism and the Kansas department of wildlife, parks and tourism as provided by law.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the wildlife restoration fund interest earnings based on:

- (1) The average daily balance of moneys in the wildlife restoration fund, for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the wildlife restoration fund, shall be made in accordance with the appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, parks and tourism.

**History:** L. 2005, ch. 181, sec. 2; L. 2012, ch. 47, sec. 52; July 1.

**32-997. Wildlife fee fund; use of federal moneys.** (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the wildlife fee fund, under the control, authorities and duties of the Kansas department of wildlife, parks and tourism shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the wildlife fund federal, which is hereby created. The wildlife fund federal is hereby redesignated as the sport fish restoration fund.

(b) No moneys derived from sources described in subsection (a) or (c) shall be used for any purpose other than the administration of matters which relate to purposes authorized under K.S.A. 32-990, and amendments thereto, and which are under the control, authorities and duties of the secretary of wildlife, parks and tourism and the Kansas department of wildlife, parks and tourism as provided by law.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the sport fish restoration fund interest earnings based on:

- (1) The average daily balance of moneys in the sport fish restoration fund, for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the sport fish restoration fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, parks and tourism.

**History:** L. 2005, ch. 181, sec. 3; L. 2012, ch. 47, sec. 53; July 1.

**32-998. Wildlife and parks nonrestricted fund.** (a) All moneys received by the Kansas department

of wildlife, parks and tourism from sources other than those identified and restricted in K.S.A. 32-990, 32-991, 32-992, 32-993, 32-994 and 32-1173, and amendments thereto, or identified and allocated to a restricted fund by any appropriation act, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. The state treasurer shall deposit the entire amount of the remittance in the state treasury and credit it to the wildlife and parks nonrestricted fund, which is hereby created. The wildlife and parks nonrestricted fund is hereby redesignated as the wildlife, parks and tourism nonrestricted fund.

(b) All expenditures from the wildlife, parks and tourism nonrestricted fund may be for federal aid eligible expenditures at the discretion of the secretary.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the wildlife, parks and tourism nonrestricted fund interest earnings based on:

(1) The average daily balance of moneys in the wildlife, parks and tourism nonrestricted fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the wildlife, parks and tourism nonrestricted fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary.

**History:** L. 2008, ch. 2, sec. 1; L. 2012, ch. 47, sec. 54; July 1.

**32-999. Cabin fees, authorization and limitations.** (a) The secretary of wildlife, parks and tourism is authorized, with the approval of the Kansas wildlife, parks and tourism commission, to establish fees for the public use of cabins owned or operated by the department. At a public meeting, the secretary, with consideration by the commission, shall set an amount for each fee that encourages use of such cabins and that enables the department to maintain and operate such cabins.

(b) Such fees as described in subsection (a) shall not exceed:

(1) A maximum of \$250 per night;

(2) a maximum of \$1,500 per week; and

(3) a maximum of \$5,000 per month.

(c) Fees for the use of cabins owned and operated by the Kansas department of wildlife, parks and tourism shall be exempt from the provisions of K.S.A. 77-415 through 77-437, and amendments thereto.

**History:** L. 2011, ch. 65, sec. 1; L. 2012, ch. 47, sec. 55; July 1.

## **ARTICLE 10. - ENFORCEMENT UNLAWFUL ACTS**

**32-1001. Licenses, permits, stamps and other issues of the department.** (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 pur-

chase 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.

(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.

**History:** L. 1911, ch. 198, sec. 10; L. 1921, ch. 196, sec. 3; R.S. 1923, 32-106; L. 1970, ch. 154, sec. 1; L. 1982, ch. 175, sec. 8; L. 1989, ch. 118, sec. 113; L. 1991, ch. 107, sec. 1; L. 1993, ch. 185, sec. 8; L. 2001, ch. 16, sec. 1; L. 2001, ch. 131, sec. 2; L. 2002, ch. 96, sec. 5; L. 2003, ch. 108, sec. 3; L. 2005, ch. 182, sec. 6; L. 2012, ch. 47, sec. 56; July 1.

Source or prior law:

L. 1905, ch. 267, sec. 9; 32-104, 32-104j, 32-105a, 32-106, 32-106a, 32-106b, 32-406, 74-4509b, 74-4509c.

**32-1002. Taking or dealing in wildlife.** (a) Unless and except as permitted by law or rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto, it is unlawful for any person to:

- (1) Hunt, fish, furharvest or take any wildlife in this state by any means or manner;
- (2) possess any wildlife, dead or alive, at any time or in any number, in this state;
- (3) purchase, sell, exchange, ship or offer for sale, exchange or shipment any wildlife in this state;

(4) take any wildlife in this state for sale, exchange or other commercial purposes;  
(5) possess any seine, trammel net, hoop net, fyke net, fish gig, fish spear, fish trap or other device, contrivance or material for the purpose of taking wildlife; or (6) take or use, at any time or in any manner, any game bird, game animal, coyote or furbearing animal, whether pen-raised or wild, in any field trial or for training dogs.

(b) The provisions of subsections (a)(2) and (a)(3) do not apply to animals sold in surplus property disposal sales of department exhibit herds or animals legally taken outside this state, except the provisions of subsection (a)(3) shall apply to:

- (1) The meat of game animals legally taken outside this state; and
- (2) other restrictions as provided by rule and regulation of the secretary.

(c) The provisions of this section shall not be construed to prevent:

- (1) Any person from taking starlings or English and European sparrows;
- (2) owners or legal occupants of land from killing any animals when found in or near buildings on their premises or when destroying property, subject to the following: (A) The provisions of all federal laws and regulations governing protected species and the provisions of K.S.A. 32-957 through 32-963, and amendments thereto, and rules and regulations adopted thereunder; (B) it is unlawful to use, or possess with intent to use, any such animal so killed unless authorized by rules and regulations of the secretary; and (C) such owners or legal occupants shall make reasonable efforts to alleviate their problems with any such animals before killing them;

(3) any person who is licensed under the personal and family protection act, K.S.A. 75-7c01 *et seq.*, and amendments thereto, from exercising the right to carry a concealed handgun while lawfully hunting, fishing or furharvesting; or

(4) any person who lawfully possesses a handgun from carrying such handgun while lawfully hunting, fishing or furharvesting; or

(5) any person who lawfully possesses a device or attachment of any kind designed, used or intended for use in suppressing the report of any firearm from using such device or attachment in conjunction with lawful hunting, fishing or furharvesting.

(d) 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.

**History:** L. 1989, ch. 118, sec. 114; L. 1993, ch. 185, sec. 9; L. 2005, ch. 182, sec. 3; L. 2011, ch. 19, sec. 1; L. 2012, ch. 49, sec. 1; July 1.

Source or prior law: 32-110a, 32-112b *et seq.*, 32-114, 32-120, 32-126, 32-127, 32-152, 32-154a, 32-156, 32-157, 32-158, 32-160, 32-162, 32-163, 32-173, 32-183, 32-186, 32-1,110.

**32-1003. Methods of taking wildlife.** (a) It is unlawful for any person, unless authorized by law or rules and regulations of the secretary, to:

- (1) Take any game animal or furbearing animal from a motorboat, airplane, motor vehicle or other water, air or land vehicle unless such person holds a valid handicapped hunting and fishing permit issued to such person pursuant to K.S.A. 32-931 and amendments thereto;

- (2) provide or receive information concerning the location of any game animal or furbearing animal by radio or other mechanical device for purposes of taking such bird or animal;

- (3) use sodium fluoroacetate, commonly called formula 1080, except as permitted by rules and regulations of the secretary;

- (4) use poison, poisonous gas, smoke or ferrets, or any smoke gun or other device for forcing smoke or any other asphyxiating or deadly gas or liquid into the holes, dens, runways or houses of wildlife, except as permitted by rules and regulations of the secretary;

- (5) fish by placing in or upon any lake, pond, river, creek, stream or any other water, bordering on or

within the state of Kansas, any deleterious substance or fishberries;

(6) place or explode any dynamite, giant powder, lime, nitroglycerine or any other explosive of any character or kind in any waters of the state of Kansas with the intent to take or stun fish;

(7) throw or cast the rays of a spotlight, headlight or other artificial light on any highway, roadway, field, grassland, woodland or forest for the purpose of spotting, locating or taking any wildlife, while having in possession or control, either singly or as one of a group of persons, any rifle, pistol, shotgun, bow or other implement whereby wildlife could be taken, except that nothing in this subsection shall be construed to prohibit a person from carrying a weapon while using artificial light for conducting surveillance, actively caring for agricultural equipment or livestock or conducting activities described in subsection (c)(2) of K.S.A. 32-1002 and amendments thereto, when on land under the person's control, if the person owns such land, is in lawful possession of such land or is regularly employed for purposes of livestock or agricultural production or management on such land.

(b) 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.

**History:** L. 1972, ch. 160, sec. 1; L. 1981, ch. 175, sec. 6; L. 1989, ch. 118, sec. 115; L. 1993, ch. 185, sec. 10; L. 1997, ch. 77, sec. 1; L. 2005, ch. 182, sec. 4; July 1.  
Source or prior law: 32-104, 32-135, 32-154a, 32-154b, 32-154c, 32-156, 32-158.

**32-1004. Unlawful possession of wildlife or wild turkey; refusal to allow inspection of property used in taking wildlife; penalties.** (a) It is unlawful for any person to:

(1) Possess a carcass of a big game animal, taken within this state, unless a carcass tag, issued by the secretary, is attached to it in accordance with rules and regulations adopted by the secretary;

(2) possess a carcass of a wild turkey, taken in this state, unless a carcass tag, if required and issued by the secretary, is attached to it, in accordance with rules and regulations adopted by the secretary;

(3) possess a carcass of a big game animal or wild turkey, taken within the state, unless a check station tag, if required and issued by the secretary, is attached to it, in accordance with rules and regulations adopted by the secretary;

(4) possess any wildlife unlawfully killed or otherwise unlawfully taken outside this state;

(5) cause to be shipped within, from or into this state any illegally taken or possessed wildlife;

(6) intentionally import into this state, or possess or release in this state, any species of wildlife prohibited pursuant to K.S.A. 32-956, and amendments thereto;

(7) refuse to allow any conservation officer or deputy conservation officer or any law enforcement officer to inspect and count any wildlife in such person's possession; or

(8) refuse to allow any conservation officer or deputy conservation officer or any law enforcement officer to inspect any devices or facilities of such person which are used in taking, possessing, transporting, storing or processing any wildlife subject to the wildlife, parks and tourism laws of this state or rules and regulations of the secretary.

(b) The provisions of subsection (a)(1), (a)(2) and (a)(3) do not apply to animals sold in surplus property disposal sales of department exhibit herds or animals legally taken outside this state.

(c) 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.

**History:** L. 1989, ch. 118, sec. 116; L. 1993, ch. 185, sec. 11; L. 2004, ch. 99, sec. 9; L. 2005, ch. 182, sec. 7; L. 2008, ch. 17, sec. 2; L. 2012, ch. 47, sec. 57; July 1.  
Source or prior law: 32-112b et seq., 32-127, 32-134, 32-153, 32-164a, 32-179.

**32-1005. Commercialization of wildlife.** (a) Commercialization of wildlife is knowingly

committing any of the following, except as permitted by statute or rules and regulations:

(1) Capturing, killing or possessing, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(2) selling, bartering, purchasing or offering to sell, barter or purchase, for profit or commercial purposes, all or any part of any wildlife protected by this section;

(3) shipping, exporting, importing, transporting or carrying; causing to be shipped, exported, imported, transported or carried; or delivering or receiving for shipping, exporting, importing, transporting or carrying all or any part of any wildlife protected by this section, for profit or commercial purposes; or

(4) purchasing, for personal use or consumption, all or any part of any wildlife protected by this section.

(b) The wildlife protected by this section and the minimum value thereof are as follows:

(1) Eagles, \$1,000;

(2) deer or antelope, \$1,000;

(3) elk or buffalo, \$1,500;

(4) furbearing animals, except bobcats, \$25;

(5) bobcats, \$200;

(6) wild turkey, \$200;

(7) owls, hawks, falcons, kites, harriers or ospreys, \$500;

(8) game birds, migratory game birds, resident and migratory nongame birds, game animals and nongame animals, \$50 unless a higher amount is specified above;

(9) fish and mussels, the value for which shall be no less than the value listed for the appropriate fish or mussels species in the monetary values of freshwater fish or mussels and fish kill counting guidelines of the American fisheries society, special publication number 30;

(10) turtles, \$25 each for unprocessed turtles or \$16 per pound or fraction of a pound for processed turtle parts;

(11) bullfrogs, \$4, whether dressed or not dressed;

(12) any wildlife classified as threatened or endangered, \$500 unless a higher amount is specified above; and

(13) any other wildlife not listed above, \$25.

(c) Possession of wildlife, in whole or in part, captured or killed in violation of law and having an aggregate value of \$1,000 or more, as specified in subsection (b), is *prima facie* evidence of possession for profit or commercial purposes.

(d) Commercialization of wildlife having an aggregate value of \$1,000 or more, as specified in subsection (b), is a severity level 10, nonperson felony. Commercialization of wildlife having an aggregate value of less than \$1,000, as specified in subsection (b), is a class A nonperson misdemeanor.

(e) In addition to any other penalty provided by law, a court convicting a person of the crime of commercialization of wildlife may:

(1) Confiscate all equipment used in the commission of the crime and may revoke for a period of up to 20 years all licenses and permits issued to the convicted person by the Kansas department of wildlife, parks and tourism; and

(2) order restitution to be paid to the Kansas department of wildlife, parks and tourism for the wildlife taken, which restitution shall be in an amount not less than the aggregate value of the wildlife, as specified in subsection (b).

(f) The provisions of this section shall apply only to wildlife illegally harvested and possessed by any person having actual knowledge that such wildlife was illegally harvested.

**History:** L. 1989, ch. 85, sec. 1; L. 1994, ch. 291, sec. 67; L. 2003, ch. 121, sec. 3; L. 2004, ch. 130, sec. 2; L. 2006, ch. 194, sec. 26; L. 2007, ch. 144, sec. 2; L. 2012, ch. 154; Jan. 1, 2013.

**32-1006. Coyotes, moles, gophers.** (a) Except as provided by subsection (b), it is lawful for a person to take coyotes in this state at any time if such person holds a valid license to hunt or furharvest, as the case may be. It is lawful for a person to take moles or gophers in this state at any time.

(b) Unless authorized by rules and regulations of the secretary, it is unlawful for any person to take any coyote in this state at any time during the period of time designated by rules and regulations of the secretary as an open season for the hunting or taking of deer by firearm.

**History:** L. 1978, ch. 151, sec. 2; L. 1985, ch. 133, sec. 1; L. 1989, ch. 118, sec. 117; July 1.  
Source or prior law: 32-158, 32-158a.

**32-1007. Coyote carcasses.** (a) It is unlawful for any person to publicly display the carcass of a coyote.

(b) For the purpose of this section "carcass" means the body of the coyote, either as a part or as a whole, and either with the skin intact or removed. The skin of the coyote, when removed from the animal, shall not be considered a part of the coyote.

(c) The provisions of subsection (a) do not apply to the display of the carcass of a coyote at a fur market or the use of the carcass of a coyote for educational or training purposes.

**History:** L. 1979, ch. 117, sec. 1; L. 1989, ch. 118, sec. 118; July 1.

**32-1008. Migratory birds.** (a) As used in this section:

(1) "Migratory birds" means such birds as are defined under the administrative provisions of the migratory bird treaty act (16 U.S.C.A. 703 to 711) and regulations now in force or hereafter adopted thereunder.

(2) "Migratory waterfowl" means such birds as are defined by 16 U.S.C.A. ~ 718.

(b) It is unlawful to take, buy, sell or offer to sell by any means or in any manner any migratory bird or birds in Kansas except as authorized and permitted by federal regulations now in force or hereafter adopted pursuant to authority provided by the migratory bird treaty act.

(c) It is unlawful to take, buy, sell or offer to sell by any means or in any manner any migratory waterfowl in Kansas except as authorized or permitted by 16 U.S.C.A. ~ 718a.

**History:** L. 1963, ch. 247, sec. 1; L. 1975, ch. 224, sec. 1; L. 1976, ch. 202, sec. 1; L. 1989, ch. 118, sec. 119; July 1.

Source or prior law: 32-156a, 32-216.

**32-1009. Nongame species.** Except as provided in rules and regulations adopted pursuant to K.S.A. 1989 Supp. 32-963, it shall be unlawful for any person to take, possess, transport, export, process, sell or offer for sale or ship nongame species deemed by the secretary to be in need of conservation pursuant to K.S.A. 1989 Supp. 32-959. Subject to the same exception, it shall further be unlawful for any common or contract carrier knowingly to transport or receive for shipment nongame species deemed by the secretary to be in need of conservation pursuant to K.S.A. 1989 Supp. 32-959.

**History:** L. 1989, ch. 118, sec. 120; July 1.

Source or prior law: 32-503.

**32-1010. Threatened species.** Except as otherwise specifically provided in K.S.A. 1989 Supp. 32-961 or in a special permit issued under K.S.A. 1989 Supp. 32-961 or in any rules and regulations adopted pursuant to K.S.A. 1989 Supp. 32-961, the intentional taking of any threatened species indigenous to this state, which has been determined by the secretary to be a threatened species in this state and is included in a list of such threatened species adopted pursuant to K.S.A. 1989 Supp. 32-960, shall constitute unlawful taking of a threatened species.

**History:** L. 1975, ch. 221, sec. 8; L. 1989, ch. 118, sec. 121; July 1.  
Source or prior law: 32-508.

**32-1011. Endangered species.** Except as otherwise specifically provided in K.S.A. 1989 Supp. 32-961 or in a special permit issued under K.S.A. 1989 Supp. 32-961 or in any rule and regulation adopted pursuant to K.S.A. 1989 Supp. 32-961, the intentional taking of any endangered species indigenous to this state, which has been determined by the secretary to be an endangered species in this state and is included in a list of such endangered species adopted pursuant to K.S.A. 1989 Supp. 32-960, shall constitute unlawful taking of an endangered species.

**History:** L. 1975, ch. 221, sec. 9; L. 1985, ch. 132, sec. 7; L. 1989, ch. 118, sec. 122; July 1.  
Source or prior law: 32-509.

**32-1012. Application of prohibitions regarding nongame or endangered species.** (a) Nothing in the nongame and endangered species conservation act shall be construed to:

- (1) Apply retroactively to any occurrence prior to July 1, 1975;
- (2) prohibit importation into the state of wildlife which may be lawfully imported into the United States or lawfully taken and removed from another state; or
- (3) prohibit entry into the state or possession, transportation, exportation, processing, sale or offer for sale or shipment of any species of wildlife which is deemed to be threatened or endangered in this state but not in the state where originally taken, if the person engaging therein demonstrates by circumstantial evidence that such species of wildlife was lawfully taken and lawfully removed from such state.

(b) The provisions of this section shall not be construed to permit the possession, transportation, exportation, processing, sale or offer for sale or shipment within this state of any species of wildlife determined to be a threatened species or endangered species pursuant to Pub. L. No. 93-205 (December 28, 1973), the endangered species act of 1973, and acts amendatory thereof except as permitted in K.S.A. 1989 Supp. 32-961.

**History:** L. 1975, ch. 221, sec. 10; L. 1989, ch. 118, sec. 123; July 1.  
Source or prior law: 32-510.

**32-1013. Taking wildlife without permission on land posted "by written permission only".** (a) Any landowner or person in lawful possession of any land may post such land with signs stating that hunting, trapping or fishing on such land shall be by written permission only. It is unlawful for any person to take wildlife on land which is posted as provided in this subsection, without having in the person's possession the written permission of the owner or person in lawful possession thereof.

(b) Instead of posting land as provided in subsection (a), any landowner or person in lawful possession of any land may post such land by placing identifying purple paint marks on trees or posts around the area to be posted. Each paint mark shall be a vertical line of at least eight inches in length and the bottom of the mark shall be no less than three feet nor more than five feet high. Such paint marks shall be readily visible to any person approaching the land. Land posted as provided in this subsection shall be considered to be posted by written permission only as provided in subsection (a).

(c) A person licensed to hunt or furharvest who is following or pursuing a wounded animal on land as provided in this section posted without written permission of the landowner or person in lawful possession thereof shall not be in violation of this section while in such pursuit, except that the provisions of this subsection shall not authorize a person to remain on such land if instructed to leave by the owner or person in lawful possession of the land. Any person who fails to leave such land when instructed is subject to the provisions of subsection (b) K.S.A. 21-3728, and amendments thereto.

(d) 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.

**History:** L. 1971, ch. 143, sec. 1; L. 1977, ch. 113, sec. 2; L. 1985, ch. 132, sec. 3; L. 1989, ch. 118, sec. 124; L. 2000, ch. 51, sec. 1; L. 2004, ch. 135, sec. 2; L. 2005, ch. 182, sec. 5; July 1.  
Source or prior law: 32-142a, 32-143.

**32-1014. Obstruction of impeding of lawful activities.** (a) No person shall willfully obstruct or impede the participation of any individual in the lawful activity of hunting, furharvesting or fishing.

(b) The provisions of this section shall not apply to the actions of law enforcement officers and personnel of the department in the performance of their official duties and shall not obstruct or impede the legal rights and normal activities of landowners or tenants including, but not limited to, farming, ranching and the right to limit trespass.

**History:** L. 1987, ch. 136, sec. 1; L. 1989, ch. 118, sec. 125; July 1.  
Source or prior law: 32-191.

**32-1015. Miscellaneous violations.** (a) It is unlawful for any person to:

(1) Destroy any muskrat house, beaver dam, mink run or any hole, den or runway of any furbearing animal, or cut down or destroy any tree that is the home, habitat or refuge of any furbearing animal;

(2) hunt deer in this state in an area where a firearms season for the taking of deer is occurring, or hunt elk in this state in an area where a firearms season for the taking of elk is occurring, unless such person is wearing clothing of a highly visible nature in a color, an amount worn and a location on such person's body prescribed by rules and regulations adopted by the secretary pursuant to K.S.A. 1989 Supp. 32-805 and amendments thereto;

(3) do any act or engage in any activity within any state park, state lake, recreational ground, wildlife area or sanctuary, natural area or other area under the control of the secretary which is in violation of or contrary to law or rules and regulations of the secretary;

(4) use any manner or means of taking fish which may escape from a private water fishing impoundment and kill or endanger fish in another such impoundment or in public waters;

(5) remove fish from a private water fishing impoundment without the consent of the owner or tenant having possession and control of such impoundment; or

(6) place, erect or cause to be placed or erected any seine, screen, net, weir, fishdam or other obstruction in or across any of the waters, rivers, creeks, ponds, streams, sloughs or other watercourses within the jurisdiction of this state in such a manner as will obstruct the free passage of fish up and down and through such watercourses.

(b) Subsection (a)(1) shall not be construed to prohibit a legal owner or occupant of land from cutting trees on such land.

**History:** L. 1989, ch. 118, sec. 126; L. 2010, ch. 162, sec. 2; July 1.  
Source or prior law: 32-191.

**32-1016 to 32-1030. Reserved.**

## PENALTIES

**32-1031. Violations, generally.** (a) Unless otherwise provided by law or rules and regulations of the secretary, violation of any provision of the wildlife, parks and tourism laws of this state or rules and regulations adopted thereunder is a class C misdemeanor.

(1) Upon a second conviction of a wildlife violation that is a class C misdemeanor, a fine of not less than \$250 shall be imposed.

(2) Upon a third conviction of a wildlife violation that is a class C misdemeanor, a fine of not less than

\$300 shall be imposed.

(3) Upon a fourth and any subsequent convictions of a wildlife violation that is a class C misdemeanor, a fine of not less than \$400 shall be imposed and a minimum of not less than 7 days in the county jail shall be served.

(b) Any conviction for a wildlife violation that is a class C misdemeanor that occurs before July 1, 2005, shall not be considered for purposes of this section

**History:** L. 1989, ch. 118, sec. 126; L. 2005, ch. 182, sec. 1; L. 2012, ch. 47, sec. 59; July 1.

Source or prior law: 32-135a, 32-136, 32-142a, 32-146, 32-154, 32-154a, 32-156a, 32-158b, 32-165, 32-172c, 32-176, 32-190, 32-191, 32-1-110, 32-226, 32-503, 32-508, 32-602, 74-4517.

**32-1032. Violations relating to big game permits and tags.** (a) Violation of any provision of the wildlife, parks and tourism laws of this state or rules and regulations of the secretary relating to big game or wild turkey permits and game tags, taking big game or wild turkey during a closed season, taking big game or wild turkey in violation of subsections (a)(1), (2) or (7) of K.S.A. 32-1003, and amendments thereto, or taking big game or wild turkey in violation of subsection (a)(2) or (3) of K.S.A. 32-1004, and amendments thereto, or taking big game or wild turkey in violation of K.S.A. 32-1013, and amendments thereto, is a misdemeanor, subject to the provisions of subsection (b), punishable by a fine or by imprisonment in the county jail, or by both.

(1) Upon a first or second conviction for a violation of the wildlife, parks and tourism laws of this state or the rules and regulations of the secretary relating to this section, the violator shall not be fined less than \$500 nor more than \$1,000 or be imprisoned in the county jail for not more than six months, or both.

(2) Upon a third conviction for a violation of the wildlife, parks and tourism laws of this state or the rules and regulations of the secretary relating to this section, the violator shall not be fined less than \$1,000 and shall be imprisoned in the county jail for not less than 30 days. A third conviction shall be a class B nonperson misdemeanor.

(3) Upon a fourth conviction for a violation of the wildlife, parks and tourism laws of this state or the rules and regulations of the secretary relating to this section, the violator shall not be fined less than \$1,000 and shall be imprisoned in the county jail for not less than 60 days. A fourth conviction shall be a class A nonperson misdemeanor.

(4) Upon the fifth or subsequent convictions for a violation of the wildlife, parks and tourism laws of the state or the rules and regulations of the secretary relating to this section, the violator shall not be fined less than \$1,000 and shall be imprisoned in the county jail for not less than 90 days. A fifth or subsequent conviction shall be a class A nonperson misdemeanor. Any conviction for a wildlife violation that occurs before July 1, 2005, shall not be considered for purposes of this subsection.

(b) (1) In addition to any other penalty prescribed by law, the unlawful intentional taking of a trophy big game animal shall be punishable by a fine of not less than \$5,000.

(2) A trophy big game animal shall include any animal meeting the following criteria:

(A) An antlered whitetail deer having an inside spread measurement of at least 16 inches;

(B) an antlered mule deer having an inside spread measurement of at least 20 inches;

(C) an antlered elk having at least six points on one antler; or

(D) an antelope having at least one horn greater than 14 inches in length.

(3) In addition to any other penalty prescribed by law, the defendant shall pay the restitution value of any deer, elk or antelope taken in violation of K.S.A. 32-1001, 32-1002, 32-1003, 32-1004, 32-1005 or 32-1013, and amendments thereto, with a gross score of more than 125 inches for deer, 250 inches for elk and 75 inches for antelope. Such restitution value shall be in an amount not less than the value prescribed for such animal in K.S.A. 32-1005, and amendments thereto. The restitution value for deer



shall equal:  $(\text{gross score} - 100)^2 \times \$2$ . The restitution value for elk shall equal:  $(\text{gross score} - 200)^2 \times \$2$ . The restitution value for antelope shall equal:  $(\text{gross score} - 40)^2 \times \$2$ . The gross score shall be determined by taking measurements as provided by rules and regulations of the secretary, which shall be made to the nearest 1/8 of an inch using a 1/4 inch wide flexible steel tape. All restitution collected pursuant to this subparagraph shall be paid into the state treasury and shall be credited to the wildlife fee fund created by K.S.A. 32-990, and amendments thereto.

(4) Antlers or horns may be measured pursuant to the manner described in subsection (b)(3) at any time; no drying time is required.

(5) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations that the secretary deems necessary to implement and define the terms of this section.

(c) In addition to any other penalty imposed by the convicting court, if a person is convicted of a violation of K.S.A. 32-1001, 32-1002, 32-1003, 32-1004 or 32-1013, and amendments thereto, that involves taking of a big game animal or wild turkey, or if a person is convicted of a violation of K.S.A. 32-1005, and amendments thereto, that involves commercialization of a big game animal or wild turkey:

(1) Upon the first such conviction, the court may order forfeiture of the person's hunting privileges for one year from the date of conviction and: (A) Revocation of the person's hunting license, unless such license is a lifetime hunting license; or (B) if the person possesses a lifetime hunting license, suspension of such license for one year from the date of conviction.

(2) Upon the second such conviction, the court shall order forfeiture of the person's hunting privileges for three years from the date of conviction and: (A) Revocation of the person's hunting license, unless such license is a lifetime hunting license; or (B) if the person possesses a lifetime hunting license, suspension of such license for three years from the date of conviction.

(3) Upon the third or a subsequent such conviction, the court shall order forfeiture of the person's hunting privileges for five years from the date of conviction and: (A) Revocation of the person's hunting license, unless such license is a lifetime hunting license; or (B) if the person possesses a lifetime hunting license, suspension of such license for five years from the date of conviction.

(d) If a person convicted of a violation described in subsection (c) has been issued a combination hunting and fishing license or a combination lifetime license, only the hunting portion of such license shall be revoked or suspended pursuant to subsection (c).

(e) Nothing in this section shall be construed to prevent a convicting court from suspending a person's hunting privileges or ordering the forfeiture or suspension of the person's license, permit, stamp or other issue of the department for a period longer than provided in this section, if such forfeiture or suspension is otherwise provided for by law.

**History:** L. 1925, ch. 175, sec. 2; L. 1963, ch. 245, sec. 5; L. 1981, ch. 175, sec. 2; L. 1983, ch. 132, sec. 1; L. 1985, ch. 132, sec. 1; L. 1989, ch. 118, sec. 128; L. 2000, ch. 104, sec. 4; L. 2000, ch. 159, sec. 6; L. 2004, ch. 99, sec. 10; L. 2005, ch. 182, sec. 2; L. 2007, ch. 33, sec. 1; L. 2012, ch. 154, sec. 9; Jan. 1, 2013.

Source or prior law: 32-110b.

**32-1033. Unlawful taking of an endangered species, as defined in K.S.A. 1989 Supp. 32-1011, is a class A misdemeanor.**

**History:** L. 1989, ch. 118, sec. 129; July 1.  
Source or prior law: 32-509.

**32-1034. Second conviction for obstruction or impeding of lawful activities.** (a) If a person is convicted of a violation of K.S.A. 1989 Supp. 32-1014 and such person, within two years prior to such

violation, committed another violation of this section which arose out of a separate set of circumstances and for which the person was convicted, such person is guilty of a misdemeanor punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

(b) Any person convicted of a violation of K.S.A. 1989 Supp. 32-1014 shall be liable to the person with whom the violator interfered for all costs and damages resulting therefrom.

**History:** L. 1989, ch. 118, sec. 130; July 1.

Source or prior law: 32-191.

**32-1035 to 32-1039. Reserved.**

**32-1040. Violations by 16- and 17- year olds.** The court hearing the prosecution of any child 16 or 17 years of age who is charged with a violation of any provision of the wildlife, parks and tourism laws of this state or rules and regulations adopted thereunder may impose any fine authorized by law for the offense or may order that the child be placed in a juvenile detention facility.

**History:** L. 1983, ch. 140, sec. 2; L. 1989, ch. 118, sec. 131; L. 1990, ch. 150, sec. 3; L. 2012, ch. 47, sec. 61; July 1.

Source or prior law: 32-110c.

**32-1041. Forfeiture or suspension of license, permit, stamp or other issue.** (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 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.

**History:** L. 1985, ch. 132, sec. 8; L. 1989, ch. 118, sec. 12; L. 2012, ch. 47, sec. 62; July.  
Source or prior law: 32-130a, 32-195.

**32-1042 to 32-1046. Reserved.**

## PROCEDURES

**32-1047. Seizure of wildlife, devices and equipment; disposition.** (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:

(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;

(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) 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: (1) The firearm is significantly altered in any manner; or (2) 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) retain the seized item for educational, scientific or department operational purposes; or

(4) 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).

**History:** L. 1927, ch. 221, sec. 15; L. 1985, ch. 132, sec. 2; L. 1989, ch. 118, sec. 133; L. 2001,

ch. 5, sec. 103; L. 2003, ch. 121, sec. 5; L. 2014, ch.135, sec. 3; July 1.  
Source or prior law: 32-130, 32-130a.

**32-1048. Conservation officers and employees; arrest powers.** Any officer or other employee of the department who meets the criteria specified in subsection (a) of K.S.A. 32-808 and amendments thereto and any other Kansas law enforcement officer authorized to enforce the laws of this state shall have the power to arrest pursuant to the authority granted in subsection (b) of K.S.A. 32-808 and amendments thereto, at any place in the state of Kansas, any person or persons found violating any laws of the state, and rules and regulations promulgated pursuant to chapter 32 of the Kansas Statutes Annotated, and amendments thereto, and to bring such persons immediately before the nearest proper judge of the district court of the county within which such violation took place for trial.

**History:** L. 1943, ch. 173, sec. 2; L. 1969, ch. 211, sec. 2; L. 1975, ch. 223, sec. 3; L. 1976, ch. 145, sec. 156; L. 1989, ch. 118, sec. 134; L. 1997, ch. 168, sec. 9; July 1.  
Source or prior law: 32-155.

**32-1049. Citation; notice.** (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 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, and amendments thereto, the officer shall 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) 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.

**History:** L. 1975, ch. 223, sec. 1; L. 1976, ch. 145, sec. 157; L. 1986, ch. 150, sec. 2; L. 1989, ch. 118, sec. 135; L. 2012, ch. 47, sec. 63; July 1.

**32-1049a. Failure to comply with a wildlife, parks and tourism citation; penalty; reinstatement fee for license or permit suspension; waiver, military personnel.** (a) Failure to comply with a wildlife, parks and tourism citation means failure to:

(1) Appear before any district court in response to a wildlife, parks and tourism citation and pay in full any fine, court costs, assessments or fees imposed;

(2) fully pay or satisfy all fines, court costs, assessments or fees imposed as a part of the sentence of any district court for violation of the wildlife, parks and tourism laws of this state; or

(3) otherwise comply with a wildlife and parks citation as provided in K.S.A. 32-1049, and amendments thereto.

Failure to comply with a wildlife, parks and tourism citation is a class C misdemeanor, regardless of the disposition of the charge for which such citation, complaint or charge was originally issued.

(b) The term “citation” means any complaint, summons, notice to appear, ticket, warrant, penalty assessment or other official document issued for the prosecution of the wildlife, parks and tourism laws or rules and regulations of this state.

(c) In addition to penalties of law applicable under subsection (a) when a person fails to comply with a wildlife, parks and tourism citation or sentence for a violation of wildlife, parks and tourism laws or rules and regulations, the district court in which the person should have complied shall mail a notice to the person that if the person does not appear in the district court or pay all fines, court costs, assessments or fees, and any penalties imposed within 30 days from the date of mailing, the Kansas department of wildlife, parks and tourism shall be notified to forfeit or suspend any license, permit, stamp or other issue of the department. Upon receipt of a report of a failure to comply with a wildlife and parks citation under this section, and amendments thereto, the department shall notify the violator and suspend or forfeit the license, permit, stamp or other issue of the department held by the violator until satisfactory evidence of compliance with the wildlife, parks and tourism citation or sentence of the district court for violation of the wildlife, parks and tourism laws or rules and regulations of this state are furnished to the informing court. Upon receipt of notification of such compliance from the informing court, the department shall terminate the suspension action, unless the violator is otherwise suspended.

(d) Except as provided in subsection (e), when the district court notifies the department of a failure to comply with a wildlife, parks and tourism citation or failure to comply with a sentence of the district court imposed on violation of a wildlife, parks and tourism law or rule and regulation, the court shall assess a reinstatement fee of \$50 for each charge or sentence on which the person failed to make satisfaction, regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, court costs and other assessments, fees or penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit such moneys to the state general fund.

(e) The district court shall waive the reinstatement fee provided for in subsection (d), if the failure to comply with a wildlife, parks and tourism citation was the result of such person enlisting in or being drafted into the armed services of the United States of America, being called into service as a member of a reserve component of the military service of the United States of America, or volunteering for such active duty or being called into service as a member of the Kansas national guard or volunteering for such active duty and being absent from Kansas because of such military service. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

**History:** L. 2008, ch. 10, sec. 1; L. 2012, ch. 47, sec. 64; July 1.

**32-1050. Appearance bond.** (a) Whenever any person is issued a citation by a conservation officer or deputy conservation officer of the wildlife and parks conservation service or by any law enforcement officer for any of the violations described in subsection (b), the officer may require such person to give bond in the amount specified in subsection (b) for the offense for which the person was charged, which bond shall be subject to forfeiture if the person does not appear at the court at the time specified in the written citation. The bond shall be a cash bond and shall be payable using cash or legal tender identified as travelers checks, certified checks, cashiers checks, personal checks and postal money orders. The

cash bond shall be taken in the following manner: The officer shall furnish the person charged with a stamped envelope addressed to the judge or clerk of the court named in the written citation and the person shall place in such envelope the amount of the bond, and in the presence of the officer shall deposit the same in the United States mail. After having complied with these requirements, the person charged need not sign the citation, but the officer shall note the amount of the bond mailed on the citation and shall give a copy of such citation to the person.

(b) The offenses for which a cash bond may be required as provided in subsection (a) and the amounts thereof shall be as follows, subject to increase at the discretion of the court:

Engaging in any activity without a required valid license or permit, other than a big game or wild turkey permit or a license or permit for commercial activity .....	\$100
Engaging in any activity without a required stamp or other issue of the department .....	75
Engaging in any commercial activity without a required valid license or permit.....	500
Engaging in any big game or wild turkey hunting without a required valid big game or wild turkey permit .....	500
Making misrepresentation to secure license, permit, stamp or other issue of the department.....	250
Taking wildlife, except big game or wild turkey, unlawfully (including but not limited to taking wildlife before or after legal taking hours, during closed season, or using unlawful equipment, means or method).....	100
Carrying unplugged shotgun .....	75
Exceeding bag or possession limit, except big game or wild turkey - \$25 for each animal in excess of the bag or possession limit, plus .....	75
Exceeding big game or wild turkey bag or possession limit - \$100 for each animal in excess of the bag or possession limit, plus .....	250
Unlawful transporting of wildlife .....	150
Taking big game or wild turkey unlawfully (including but not limited to taking big game or wild turkey before or after legal taking hours, during closed season, or using unlawful equipment, means or method).....	500
Failing to wear and properly display required clothing during a big game hunting season.....	75
Taking wildlife when operating an amount of equipment in excess of that legally authorized.....	75
Exceeding creel or possession limit - \$25 for each animal in excess of the creel or possession limit, plus .....	75
Operating vessel without a certificate of number or registration .....	50
Operating vessel without proper display of required identification number.....	50
Failing to properly display required lights on vessel between sunset and sunrise .....	50
Operating vessel without correct number or approved types of adult personal flotation devices \$25 for each adult personal flotation device violation, plus .....	50
Operating vessel without correct number or approved types of child personal flotation devices \$50 for each child personal flotation device violation, plus .....	100
Operating vessel without required number of personal flotation devices readily accessible and in good and serviceable condition - \$25 for each personal flotation device violation, plus .....	50
Operating vessel without required number or approved types of fire extinguishers.....	50
Operating vessel in restricted area .....	50
Operating vessel without required observer or rearview mirror on vessel .....	50
Operating vessel without required equipment or in excess of capacity plate limitations .....	50
Unlawful altering, destroying or removing of capacity plate.....	100

(c) For any violation of the wildlife, parks and tourism laws of this state or rules and regulations adopted thereunder for which a cash bond is not specified in subsection (b), the court may establish a

cash bond amount.

(d) There shall be added to the amount of cash bond required pursuant to subsections (b) and (c) the amount of docket fee as prescribed by K.S.A. 28-172a, and amendments thereto for crimes defined in chapter 32 of the Kansas Statutes Annotated, and amendments thereto.

(e) In the event of forfeiture of any of the bonds set forth in this section, the amount added by (d) to the amount of the cash bond shall be regarded as a docket fee.

**History:** L. 1975, ch. 223, sec. 2; L. 1981, ch. 175, sec. 7; L. 184, ch. 148, sec. 3; L. 1986, ch. 47, sec. 2; L. 1986, ch. 146, sec. 4; L. 1987, ch. 134, sec. 6; L. 1989, ch. 118, sec. 136; L. 1989, ch. 239, sec. 7; L. 1989, ch. 274, sec. 1; L. 1992, ch. 315, sec. 9; L. 1994, ch. 245, sec. 3; L. 1994, ch. 335, sec. 7; L. 2002, ch. 64, sec. 1; L. 2004, ch. 99, sec. 11; L. 2012, ch. 47, sec. 65; July 1.

Source or prior law: 32-155b.

**32-1051. Law enforcement officers' duties.** (a) It shall be the duty of all conservation officers and deputy conservation officers of the wildlife, parks and tourism conservation service and all law enforcement officers authorized to enforce the laws of this state to diligently inquire into and prosecute all violations of the wildlife, parks and tourism laws of this state and rules and regulations of the secretary. Any such officers having knowledge or notice of any such violation shall forthwith make complaint before a court of competent jurisdiction and venue. No such officer making complaint shall be liable for costs unless it is found by the court or jury that the complaint was filed for malicious purposes and without probable cause.

(b) Nothing in this section shall be construed to prevent the use of warnings or the issuance of warning tickets, in lieu of making a complaint, when circumstances warrant.

**History:** L. 1911, ch. 198, sec. 31; R.S. 1923, 32-131; L. 1974, ch. 446, sec. 15; L. 1989, ch. 118, sec. 137; L. 1993, ch. 185, sec. 12; L. 2012, ch. 47, sec. 66; July 1.

Source or prior law: L. 1897, ch. 135, sec. 10; L. 1905, ch. 267, sec. 18; 32-131, 32-140.

**32-1052. Complaint and proof.** In a prosecution of any person or persons for a violation of any of the wildlife, parks and tourism laws of this state or rules and regulations of the secretary, it shall not be necessary to:

(a) State in the complaint the true or scientific name of the wildlife involved in the alleged violation; or

(b) state in the complaint or to prove at the trial that the taking or possessing of any wildlife involved in the alleged violation was not for the sole purpose of using or preserving it as a specimen for scientific purposes.

**History:** L. 1911, ch. 198, sec. 28; R.S. 1923, 32-128. L. 1989, ch. 118, sec. 138; L. 2012, ch. 47, sec. 67; July 1.

Source or prior law: L. 1897, ch. 135, sec. 5; L. 1905, ch. 267, sec. 14; 32-128.

**32-1053. County or district attorney's duties; prosecution fee.** It shall be the duty of each county or district attorney to prosecute any person or persons charged with a violation of any of the wildlife, parks and tourism laws of this state or rules and regulations of the secretary. The attorney so prosecuting shall receive the fee established by law or by the court having jurisdiction over the matter for each prosecution in a district court, and such fee shall be taxed to the defendant in every case where conviction shall be had.

**History:** L. 1911, ch. 198, sec. 32; R.S. 1923, 32-132; L. 1973, ch. 134, sec. 37; L. 1976, ch. 145, sec. 155; L. 1989, ch. 118, sec. 139; L. 2012, ch. 47, sec. 68; July 1.

Source or prior law: L. 1897, ch. 135, sec. 9; L. 1905, ch. 267, sec. 19; 32-132.

**32-1054. Report of prosecutions.** It shall be the duty of every judge or clerk of the court before whom any prosecution for a violation of the wildlife, parks and tourism laws of this state or rules and

regulations of the secretary is commenced or goes on appeal, within 20 days after disposition thereof or the occurrence of a failure to comply with a wildlife, parks and tourism citation, to report in writing to the department the result thereof . The report of any disposition or failure to comply with a wildlife, parks and tourism citation shall include the sentence of the court, the nature of the conviction or charge upon which the prosecution is based, the fines, fees, assessments and other penalties imposed and the forfeiture or suspension of any license, permit, stamp or other issue of the Kansas department of wildlife, parks, and tourism, if any.

**History:** L. 1911, ch. 198, sec. 33; R.S. 1923, 32-133; L. 1973, ch. 134, sec. 38; L. 1989, ch. 118, sec. 140; L. 2001, ch. 107, sec. 3; L. 2001, ch. 185, sec. 3; L. 2008, ch. 10, sec. 2; L. 2012, ch. 47, sec. 69; July 1.

Source or prior law: 32-133.

### **32-1055 to 32-1060. Reserved.**

**32-1061. Wildlife violator compact; enactment of compact.** The wildlife violator compact is enacted into law and entered into by the State of Kansas with any and all jurisdictions legally joining therein in accordance with its terms. The compact is substantially as follows:

#### *Article I*

#### FINDINGS, DECLARATION OF POLICY, AND PURPOSE

(a) The party states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those resources.

(3) The preservation, protection, management, and restoration of wildlife contribute immeasurably to the aesthetic, recreational, and economic aspects of these natural resources.

(4) Wildlife resources are valuable without regard to political boundaries, therefore, all persons should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communications among the various states.

(7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:

(i) Must post collateral or bond to secure appearance for a trial at a later date; or

(ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices described in paragraph (7) of this subsection is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's



way after agreeing or being instructed to comply with the terms of the citation.

(10) The practice described in paragraph (7) of this subsection causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

(11) The enforcement practices described in paragraph (7) of this subsection consume an undue amount of law enforcement time.

(b) It is the policy of the party states to:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges or rights of any person whose license privileges or rights have been suspended by a party state and treat this suspension as if it had occurred in their state.

(3) Allow violators to accept a wildlife citation, except as provided in subsection (b) of article III, and proceed on the violator's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate party state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subsection (b) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

## *ARTICLE II* DEFINITIONS

Unless the context requires otherwise, the definitions in this article apply through this compact and are intended only for the implementation of this compact:

(a) "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(d) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

- (e) “Court” means a court of law, including magistrate’s court and the justice of the peace court.
- (f) “Home state” means the state of primary residence of a person.
- (g) “Issuing state” means the party state which issues a wildlife citation to the violator.
- (h) “License” means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a party state.
- (i) “Licensing authority” means the Kansas department of wildlife and parks or the department within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.
- (j) “Party state” means any state which enacts legislation to become a member of this wildlife compact.
- (k) “Personal recognizance” means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.
- (l) “State” means any state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.
- (m) “Suspension” means any revocation, denial, or withdrawal of any or all license privileges or rights, including the privilege or right to apply for, purchase, or exercise the benefits conferred by any license.
- (n) “Terms of the citation” means those conditions and options expressly stated upon the citation.
- (o) “Wildlife” means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as “wildlife” and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party state. “Wildlife” also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Species included in the definition of “wildlife” vary from state to state and determination of whether a species is “wildlife” for the purposes of this compact shall be based on local law.
- (p) “Wildlife law” means any statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.
- (q) “Wildlife officer” means any individual authorized by a party state to issue a citation for a wildlife violation.
- (r) “Wildlife violation” means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

*ARTICLE III*  
PROCEDURES FOR ISSUING STATE

- (a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subsection (b) of this article, if the officer receives the person’s personal recognizance that the person will comply with the terms of the citation.
- (b) Personal recognizance is acceptable:
  - (1) If not prohibited by local law or the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation; and
  - (2) If the violator provides adequate proof of the violator’s identification to the wildlife officer.
- (c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate court or official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with

procedures specified by the issuing state and shall contain the information specified in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance required by subsection (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content as contained in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation.

#### *ARTICLE IV* PROCEDURES FOR HOME STATE

(a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license or permit privileges or rights until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction resulting in the suspension or revocation of the violator's license or permit privileges or rights from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license or permit privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation.

#### *ARTICLE V* RECIPROCAL RECOGNITION OF SUSPENSION

All party states shall recognize the suspension of license or permit privileges or rights of any person by any party state as if the violation on which the suspension is based had in fact occurred in their state and would have been the basis for suspension of license or permit privileges or rights in their state.

#### *ARTICLE VI* APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license or permit privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

#### *ARTICLE VII* COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board of compact administrators shall be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each party state, or his or her

designee, and will serve and be subject to removal in accordance with the laws of the state the administrator represents. A compact administrator may provide for the discharge of the administrator's duties and the performance of the administrator's functions as a board of compact administrators member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board of compact administrators.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board of compact administrators shall be binding unless taken at a meeting at which a majority of the total number of votes on the board of compact administrators is cast in favor thereof. Action by the board of compact administrators shall be only at a meeting at which a majority of the party states are represented.

(c) The board of compact administrators shall elect annually, from its membership, a chairperson and vice-chairperson.

(d) The board of compact administrators shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board of compact administrators may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(f) The board of compact administrators may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(g) The board of compact administrators shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board of compact administrators' action shall be contained in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation.

### *ARTICLE VIII*

#### ENTRY INTO COMPACT AND WITHDRAWAL

(a) This compact shall become effective when it has been adopted by at least two states.

(b)(1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board of compact administrators.

(2) The resolution shall be in a form and content as provided in the compact manual adopted by the secretary of the Kansas department of wildlife and parks as a regulation and shall include statements that in substance are as follows:

(i) A citation of the authority by which the state is empowered to become a party to this compact;

(ii) Agreement to comply with the terms and provisions of the compact; and

(iii) That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than 60 days after notice has been given by the chairperson of the board of compact administrators or by the secretariat of the board of compact administrators to each party state that the resolution from the applying state has been received.

(c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

*ARTICLE IX*  
AMENDMENTS TO THE COMPACT

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one or more party states.

(b) Adoption of an amendment shall require endorsement by all party states and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a party state to respond to the compact chairperson within 120 days after receipt of the proposed amendment shall constitute endorsement.

*ARTICLE X*  
CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the remainder of the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

*ARTICLE XI*  
TITLE

This compact shall be known as the wildlife violator compact.

**History:** L. 2005, ch. 70, sec. 1; July 1.

**32-1062. Same; rules and regulations.** The secretary of the Kansas department of wildlife, parks and tourism shall make and publish such rules and regulations, not inconsistent with law, as deemed necessary to carry out the purposes of the wildlife violator compact.

**History:** L. 2005, ch. 70, sec. 2; L. 2012, ch. 47, sec. 70; July 1.

**32-1063. Same; suspension or revocation of license or privileges pursuant to compact; subsequent acts prohibited; penalties.** It shall be unlawful for any person whose license, privilege, or right to hunt, fish, trap, possess, or transport wildlife, having been suspended or revoked pursuant to the wildlife violator compact, to exercise that right or privilege within this state or to purchase or possess such a license which grants such right or privilege.

(a) Any person who knowingly hunts, fishes, traps, possesses, or transports any wildlife, or attempts to do any of the same, within this state in violation of such suspension or revocation pursuant to the wildlife violator compact shall be guilty of a class A nonperson misdemeanor and sentenced to the following:

- (1) A fine of not less than \$1,500 nor more than \$5,000; and
- (2) any privilege or right to hunt, fish, trap or otherwise take, possess or transport any wildlife in this state, or purchase or possess any license, permit, stamp or other issue of the Kansas department of wildlife, parks and tourism shall be forfeited or suspended for a period of not less than two years nor more than five years in addition to and consecutive to the original revocation or suspension set forth by

the provisions of the compact;

(3) the sentencing judge may impose other sanctions pursuant to K.S.A. 21-4502 and 21-4603d, and amendments thereto.

(b) Any person who knowingly purchases or possesses, or attempts to purchase or possess, a license to hunt, fish, trap, possess or transport wildlife in this state in violation of such suspension or revocation pursuant to the wildlife violator compact shall be guilty of a class A nonperson misdemeanor and sentenced to the following:

(1) A fine of not less than \$750 nor more than \$2,500; and

(2) any privilege or right to hunt, fish, trap or otherwise take, possess or transport any wildlife in this state, or purchase or possess any license, permit, stamp or other issue of the Kansas department of wildlife, parks and tourism shall be forfeited or suspended for a period of not less than two years in addition to and consecutive to the original revocation or suspension set forth by the provisions of the compact;

(3) the sentencing judge may impose other sanctions pursuant to K.S.A. 21-4502 and 21-4603d, and amendments thereto.

**History:** L. 2005, ch. 70, sec. 3; L. 2012, ch. 47, sec. 71; July 1.

**32-1064. Same; licensing authority; duties.** As used in the compact, the term “licensing authority” with reference to this state, means the Kansas department of wildlife, parks and tourism. The secretary of the Kansas department of wildlife, parks and tourism shall furnish to the appropriate authorities of party states any information or document reasonably necessary to facilitate the administration of the compact.

**History:** L. 2005, ch. 70, sec. 4; L. 2012, ch. 47, sec. 72; July 1.

**32-1065. Same; compact administrator, compensation and expenses.** The compact administrator provided for in article VII of the wildlife violator compact shall not be entitled to any additional compensation for service as the administrator but shall be entitled to expenses incurred in connection with the duties and responsibilities of the administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of such office or employment.

**History:** L. 2005, ch. 70, sec. 5; July 1.

**32-1066. Same; board of compact administrators; appointment of state administrator.** The secretary of the Kansas department of wildlife, parks and tourism shall appoint the director or head administrator of the department’s law enforcement division or section to serve on the board of compact administrators as the compact administrator for this state as required by section 1 subsection (a) of article VII of the wildlife violator compact.

**History:** L. 2005, ch. 70, sec. 6; L. 2012, ch. 47, sec. 73; July 1.

**32-1067-1070. Reserved.**

**32-1071. State sovereignty over non-migratory wildlife act; citation of act.** Sections 1 through 8, and amendments thereto, may be cited as the state sovereignty over non-migratory wildlife act.

**History:** L. 2014, ch. 103, sec. 1; May 22.

**32-1072. Same; authority.** The legislature declares that the authority for the state sovereignty over non-migratory wildlife act is the following: (a) The tenth amendment to the constitution of the United States guarantees to the states and their people all powers not granted to the federal government elsewhere in the constitution and reserves to the state and people of Kansas certain powers as they were

understood at the time that Kansas was admitted to statehood in 1861. The guaranty of those powers is a matter of contract between the state and people of Kansas and the United States as of the time that the compact with the United States was agreed upon and adopted by Kansas in 1859 and the United States in 1861.

(b) Article II, section 1 of the constitution of the state of Kansas authorizes the legislature of the state of Kansas to exercise the legislative power of the state, including the general police powers inherent in a sovereign state.

**History:** L. 2014, ch. 103, sec. 2; May 22.

**32-1073. Same; definitions.** As used in the state sovereignty over non-migratory wildlife act: (a) “Borders of Kansas” means the boundaries of Kansas described in the act for admission of Kansas into the union, 12 stat. 126, ch. 20, § 1.

(b) “Lesser prairie chicken” means the species *tympanuchus pallidicinctus*.

(c) “Greater prairie chicken” means the species *tympanuchus cupido*.

**History:** L. 2014, ch. 103, sec. 3; May 22.

**32-1074. Same; non-migratory nature of lesser and greater prairie chickens.** (a) The lesser prairie chicken and the greater prairie chicken are non-migratory species that are native to the grasslands of Kansas.

(b) The lesser prairie chicken and the greater prairie chicken do not inhabit or swim in any static bodies of water, navigable waterways or nonnavigable waterways.

(c) The existence and management of the lesser prairie chicken and the greater prairie chicken do not have a substantial effect on commerce among the states.

(d) The Kansas department of wildlife, parks and tourism, and its predecessor agencies, have successfully managed lesser prairie chickens and greater prairie chickens in the state and have provided for the adequate preservation of the habitats of such species.

**History:** L. 2014, ch. 103, sec. 4; May 22.

**32-1075. Same; regulation of prairie chickens and prairie chicken habitats in Kansas.** (a) The state of Kansas, acting through the Kansas legislature and through the Kansas department of wildlife, parks and tourism, possesses the sole regulatory authority to govern the management, habitats, hunting and possession of lesser prairie chickens and greater prairie chickens that exist within the state of Kansas.

(b) The lesser prairie chickens and the greater prairie chickens that exist within the state and the habitats of such species, are not subject to the endangered species act of 1973, as in effect on the effective date of this act, or any federal regulation or executive action pertaining thereto, under the authority of congress to regulate interstate commerce.

(c) Any federal regulation or executive action pertaining to the endangered species act of 1973, as in effect on the effective date of this act, that purports to regulate the following has no effect within the state:

(1) The lesser prairie chicken;

(2) the greater prairie chicken;

(3) the habitats of such species;

(4) farming practices that affect such species; or

(5) other human activity that affects such species or the habitats of

such species.

**History:** L. 2014, ch. 103, sec. 5; May 22.

**32-1076. Same; enforcement of act.** A county or district attorney, or the attorney general may seek injunctive relief in any court of competent jurisdiction to enjoin any official, agent or employee of the government of the United States or employee of a corporation providing services to the government of the United States from enforcing any federal regulation or executive action pertaining to the endangered species act of 1973, as in effect on the effective date of this act, that purports to regulate the following within the state: (a) The lesser prairie chicken;

- (b) the greater prairie chicken;
- (c) the habitats of such species;
- (d) farming practices that affect such species; or
- (e) other human activity that affects such species or the habitats of such species.

**History:** L. 2014, ch. 103, sec. 6; May 22.

**32-1077. Same; construction of act.** (a) This act shall not be construed to infringe on the authority of the United States department of agriculture to administer conservation programs that apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

(b) This act shall not be construed to infringe on the authority of the United States environmental protection agency, or the state of Kansas under delegated authority, to administer the federal water pollution prevention and control act, as in effect on the effective date of this act, or the clean air act, as in effect on the effective date of this act, to the extent it may apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

(c) This act shall not be construed to infringe on the authority of the Kansas department of wildlife, parks and tourism or any private citizen of this state to operate or participate in the range wide lesser prairie chicken management plan, the stakeholder conservation strategy for the lesser prairie chicken, or any other management or conservation plan pertaining to the lesser prairie chicken that may be developed with the assistance and participation of the United States fish and wildlife service and apply to:

- (1) The lesser prairie chicken;
- (2) the greater prairie chicken;
- (3) the habitats of such species;
- (4) farming practices that affect such species; or
- (5) other human activity that affects such species or habitats of such species.

**History:** L. 2014, ch. 103 sec. 7; May 22.

**32-1078. Same; severability.** If any provision of the state sovereignty over non-migratory wildlife act or the application to any person or circumstance is held to be invalid in any court of competent jurisdiction, such invalidity shall not affect the other provisions or application of such act. To this end, the provisions of such act are declared to be severable.

**History:** L. 2014, ch. 103, sec. 8; May 22.

## **Article II. BOATING AND WATER ACTIVITIES**



## GENERAL PROVISIONS

**32-1101. Policy.** It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

**History:** L. 1959, ch. 321, sec. 1; July 1.  
Source or prior law: 82a-801.

**32-1102. Definitions.** As used in article 11 of chapter 32 of the Kansas Statutes Annotated and amendments thereto, unless the context clearly requires a different meaning:

(a) "Vessel" means any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water.

(b) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

(c) "Owner" means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(d) "Waters of this state" means any waters within the territorial limits of this state.

(e) "Person" means an individual, partnership, firm, corporation, association, or other entity.

(f) "Operate" means to navigate or otherwise use a motorboat or a vessel.

(g) "Department" means the Kansas department of wildlife, parks and tourism.

(h) "Secretary" means the secretary of wildlife, parks and tourism.

(i) "Length" means the length of the vessel measured from end to end over the deck excluding sheer.

(j) "Operator" means the person who operates or has charge of the navigation or use of a motorboat or a vessel.

(k) "Undocumented vessel" means a vessel which is not required to have, and does not have, a valid marine document issued by the United States coast guard or federal agency successor thereto.

(l) "Reportable boating accident" means an accident, collision or other casualty involving a vessel subject to this act which results in loss of life, injury sufficient to require first aid or medical attention, or actual physical damage to property, including a vessel, in excess of an amount established by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto.

(m) "Marine sewage" means any substance that contains any of the waste products, excrement or other discharges from the bodies of human beings or animals, or foodstuffs or materials associated with foodstuffs intended for human consumption.

(n) "Marine toilet" means any latrine, head, lavatory or toilet which is intended to receive marine sewage and which is located on or in any vessel.

(o) "Passenger" means any individual who obtains passage or is carried in or on a vessel.

(p) "Sail board" means a surfboard using for propulsion a free sail system comprising one or more swivel-mounted rigs (mast, sail and booms) supported in an upright position by the crew and the wind.

(q) "Dealer" means any person who:

(1) For a commission or with an intent to make a profit or gain of money or other thing of value, sells, barter, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sale of any vessel, whether or not the vessel is owned by such person;

(2) maintains an established place of business with sufficient space to display vessels at least equal in number to the number of dealer certificates of number the dealer has been assigned; and

(3) maintains signage easily visible from the street identifying the established place of business.

(r) "Demonstrate" means to operate a vessel on the waters of this state for the purpose of selling,

trading, negotiating or attempting to negotiate the sale or exchange of interest in new or used vessels or for the purpose of testing the design or operation of a vessel.

(s) "Sailboat" means any vessel, other than a sail board, that is designed to be propelled by wind action upon a sail for navigation on the water.

(t) "Boat livery" means any person offering a vessel or vessel of varying types for rent.

(u) "Cargo" means the items placed within or on a vessel and shall include any persons or objects towed on water skis, surfboards, tubes or similar devices behind the vessel.

(v) "State of principal use" means the state on the waters of which a vessel is used or to be used most during the calendar year.

(w) "Use" means to operate, navigate or employ.

(x) "Abandoned vessel" means any vessel on public waters or public or private land which remains unclaimed for a period of 15 consecutive days.

**History:** L. 1959, ch. 321, sec. 2; L. 1961, ch. 471, sec. 1; L. 1970, ch. 408, sec. 1; L. 1973, ch. 415, sec. 1; L. 1983, ch. 342, sec. 1; L. 1986, ch. 393, sec. 1; L. 1989, ch. 118, sec. 141; L. 1993, ch. 185, sec. 13; L. 2000, ch. 70, sec. 1; L. 2004, ch. 79, sec. 1; L. 2006, ch. 85, sec. 1; L. 2012, ch. 47, sec. 74; July 1. Source or prior law: 82a-802.

**32-1103. Applicable laws; rules and regulations.** (a) The provisions of K.S.A. 1989 Supp. 32-1101 through 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173 and 32-1177 through 32-1180, and amendments thereto, and of other applicable laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto whenever any vessel shall be operated on the waters of this state, or when any activity regulated by this act shall take place thereon, but nothing in this act shall be construed to prevent the adoption of any ordinance or regulation by any subdivision or municipality of this state relating to waters under the control or jurisdiction of such subdivision or municipality, and such ordinances or regulations shall be valid and enforceable so long as and to the extent that they are not contradictory to provisions of article 11 of chapter 32 of the Kansas Statutes Annotated and amendments thereto or rules and regulations adopted thereunder. Such ordinances or regulations shall not be adopted by such subdivision or municipality until after public notice by the enacting body. Following such adoption the enacting body shall submit the same to the secretary, setting forth the reasons which make such regulations necessary or appropriate, and requesting the approval of such regulations by the secretary. If the secretary approves such regulations they shall become operative; otherwise, such regulations shall have no effect. Notwithstanding the foregoing provisions, the secretary shall not regulate fees to be charged by political subdivisions or municipalities as to waters under their control or jurisdiction.

(b) The secretary is hereby authorized to adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, rules and regulations with reference to the operation of vessels on any waters within the state.

**History:** L. 1959, ch. 321, sec. 15; L. 1961, ch. 471, sec. 7; L. 1989, ch. 118, sec. 154; July 1. Source or prior law: 82a-815.

**32-1104. Annual reports to county assessors.** Annually, on or before the first day of February, the secretary shall furnish to the county assessor of each county in this state a list of the names and addresses of the owners of motorboats in each county and the identification numbers issued therefor by the secretary which were in effect on January 1 of each year. It shall be the duty of the county assessors of each county to check such lists against the personal property tax returns of the owners of such motorboats for any discrepancies between such lists and such personal property tax returns.

**History:** L. 1960, ch. 61, sec. 1; L. 1989, ch. 118, sec. 157; July 1.

Source or prior law: 82a-820.

**32-1105 to 32-1109. Reserved.**

## VESSEL NUMBERING

**32-1110. Requirement.** Every undocumented, mechanically propelled vessel or sailing vessel using the waters of this state, as its state of principal use, shall be numbered, except those exempted by K.S.A. 32-1113, and amendments thereto. No person shall operate or give permission for the operation of any motorboat or vessel propelled by sail on such waters unless such vessel is numbered in accordance with this act, applicable federal law or a federally approved numbering system of another state, and unless (1) the certificate of number awarded to such vessel is in full force and effect and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such vessel, unless otherwise provided by rules and regulations of the secretary.

**History:** L. 1959, ch. 321, sec. 3; L. 1970, ch. 408, sec. 2; L. 1989, ch. 118, sec. 142; L. 2006, ch. 85, sec. 2; Jan. 1, 2007.

Source or prior law: 82a-803.

**32-1111. Application; certification; temporary permit; rules and regulations.** (a) The owner of each vessel requiring numbering by this state shall file an application for number with the secretary on forms approved by the secretary. The application shall be signed by the owner of the vessel and shall be accompanied by the vessel registration fee prescribed pursuant to K.S.A. 32-1172, and amendments thereto and by proof of payment of any tax imposed under the provisions of K.S.A. 12-187, 12-198, the Kansas retailers' sales tax act or the Kansas compensating tax act, and amendments thereto, as the case requires, upon forms devised and furnished by the department of revenue to every county treasurer for such purpose. Upon receipt of the application in approved form and proof of payment of sales or compensating tax, the secretary shall enter the same upon the records of the department and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner. Unless otherwise provided by rules and regulations, the owner shall paint on or attach to each side of the bow of the vessel the identification number in such manner as prescribed by rules and regulations of the secretary in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and, unless otherwise provided by rules and regulations, shall be available at all times for inspection on the vessel for which issued, whenever such vessel is in operation. No person charged with a violation of the preceding sentence shall be convicted of such offense if such person produces in court or the office of the arresting officer a certificate of number issued and valid at the time of such person's arrest.

(b) The owner of any vessel already covered by a number in full force and effect which has been awarded to it pursuant to the then operative federal law or a federally approved numbering system of another state shall record the number prior to operating the vessel on the waters of this state in excess of the 60-day reciprocity period provided for in subsection (1) of K.S.A. 32-1113, and amendments thereto. Such recordation shall be in the manner and pursuant to the procedure required for the award of a number under this subsection, including the submission of proof of payment of sales or compensating tax, except that no additional or substitute number shall be issued.

(c) Should the ownership of a numbered vessel change, a new application form with fee and proof of payment of sales or compensating tax shall be filed with the secretary and a new certificate of number shall be awarded in the same manner as provided for in an original award of number, except that where the state of principal use remains unchanged the number may be identical with the previous one.

(d) If an agency of the United States government has in force an overall system of identification numbering for vessels within the United States, the numbering system employed pursuant to this act by the secretary

shall be in conformity therewith.

(e) The secretary may award any certificate of number directly or may authorize any person to act as agent for the awarding thereof. If a person accepts such authorization, such person may be assigned a block of numbers and certificates therefor which upon award, in conformity with this act and with any rules and regulations of the secretary, shall be valid as if awarded directly by the secretary.

(f) All records of the secretary made or kept pursuant to this section shall be public records.

(g) Every certificate of number awarded pursuant to this act shall continue in full force and effect for a period of three years unless sooner terminated or discontinued in accordance with the provisions of this act. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the number.

(h) The secretary shall fix a day and month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this act.

(i) The owner shall furnish the secretary notice of the transfer of all or any part of such owner's interest other than the creation of a security interest in a vessel numbered in this state pursuant to subsections (a) and (b) or of the destruction or abandonment of such vessel within 15 days thereof. Such transfer, destruction, or abandonment shall terminate the certificate of number for such vessel and the certificate of number shall be surrendered to the secretary as a part of the notification of transfer, destruction, or abandonment except, that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate of number.

(j) Any holder of a certificate of number shall notify the secretary within 15 days if the holder's address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the secretary with a new address. The secretary may provide by rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

(k) No number other than the number awarded to a vessel or granted reciprocity pursuant to this act shall be painted, attached, or otherwise displayed on either side of the bow of such vessel.

(l) If a certificate of number becomes lost, destroyed, mutilated or illegible, the owner of the vessel for which the same was issued may obtain a duplicate of such certificate upon application therefor to the secretary. The application shall be in writing, shall describe the circumstances of the loss or destruction and shall be accompanied by the duplicate fee prescribed pursuant to K.S.A. 32-1172, and amendments thereto.

(m) The secretary is authorized, in the secretary's discretion, to provide and have issued for vessels requiring registration and numbering under this act, a 30-day temporary registration permit for the temporary vessel registration fee prescribed pursuant to K.S.A. 32-1172, and amendments thereto.

Such permits shall be in the form as prescribed by the secretary and available for purchase or resale by any person designated by the secretary. In addition to the permit fee, any person selling such temporary permits may collect a service charge of not to exceed \$1 for each permit issued.

Such temporary permit shall expire 30 days from the date of issuance.

(n) (1) The owner of any vessel documented by the United States Coast Guard and the new owner of any vessel, who upon the sale or transfer of the vessel that documents the vessel with the United States Coast Guard, shall apply for a vessel certificate of registration and pay a fee equal to the amount required for a vessel registration pursuant to K.S.A. 32-1172, and amendments thereto, before using such vessel on the waters of this state. The application shall include the county in which such vessel will be normally maintained by the owner and any other information required by the secretary.

A certificate of registration and a set of registration decals in the form prescribed by the secretary shall be issued for a documented vessel. A nonresident shall make application for a vessel certificate of registration within 60 days after acquiring a vessel in this state or bringing a vessel into this state if the

vessel will be kept in this state for a period in excess of 60 consecutive days. A delinquency penalty fee of \$20 shall be imposed for each 30 days of delinquency, not to exceed a total of \$60. If the secretary learns that any person failed to acquire a vessel certificate of registration in accordance with this section or has sold a vessel documented by the United States Coast Guard without obtaining a certificate of registration as provided by this section, the secretary shall cancel the registration of all vessels registered in the name of the person, whether as sole owner or a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee together with all fees, charges and payments which the person should have paid in connection with the vessel certificate of registration. The secretary shall maintain a listing of such registered documented vessels, to be supplied to the county assessor of each county in the state as required under K.S.A. 32-1104, and amendments thereto. Such vessels shall not be included in the total number of registered vessels of the state applied toward the number reflected on any United States Coast Guard grants, where prohibited.

(2) The registration decals for any vessel documented by the United States Coast Guard shall be in force and effect for a period of three years so long as the vessel is owned or held by the original holder of the certificate of registration and shall be renewed upon application and payment of a registration renewal fee equal to the amount required for a vessel registration pursuant to K.S.A. 32-1172, and amendments thereto. The owner shall attach the registration decals to both sides of the forward half of the bow of the documented vessel in a place that is fully visible.

(3) Upon the sale or transfer of any vessel documented by the United States Coast Guard, the new owner shall submit, in addition to the properly assigned certificate of registration, proof of release from the documentation of the United States Coast Guard and shall comply with the provisions of this section. If the new owner elects not to document the vessel with the United States Coast Guard, the owner shall comply with the applicable provisions for registering vessels in this state.

(4) The certificate of registration shall be available at all times for inspection on the vessel for which it is issued, whenever the vessel is in operation, moored or occupied while on waters within this state.

(o) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations for the administration of the provisions of this section, including but not limited to numbering applications, certificates of number, temporary 30-day permits, display of number and reports on change of address, destruction and sale or transfer of ownership.

**History:** L. 1959, ch. 321, sec. 4; L. 1961, ch. 471, sec. 2; L. 1970, ch. 408, sec. 3; L. 1975, ch. 512, sec. 1; L. 1982, ch. 436, sec. 1; L. 1987, ch. 65, sec. 1; L. 1989, ch. 118, sec. 143; L. 1993, ch. 185, sec. 14; L. 2006, ch. 85, sec. 3; Jan. 1, 2007.

Source or prior law: 82a-804.

**32-1112. Testing or demonstrating vessels.** (a) A licensed dealer demonstrating, displaying or exhibiting on the waters of this state any vessel of a type required to be numbered under the laws of this state may obtain from the department, in lieu of obtaining a certificate of number for each such vessel, dealer certificates of number for use in demonstrating, displaying or exhibiting any such vessel. No such dealer certificate of number shall be issued by the department except upon application to the secretary upon forms prescribed by the secretary and upon payment of the required fees. The dealer certificate of number must accompany the vessel and the number assigned by such dealer certificate must be temporarily placed on the vessel while it is being demonstrated, displayed or exhibited on the waters of this state. During the calendar year for which issued, such dealer certificate may be transferred from one such vessel to another owned or operated by such dealer. Such dealer certificate of number may be used in lieu of a regular certificate of number for the purposes of demonstrating, displaying or exhibiting vessels held in inventory of such dealer. Such dealer certificate of number may also be used on such dealer's service vessel, or substitute vessels owned by the dealer but loaned to a customer when the dealer is repairing such customer's vessel.

(b) No dealer in vessels of a type required to be numbered under the laws of this state shall cause or permit any such vessel owned by such dealer to be on the waters of this state unless the original dealer certificate of number accompanies the vessel and the number assigned by such dealer certificate is temporarily placed on the vessel as required by this section. A dealer who wishes to operate or allow operation of more than one vessel simultaneously on the waters of this state shall apply for additional dealer certificates as provided by the secretary.

(c) No dealer certificate of number shall be issued to any dealer unless such dealer at the time of making application therefor exhibits to the secretary or the secretary's agent a receipt showing that the applicant has paid all personal property taxes and sales tax levied against such dealer for the preceding year, including taxes assessed against vessels of such dealer which were assessed as stock in trade, or unless the dealer exhibits satisfactory evidence that the dealer had no taxable personal property for the preceding year. If application for registration is made before June 21, the receipt may show payment of only ½ of the preceding year's taxes.

(d) To determine the number of dealer certificates of number a dealer needs, the secretary may base the decision on the dealer's past sales, inventory and any other pertinent factors as the secretary may determine. After the end of the first year of licensure as a dealer, not more than one dealer certificate of number shall be issued to any dealer who has not reported to the secretary the sale of at least five vessels in the preceding year. There shall be no refund of fees for dealer certificates of number in the event of suspension, revocation or voluntary cancellation of such certificates of number.

(e) Any dealer of vessels may authorize use of dealer certificates of number assigned to such dealer by the following:

- (1) The licensed dealer and such dealer's spouse;
- (2) any employee of such dealer when the use thereof is directly connected to a particular business transaction of such dealer; and
- (3) the dealer's customer when operating a vessel in connection with negotiations to purchase such vessel or during a demonstration of such vessel, as stated in a written agreement between the dealership and the customer, with such required information as deemed necessary by the secretary.

(f) Except as hereinafter provided, every dealer of vessels shall:

(1) On or before the 20<sup>th</sup> day of the month following the end of a calendar quarter, file a report for such quarter report, on a form prescribed and furnished by the secretary, listing all sales or transfers, including the name and address of the purchaser or transferee, date of sale, the serial or identification number of the vessel, and such other information as the secretary may require. The department of wildlife, parks and tourism shall make a copy of the report available to the department of revenue.

(2) Whenever a dealer sells or otherwise disposes of such dealer's business, or for any reason suspends or goes out of business as a dealer, such dealer shall notify the secretary and return the dealer's license and dealer certificates of number and, upon receipt of such notice, license and certificates of number, the secretary shall cancel the dealer's certificates of number, except that such dealer, upon payment of 50% of the annual dealer's license fee to the secretary, may have the license and dealer certificates of number assigned to the purchaser of the business.

(g) The secretary shall adopt, in accordance with K.S.A. 32-805 and amendments thereto, rules and regulations for the administration of provisions of this section, including but not limited to, dealer certificate of number applications and renewals, temporary placement of numbers and possession of dealer certificates of number.

**History:** L. 1959, ch. 321, sec. 6; L. 1961, ch. 471, sec. 3; L. 1970, ch. 408, sec. 5; L. 1975, ch. 512, sec. 2; L. 1989, ch. 118, sec. 145; L. 1993, ch. 185, sec. 15; L. 2004, ch. 79, sec. 3; L. 2012, ch. 47, sec. 75; July 1.

Source or prior law: 82a-806.

**32-1113. Exemptions.** A vessel shall not be required to be numbered under this act if it is:

(1) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state, if such boat has not been within this state for a period in excess of 60 consecutive days.

(2) A vessel from a country other than the United States temporarily using the waters of this state.

(3) A vessel whose owner is the United States, a state or a subdivision thereof.

(4) A ship's lifeboat.

(5) A vessel belonging to a class of boats which has been exempted from numbering by the secretary if it is determined that the numbering of vessels of such class will not materially aid in their identification; and, if an agency of the federal government has a numbering system applicable to the class of vessels to which the vessel in question belongs, after the secretary has further found that the vessel would also be exempt from numbering if it were subject to the federal law.

(6) Vessel documented by the United States coast guard or federal agency successor thereto.

**History:** L. 1959, ch. 321, sec. 7; L. 1970, ch. 408, sec. 6; L. 1989, ch. 118, sec. 146; L. 1993, ch. 185, sec. 16; July 1.

Source or prior law: 82a-807.

**32-1114. Dealer's license.** (a) No dealer of vessels shall be eligible to obtain dealer certificates of number pursuant to K.S.A. 32-1112, and amendments thereto, unless such dealer holds a dealer's license issued by the secretary. The application for a dealer's license shall be made to the secretary and shall contain such information as the secretary deems reasonable and pertinent for the enforcement of the provisions of this section. The application shall be accompanied by the fee required under K.S.A. 32-1172, and amendments thereto.

(b) A dealer's license shall be granted or refused within 30 days after the application is received by the secretary. The license shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which the license is granted. Any application for renewal received by the secretary after February 15 shall be considered as a new application.

(c) The secretary may deny, suspend, revoke or refuse renewal of a person's dealer's license if the person has:

(1) Made a material false statement in an application for a dealer's license;

(2) filed a materially false or fraudulent tax return as certified by the director of taxation;

(3) knowingly used or permitted the use of a dealer certificate of number contrary to law;

(4) failed to notify the secretary within 10 days of any dealer certificate of number that has been lost, stolen, mutilated or destroyed; or

(5) has failed or refused to surrender the dealer's license or dealer's certificates of number to the secretary or the secretary's agent upon demand.

(d) The secretary may deny the application for the license within 30 days after receipt thereof by written notice to the applicant, stating the grounds for such denial. Upon request by the applicant whose license has been so denied, the applicant shall be granted an opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act.

(e) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be good cause for refusing, suspending or revoking a license to such party as an individual. Each licensee shall be responsible for the acts of any of the licensee's salespersons, representatives or employees while acting as the licensee's agent.

(f) Any licensee or other person aggrieved by a final order of the secretary pursuant to this section may appeal to the district court as provided by the act for judicial review and civil enforcement of

agency actions.

**History:** L. 2004, ch. 79, sec. 2; Jan. 1, 2005.

**32-1115. Identification numbers; unlawful acts.** (a) No person shall:

- (1) Intentionally deface, destroy, remove or alter any hull identification number required for a vessel, without written authorization from the secretary.
  - (2) Place or stamp any serial number upon a vessel other than a number assigned to the vessel by the secretary.
- (b) It shall be unlawful to sell, barter, exchange or possess any vessel if the original hull identification number has been destroyed, removed, altered or defaced.
- (c) This section does not prohibit:
- (1) The restoration of the original hull identification number by an owner of a vessel when the restoration of such number is authorized by the secretary.
  - (2) Any manufacturer from placing numbers or marks in the ordinary course of business upon new vessels or parts of vessels.
- (d) Any law enforcement officer having knowledge of a vessel with a hull identification number that has been destroyed, removed, altered or defaced may seize and take possession of such vessel and may arrest the owner or custodian thereof and cause prosecution to be brought in a court of competent jurisdiction.
- (e) The secretary, upon request, shall assign a hull identification number to any handmade vessel.
- (f) Any person who knowingly violates any provision of subsection (a) or (b) shall be guilty of a class A nonperson misdemeanor.

**History:** L. 2006, ch. 85, sec. 8; Jan. 1, 2007.

**32-1116. Assembled, reconstructed or restored vessels; circumstances where existing number unidentifiable.** (a) When application for a certificate of number is made for a vessel which has been assembled, reconstructed, reconstituted or restored from one or more vessels, or the hull identification number as required by law is unidentifiable or uncertain, the owner of such vessel shall request the secretary inquire into the origin of the vessel. Such information shall be supplied by affidavit of the owner, if requested by the secretary. If, in the determination of the secretary, the vessel contains no stolen parts, the secretary shall assign an existing or new hull identification number to the vessel and direct the location and manner to affix the hull identification number. A charge of \$10 shall be paid by the owner of a vessel requesting the inquiry.

(b) Any vessel having a destroyed, removed, altered or defaced hull identification number, which was not constructed in accordance with subsection (a), and if the true identity of the vessel cannot be determined, shall be reassigned a new hull identification number by the secretary or destroyed.

**History:** L. 2006, ch. 85, sec. 9; Jan. 1, 2007.

**32-1117. Handmade vessels; assignment of number and issuance of decals; display; fee.** (a) Whenever the secretary assigns a hull identification number to a handmade vessel, the hull identification number shall consist of two letters designating the state followed by the letter "Z"; the next five characters shall be an identifying serial number and the last four characters shall indicate the month and year of the vessel certificate of ownership issuance.

(b) The registered owner of a handmade vessel for which a hull identification number has been assigned shall carve, burn, stamp, emboss or otherwise permanently affix the assigned number to the outboard side of the starboard side of the transom or, if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism and above the waterline of the vessel in such a way that alteration, removal, or replacement would be evident. The number must be



at least 1/4 inch in height.

(c) The secretary shall issue a decal which indicates the assigned hull identification number to be affixed to each vessel which has been assigned under this section. The decal shall be affixed no more than two inches below the location of the hull identification number placed pursuant to the provisions in subsection (b). Such decal, as well as a duplicate decal placed in an unexposed portion of the interior of the vessel, shall be affixed by the department.

(d) It shall be unlawful to remove, alter or deface a decal or duplicate decal which has been issued for or affixed to a vessel pursuant to the provisions of subsection (c), or to affix or otherwise display such a decal or duplicate decal on any vessel other than the vessel for which the hull identification number was assigned, without first having obtained the written permission by the department.

(e) A hull identification inspection fee of \$10 shall be assessed to the owner of a vessel requesting a hull identification number pursuant to this section.

**History:** L. 2006, ch. 85, sec. 10; Jan. 1, 2007.

### **32-1118. Reserved.**

## **MOTORBOATS**

**32-1119. Classes; requirements.** (a) Motorboats subject to the provisions of this act shall be divided into four classes as follows:

Class A. Less than 16 feet in length.

Class 1. Sixteen feet or over and less than 26 feet in length.

Class 2. Twenty-six feet or over and less than 40 feet in length.

Class 3. Forty feet and over in length.

(b) Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when under way, and during such time no other lights which may be mistaken for those prescribed shall be exhibited.

(1) Definitions.

(A) "Masthead light" means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to present the light from the right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length, the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

(B) "Sidelights" means a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length, the sidelights may be combined in one lantern carried on the fore and aft centerline of the vessel.

(C) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light of 67.5 degrees from right aft on each side of the vessel.

(D) "All-round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

(2) Every motorboat of classes A and 1 shall carry the following lights:

First. An all-round light carried aft and high enough to be unobstructed.

Second. Sidelights in the fore part of the vessel and lower than the all-round light.

(3) Every motorboat of classes 2 and 3 shall carry a masthead light, sternlight and sidelights. The sidelights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

- (4) Motorboats when propelled by sail alone, and sailing vessels when propelled by sail alone, shall carry sidelights and a sternlight.
- (5) Manually propelled vessels shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.
- (6) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word "visible" in this subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.
- (7) When propelled by sail and machinery any motorboat shall carry the lights required by this section for a motorboat propelled by machinery only.
- (8) All vessels at anchor between sunset and sunrise, unless anchored at a designated site, shall carry forward, or where it can best be seen, a bright white light to show all round the horizon and visible for one mile.
- (c) In lieu of the lights required by subsection (b), any vessel may carry and exhibit the lights required by the federal regulations under the inland navigational rules act of December 24, 1981 (33 U.S.C. 2020-2030), as in effect on the effective date of this act, or as prescribed by rules and regulations of the secretary.
- (d) Every motorboat shall be provided with an efficient whistle or other sound-producing mechanical appliance.
- (e) Every motorboat of class 3 shall be provided with an efficient bell.
- (f) Every vessel, other than sail boards used for wind surfing, racing shells or rowing sculls shall carry at least one coast guard approved lifesaving device of the sort prescribed by rules and regulations of the secretary, in good and serviceable condition, for each person on board, so placed as to be readily accessible. As used in this subsection, "racing shell" and "rowing scull" mean a manually propelled vessel that is recognized by national or international racing associations for use in competitive racing in which all occupants row, scull or paddle, with the exception of a coxswain, and is not designed to carry and does not carry any equipment, not solely for competitive racing.
- (g) Every motorboat shall be provided with such number, size, and type of coast guard approved fire extinguishers, capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by rules and regulations of the secretary, which fire extinguishers shall be at all times kept in condition for immediate and effective use and shall be so placed as to be readily accessible.
- (h) The provisions of subsections (d), (e) and (g) shall not apply to outboard motorboats while competing in any race conducted pursuant to K.S.A. 32-1149, and amendments thereto or, if such boats are designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.
- (i) Every motorboat shall have the carburetor or carburetors of every engine therein, except outboard motors using gasoline as fuel, equipped with such efficient coast guard approved flame arrester, backfire trap or other similar device as may be prescribed by rules and regulations of the secretary.
- (j) Every such motorboat and every such vessel, except open boats, using as fuel any liquid of a volatile nature shall be provided with such means as may be prescribed by rules and regulations of the secretary for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or inflammable gases.
- (k) The secretary is hereby authorized to adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, rules and regulations required to carry out in the most effective manner all of the provisions of this act and to alter, modify or supplement the equipment requirements contained in this section to the extent necessary to keep these requirements in conformity with the provisions of the federal navigation laws or with the navigation rules promulgated by the United States coast guard.
- (l) The secretary is hereby authorized to establish and maintain, for the operation of vessels on the

waters of this state, pilot rules in conformity with the pilot rules contained in the federal navigation laws or the navigation rules promulgated by the United States coast guard.

(m) No person shall operate or give permission for the operation of a vessel which is not equipped as required by the laws of Kansas and rules and regulations of the secretary.

(n) No person shall operate a motorboat or other vessel close to swimming areas, moored boats or vessels engaged in fishing, servicing buoys or markings, or similar activities, without reducing the speed of the vessel so as to prevent wash or wake from the vessel causing damage or unnecessary inconvenience to the occupants of the area or other vessels.

**History:** L. 1970, ch. 408, sec. 4; L. 1984, ch. 381, sec. 1; L. 1989, ch. 118, sec. 144; L. 2006, ch. 85, sec. 4; Jan. 1, 2007.

Source or prior law: 82a-804a.

**32-1120. Restrictions on motor boat exhaust noise; compliance; penalties.** (a) A motorboat shall not be operated on the waters of this state under any condition or in any manner whereby the motorboat exhaust noise emits a sound level in excess of 92 decibels on the “A” weighted scale, when subjected to a stationary sound level test as prescribed by SAE J2005.

(b) The provisions of subsection (a) shall not apply to motorboats officially registered and competing in or while on trial runs 48 hours immediately preceding a regatta, race, marine parade, tournament or exhibition which has been authorized or permitted by the department.

(c) Any officer authorized to enforce the provisions of this section who has reasonable suspicion to believe that a motorboat is not in compliance with the noise levels established in this section may direct the operator of such motorboat to submit the motorboat to an on-site test to measure noise levels, with the officer on board if such officer chooses, and the operator shall comply with such request. The owner of any motorboat which violates any provision of this section shall have sixty days from the date of the violation to bring the motorboat into compliance with the provisions of this section. Thereafter, it shall be the owner’s responsibility to have the motorboat tested by the department. If the motorboat fails such test, the motorboat shall not be operated on the waters of this state until the department certifies that the motorboat is in compliance with the provisions of this section. Failure to comply with a request or direction of an officer made pursuant to this subsection is a class C misdemeanor. Nothing in this section shall be construed to limit the officer’s ability to enforce this section and to issue citations to the owner or operator of any motorboat during the sixty-day compliance period.

**History:** L. 2006, ch. 85, sec. 7; L. 2008, ch. 88, sec. 1; April 24.

**32-1121 to 32-1124. Reserved.**

## **OPERATION OF VESSELS AND OTHER WATERCRAFT**

**32-1125. General prohibitions.** (a) No person shall operate any motorboat or vessel or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(b) No person shall manipulate any water skis, surfboard or similar device while under the influence of alcohol or drugs, or both.

(c) No person shall operate any motorboat or vessel for pleasure riding or pull any water skis, surfboard or similar device in any waters of this state marked by buoys or otherwise designated as a mooring, launching, fishing or hunting non-boating area by a county or other political subdivision or by the secretary, except that a motorboat or vessel used for fishing may be operated in a mooring or launching nonboating area.

As used in this subsection, "waters of this state" includes, but is not limited to, any water storage reservoir impoundments over which the secretary has been granted jurisdiction by the proper agency or official of the

United States government.

(d) No person shall operate or moor a vessel within a water area which is marked, by buoys or some other distinguishing device, as a bathing or swimming area or as an all-boats-prohibited area. No person shall operate a vessel for purposes other than fishing in areas marked by buoys or otherwise designated as fishing areas, and no person shall operate a vessel for purposes other than hunting in areas marked by buoys or otherwise designated as hunting areas, and in areas designated for combined use of fishing and hunting, vessels may be used for both purposes unless prohibited by federal law.

(e) No owner or person in possession of a vessel shall permit a person under 12 years of age to operate a motorboat unless accompanied and under the direct and audible supervision of a parent or other person over 17 years of age. "Direct and audible supervision" means a person on board the same vessel and in sufficiently close proximity of the operator's station to enable such person to quickly and safely assume control of such vessel if needed.

(f) No operator of a vessel shall willfully fail or refuse to bring such vessel to a stop, or otherwise flee or attempt to elude a pursuing law enforcement vehicle or vessel, when given a visual or audible signal to bring the operator's vessel to a stop. The signal may be given by hand, voice, emergency light or siren and shall be given by a uniformed law enforcement officer prominently displaying the officer's badge of office.

**History:** L. 1959, ch. 321, sec. 10; L. 1961, ch. 469, sec. 1; L. 1970, ch. 408, sec. 7; L. 1987, ch. 403, sec. 1; L. 1989, ch. 118, sec. 148; L. 1995, ch. 165, sec. 5; L. 2006, ch. 85, sec. 5; Jan. 1, 2007.

Source or prior law: 82a-810.

**32-1126. Capacity limits.** (a) No person shall operate any vessel on any waters of this state carrying passengers or cargo beyond the safe passenger and cargo carrying capacity of the vessel as specified on the capacity plate required by subsection (b).

(b) Every vessel less than 20 feet on length designed to carry two or more persons and to be propelled by machinery as its principal source of power or designed to be propelled by oars, if manufactured or offered for sale in this state by the manufacturer after November 1, 1972, shall have permanently affixed thereto by the manufacturer a capacity plate as required by this section. Such capacity plate shall bear the following:

(1) For all vessels designed for or represented by the manufacturer as being suitable for use with outboard motor:

(A) The total weight of persons, motor, gear and other articles placed aboard which the vessel is capable of carrying with safety under normal conditions.

(B) The recommended number of persons commensurate with the weight capacity of the vessel and the presumed weight in pounds of each such person. In no instance shall such presumed weight per person be less than 150 pounds.

(C) Clear notice that the information appearing on the capacity plate is applicable under normal conditions and that the weight of the outboard motor and associated equipment is considered to be a part of total weight capacity.

(D) The maximum horsepower of the motor the vessel is designed or intended to accommodate.

(2) For all other vessels to which this section applies:

(A) The total weight of persons, gear and other articles placed aboard which the vessel is capable of carrying with safety under normal conditions.

(B) The recommended number of persons commensurate with the weight capacity of the vessel and the presumed weight in pounds of each such person. In no instance shall such presumed weight per person be less than 150 pounds.

(C) Clear notice that the information appearing on the capacity plate is applicable under normal conditions.

The secretary is authorized to adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments

thereto, rules and regulations to carry out the provisions of this section.

The failure to affix a proper capacity plate shall constitute a separate violation for each vessel with respect to which such failure occurs.

**History:** L. 1970, ch. 408, sec. 9; L. 1970, ch. 409, sec. 1; 1979, ch. 333, sec. 1; L. 1989, ch. 118, ch. 149; July 1.

Source or prior law: 82a-810a.

**32-1127. Application of stability test criteria, when.** (a) No person shall operate, nor shall the owner permit the operation of, any vessel on the waters of this state carrying more than 20 passengers unless such vessel satisfies the United States coast guard stability test criteria for small passenger vessels in 46 C.F.R. 179.

(b) The owner of any vessel operating on the waters of this state and carrying more than 20 passengers shall request the United States coast guard to conduct or to supervise the conducting of a stability test in accordance with 46 C.F.R. 179 and shall obtain and prominently display on such vessel an inspection certificate issued by the United States coast guard therefor, except that the requirements of this subsection shall be deemed to be satisfied if the United States coast guard refuses or is unable to conduct or to supervise the stability test and issue such certificate and a copy of the letter or other written notification of such refusal or inability is displayed prominently on such vessel.

**History:** L. 1983, ch. 342, sec. 2; L. 1989, ch. 118, sec. 150; July 1.

Source or prior law: 82a-810b.

**32-1128. Water skis and surfboards; requirements.** (a) No person shall operate a vessel on any waters of this state towing a person or persons on water skis, a surfboard, or similar device, nor shall any person engage in water skiing, surfboarding, or similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise.

(b) The provisions of subsection (a) of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under K.S.A. 32-1149, and amendments thereto.

(c) No person shall operate or manipulate any vessel, tow rope or other device by which the direction or location of water skis, a surfboard, or similar device may be affected or controlled in such a way as to cause the water skis, surfboard, or similar device, or any person thereon to collide with or strike against any object or person.

(d) No person shall operate a motorboat on any waters of this state for towing a person or persons on water skis, a surfboard, or similar device, unless the boat is equipped with a wide angle rear view mirror properly placed to provide a maximum vision of the person or persons being towed, or there is an observer in the boat in addition to the operator. The observer must be a responsible person of at least 12 years of age.

(e) The operator or observer shall observe the person or persons being towed and shall display a flag immediately after the towed person or persons enter into the water and during the time preparatory to towing or retrieving while the person or persons are still in the water. Such flag shall be a bright or brilliant orange or red color, measuring not less than 12 inches per side, mounted on a handle and displayed as to be visible from all directions. It shall be unlawful to display such flag except under the conditions listed in this subsection.

**History:** L. 1959, ch. 321, sec. 13; L. 1961, ch. 471, sec. 6; L. 2006, ch. 85, sec. 6; Jan. 1, 2007.

Source or prior law: 82a-813.

**32-1129. Lifesaving devices.** (a) The operator of every vessel shall require every person 12 years of age or under to wear a United States Coast Guard approved type I, type II or type III personal floatation device while aboard or being towed by such vessel. A life belt or ring shall not satisfy the requirement

of this section.

(b) Violation of subsection (a) shall constitute a class C misdemeanor.

**History:** L. 1989, ch. 307, sec. 1; July 1.

**32-1130. Operating a vessel under the influence of alcohol or drugs; definitions.** As used in K.S.A. 32-1131 through 32-1136, and amendments thereto:

(a) "Alcohol concentration" means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

(b) "Other competent evidence" includes: (1) Alcohol concentration tests obtained from samples taken three hours or more after the operation or attempted operation of a vessel; and

(2) readings obtained from a partial alcohol concentration test on a breath testing machine.

(c) "Samples" includes breath supplied directly for testing, which breath is not preserved.

(d) "Vessel" and "operate" have the meanings provided by K.S.A. 32- 1102, and amendments thereto.

**History:** L. 1987, ch. 403, sec. 8; L. 2013, ch. 122, sec. 10; July 1.

Source or prior law: 82a-835.

**32-1131. Same; operating vessel under influence of alcohol or drugs; crime.** (a) No person shall operate or attempt to operate any vessel within this state while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (b) of K.S.A. 32-1130, and amendments thereto, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel, is .08 or more;

(3) the alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel is .02 or more and the person is less than 21 years of age;

(4) under the influence of alcohol to a degree that renders the person incapable of safely operating a vessel;

(5) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating a vessel; or

(6) under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a vessel.

(b) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(c) No person shall operate or attempt to operate any vessel within this state for three months after the date of refusal of submitting to a test if such person refuses to submit to a test pursuant to K.S.A. 32-1132, and amendments thereto.

(d) Except as provided by subsection (e), violation of this section is a misdemeanor punishable:

(1) On the first conviction, by imprisonment of not more than one year or a fine of not less than \$100 nor more than \$500, or both; and

(2) on the second or a subsequent conviction, by imprisonment for not less than 90 days nor more than one year and, in the court's discretion, a fine of not less than \$100 nor more than \$500.

(e) Subsection (d) shall not apply to or affect a person less than 21 years of age who submits to a breath or blood alcohol test requested pursuant to K.S.A. 32-1132, and amendments thereto, and produces a test result of an alcohol concentration of .02 or greater but less than .08. Such person's boating privileges upon the first occurrence shall be suspended for 30 days and upon a second or

subsequent occurrence shall be suspended for 90 days.

(f) In addition to any other penalties prescribed by law or rule and regulation, any person convicted of a violation of this section shall be required to satisfactorily complete a boater safety education course of instruction approved by the secretary before such person subsequently operates or attempts to operate any vessel.

**History:** L. 1987, ch. 403, sec. 2; L. 1993, ch. 259, sec. 10; L. 1999, ch. 113, sec. 1; L. 2013, ch. 122, sec. 11; July 1.

Source or prior law: 82a-829.

**32-1132. Tests for alcohol or drugs; procedures.** (a) Any person who operates or attempts to operate a vessel within this state is deemed to have given consent, subject to the provisions of this act, to submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The testing deemed consented to herein shall include all quantitative and qualitative tests for alcohol and drugs. A person who is dead or unconscious shall be deemed not to have withdrawn the person's consent to such test or tests, which shall be administered in the manner provided by this section.

(b) A law enforcement officer shall request a person to submit to a test or tests deemed consented to under subsection (a) if the officer has reasonable grounds to believe the person was operating or attempting to operate a vessel while under the influence of alcohol or drugs, or both, and one of the following conditions exists: (1) The person has been arrested or otherwise taken into custody for any offense involving operation or attempted operation of a vessel while under the influence of alcohol or drugs, or both, in violation of a state statute or a city ordinance; or (2) the person has been involved in a vessel accident or collision resulting in property damage, personal injury or death. The law enforcement officer directing administration of the test or tests may act on personal knowledge or on the basis of the collective information available to law enforcement officers involved in the accident investigation or arrest.

(c) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered nurse or a licensed practical nurse; or (3) any qualified medical technician. When presented with a written statement by a law enforcement officer directing blood to be withdrawn from a person who has tentatively agreed to allow the withdrawal of blood under this section, the person authorized herein to withdraw blood and the medical care facility where blood is withdrawn may rely on such a statement as evidence that the person has consented to the medical procedure used and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent. No person authorized by this subsection to withdraw blood, nor any person assisting in the performance of a blood test nor any medical care facility where blood is withdrawn or tested that has been directed by any law enforcement officer to withdraw or test blood, shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices in the community where performed.

(d) If there are reasonable grounds to believe that there is impairment by a drug which is not subject to detection by the blood or breath test used, a urine test may be required. If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by persons of the same sex as the person being tested and shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the

weight rather than the admissibility of the evidence.

(e) No law enforcement officer who is acting in accordance with this section shall be liable in any civil or criminal proceedings involving the action.

(f)(1) Before a test or tests are administered under this section, the person shall be given oral and written notice that: (A) There is no right to consult with an attorney regarding whether to submit to testing; (B) refusal to submit to testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vessel while under the influence of alcohol or drugs, or both; (C) the results of the testing may be used against the person at any trial on a charge arising out of the operation or attempted operation of a vessel while under the influence of alcohol or drugs, or both; and (D) after the completion of the testing, the person has the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities and physicians. After giving the foregoing information, a law enforcement officer shall request the person to submit to testing. The selection of the test or tests shall be made by the officer. If the person refuses to submit to and complete a test as requested pursuant to this section, additional testing shall not be given. The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of the alleged operation or attempted operation of a vessel while under the influence of alcohol or drugs, or both.

(2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(3) It shall not be a defense that the person did not understand the written or oral notice required by this section.

(g) Nothing in this section shall be construed to limit the admissibility at any trial of alcohol or drug concentration testing results obtained pursuant to a search warrant.

(h) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

(i) In addition to any other penalties prescribed by law or rule and regulation, any person refusing to take a test or tests when requested to do so by a law enforcement officer pursuant to this section shall be required to satisfactorily complete a boater education course of instruction approved by the secretary before such person subsequently operates or attempts to operate any vessel.

**History:** L. 1987, ch. 403, sec. 3; L. 1993, ch. 259, sec. 11; July 1.

Source or prior law: 82a-830.

**32-1133. Same additional test by own physician.** With limiting or affecting the provisions of K.S.A. 32-1132, the person tested shall have a reasonable opportunity to have an additional test by a physician of the person's own choosing. In case the officer refuses to permit such additional testing, the testing administered pursuant to K.S.A. 32-1132 shall not be competent in evidence.

**History:** L. 1987, ch. 403, sec. 4; July 1.

Source or prior law: 82a-831.

**32-1134. Same; tests for alcohol and drugs; use as evidence.** In any criminal prosecution for violation of the laws of this state relating to operating or attempting to operate a vessel while under the influence of alcohol or drugs, or both, or the commission of manslaughter while under the influence of alcohol or drugs, or both, or in any prosecution for a violation of a city ordinance relating to the operation or attempted operation of a vessel while under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:



(a) If the alcohol concentration is less than .08, that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol, or both alcohol and drugs.

(b) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol to a degree that renders the person incapable of safely operating a vessel.

(c) If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapable of safely operating a vessel, that fact may be considered to determine if the defendant was under the influence of drugs, or both alcohol and drugs, to a degree that renders the defendant incapable of safely operating a vessel.

**History:** L. 1987, ch. 403, sec. 5; L. 1999, ch. 113, sec. 2; July 1.

Source or prior law: 82a-832.

**32-1135. Same; submission of other evidence.** (a) The provisions of K.S.A. 32-1134 shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.

(b) Nothing in this act shall require any samples of blood, breath or urine to be preserved for or furnished to the person for independent testing.

**History:** L. 1987, ch. 403, sec. 6; July 1.

Source or prior law: 82a-833.

**32-1136. Immunity from liability for damage to vessel.** A law enforcement officer, and the state or any political subdivision of the state that employs a law enforcement officer, arresting or taking custody of a person for any offense involving the operation of or attempt to operate a vessel while under the influence of alcohol or drugs, or both, shall have immunity from any civil or criminal liability for the care and custody of the vessel that was being operated by or was in the physical control of the person arrested or in custody if the law enforcement officer acts in good faith and exercises due care.

**History:** L. 1987, ch. 403, sec. 7; July 1.

Source or prior law: 82a-834.

**32-1137. Severability.** If any clause, paragraph, subsection or section of this act is held invalid, it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid clause, paragraph, subsection or section.

**History:** L. 1987, ch. 403, sec. 9; July 1.

Source or prior law: 82a-836.

**32-1138. Same; preliminary screening test.** A law enforcement officer may request a person who is operating or attempting to operate a vessel within this state to submit to a preliminary screening test of the person's breath to determine the alcohol concentration of the person's breath if the officer has reasonable grounds to believe that the person: (a) Has alcohol in the person's body; (b) has committed a boating law violation; or (c) has been involved in a vessel accident or collision. At the time the test is requested, the person shall be given oral notice that: (1) There is no right to consult with an attorney regarding whether to submit to testing; (2) refusal to submit to testing shall subject the person to the same fine as prescribed by K.S.A. 8-2118 and amendments thereto for refusal to submit to a preliminary breath test; and (3) further testing may be required after the preliminary screening test. Failure to provide the notice shall not be an issue or defense in any action. The law enforcement officer then shall request the person to submit to the test. Refusal to take and complete the test as requested shall subject the person to the same fine as prescribed by K.S.A. 8-2118 and amendments thereto for refusal to submit to a preliminary breath test. If the person submits to the test, the results shall be used for the purpose of

assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 32-1132 and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 32-1132 and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 1132 and amendments thereto.

**History:** L. 1999, ch. 113, sec. 3; July 1.

## **BOATER SAFETY EDUCATION**

### **32-1139. Boater safety education; certification of completion requirements for certain operators.**

(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 such person is 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.

**History:** L. 2000, ch. 70, sec. 2; L. 2016, ch. 59, sec. 1; July 1.

**32-1140. Same; approval, and coordination development by secretary; fee.** (a) The secretary shall prescribe an approved boater safety education course of instruction of not less than a total of eight hours concerning the safe operation of motorboats and sailboats. Such course of instruction must be recognized by the United States coast guard in order to gain approval of the secretary.

(b) The secretary shall institute and coordinate an approved boater safety education course of instruction through the use of department personnel, as well as through cooperations with local subdivisions of government, federal governmental entities, reputable individuals or reputable organizations having boater safety education as an objective, as the secretary deems necessary and appropriate. (c) At the secretary's discretion, the requirement that a person complete an approved boater safety education course of instruction may be fulfilled through completion of correspondence course materials, including satisfactory completion of a written examination, recognized by the United States coast guard and approved by the secretary. Each person requesting a certificate based on completion of such correspondence course shall attest, to the satisfaction of the secretary, that the

substance of the answers on the written examination were provided by that person without assistance. Persons requiring assistance to read examination questions or to mark examination answers may receive such assistance if they receive no assistance in the determination of the substance of the answers.

(d) The secretary may require, pursuant to K.S.A. 32-988 and amendments thereto, a fee to cover costs of services, material and supplies from any person enrolling in an approved boater safety education course of instruction.

**History:** L. 2000, ch. 70, sec. 3; July 1.

**32-1141. Same; certification of completion; issuance; revocation; reciprocity.** (a) On and after January 1, 2001, the secretary may issue a certificate of completion of an approved boater safety education course of instruction to any person for course work completed prior to January 1, 2001, upon: (1) Submission to the secretary of evidence of successful completion of a boater safety education course of instruction as formerly approved by the secretary prior to January 1, 2001, and such other information as requested by the secretary; and (2) payment of the fee prescribed pursuant to K.S.A. 32-988 and amendments thereto.

(b) The secretary shall designate those persons who are authorized to issue a certificate to persons who successfully complete, on and after January 1, 2001, an approved boater safety education course of instruction and the authorization shall continue until revoked by the secretary. Certificates issued by authorized designees shall remain valid until revoked. In addition to any other penalties prescribed by statute or rules and regulations, the secretary, in the secretary's discretion, may revoke the certificate of any person convicted of a violation of any provision in article 11 of chapter 32 of the Kansas Statutes Annotated. Upon revocation of a person's certificate, the person shall be required thereafter to satisfactorily complete an approved boater safety education course of instruction before operating any motorboat or sailboat in this state.

(c) The secretary, in the secretary's discretion, may accept as complying with the requirements of this act any similar certificate issued outside the state of Kansas by a governmental agency, or by a public or private association or club, in compliance with an approved governmental program having boater safety education as one of the program's objectives and recognized by the United States coast guard.

**History:** L. 2000, ch. 70, sec. 4; July 1.

**32-1142. Same; liability insurance for persons conducting course.** The committee on surety bonds and insurance, within the limitations of appropriations made therefor, shall purchase such liability insurance as the committee deems necessary for the protection of persons engaged in conducting an approved boater safety education course of instruction against any liability for injuries or damages arising from the conducting of such course by such persons.

**History:** L. 2000, ch. 70, sec. 5; July 1.

**32-1143. Sections part of Article 11.** Sections 2 through 6 shall be part of and supplemental to article 11 of chapter 32 of the Kansas Statutes Annotated.

**History:** L. 2000, ch. 70, sec. 6; July 1.

**32-1144 to 32-1147. Reserved.**

## MISCELLANEOUS PROVISIONS

**32-1148. Boat liveries; duties.** (a) The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him or her to be operated as a motorboat; the identification number thereof; and the departure date and time,

and the expected time or return. The record shall be preserved for at least six months.

(b) Neither the owner of a boat livery, nor his or her agent or employee shall permit any motorboat or any vessel designed or permitted by him or her to be operated as a motorboat to depart from his or her premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to K.S.A. 1989 Supp. 32-1119 and amendments thereto and any rules and regulations adopted pursuant thereto.

**History:** L. 1959, ch. 32, sec. 8; L. 1989, ch. 118, sec. 147; July 1.  
Source or prior law: 82a-808.

**32-1149. Regattas and other water events.** (a) The secretary may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state. The secretary shall adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, rules and regulations necessary to implement this section, including but not limited to: (1) Provisions addressing the safety of all vessels, participants and the public; (2) permit requirements and permit application procedures, including the providing of such information as the secretary requires; and (3) establishment of conditions under which the event shall be conducted. The application for a permit to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition shall be accompanied by the water event permit fee prescribed pursuant to K.S.A. 1989 Supp. 32-1172. The secretary, upon receipt of a proper application and the prescribed permit fee may issue a permit if it is determined that the event is in the public interest, the area requested for holding the event has sufficient accommodations and facilities for the event and the event is compatible with other uses of the area requested for the event. No such event shall be conducted without the prior authorization of the secretary in writing.

(b) The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation.

**History:** L. 1959, ch. 321, sec. 14; L. 1978, ch. 152, sec. 13; L. 1989, ch. 118, sec. 153; July 1.  
Source or prior law: 82a-814.

**32-1150. Scuba diving; rules and regulations.** It shall be unlawful for any person to scuba dive in the streams or impounded waters of this state unless and except in compliance with rules and regulations of the secretary. The term scuba diving shall include any person diving or submerging in a body of water with the aid of any mechanical diving or breathing device or suit.

**History:** L. 1967, ch. 514, sec. 1; L. 1969, ch. 481, sec. 1; L. 1989, ch. 118, sec. 158; July 1.  
Source or prior law: 82a-821.

**32-1151. Same; buoy required.** Any person scuba diving in a body of water in which motorboats are operated shall place a buoy in the water at or near the point of submergence. The buoy shall bear a red flag at least twenty-one (21) inches square with a red background and white diagonal stripe that is one-fifth (1/5) the width of the flag. The white stripe must run from the top of the hoist to the bottom of the flag. It is unlawful to display this flag when diving or spear fishing is not in progress.

**History:** L. 1967, ch. 514, sec. 2; L. 1969, ch. 481, sec. 2; July 1.  
Source or prior law: 82a-822.

**32-1152. Sanitation; toilet facilities.** At such time as adequate on-shore facilities for receiving and treating marine sewage are available, as determined by the secretary of health and environment, no person shall operate, launch, moor, dock or use any vessel on the waters of the state, except as hereinafter provided, when said vessel has located on or in the vessel a marine toilet designed to or intended to discharge marine sewage to other than an on-shore receiving and treating facility operating

under a valid permit as issued under the provisions of K.S.A. 65-165.

**History:** L. 1973, ch. 415, sec. 2; L. 1975, ch. 462, sec. 127; July 1.  
Source or prior law: 82a-824.

**32-1153. Same; sewage disposal.** It shall be unlawful to place, leave, discharge or cause to be left, placed or discharged into or near the waters of this state any receptacle containing sewage, whether by the owner, operator or guest of a vessel.

**History:** L. 1973, ch. 415, sec. 3; July 1.  
Source or prior law: 82a-825.

**32-1154. Same; rules and regulations.** The secretary of health and environment shall adopt such rules and regulations as are necessary to properly administer and enforce the provisions of K.S.A. 32-1152 and 32-1154, inclusive. The secretary in adopting rules and regulations shall provide that any vessel having lawful registration from other than the state of Kansas and having marine toilets designed or intended to discharge marine sewage to the waters of the state, may be operated, launched, moored, docked or used on the waters of the state, if such vessel is in compliance with all applicable state and federal marine toilet requirements applicable and associated with the vessel registration. All vessels located on waters of this state may be inspected at any time for the purpose of determining if such vessel is in compliance with this act, and the secretary or the designees of the secretary shall have all powers necessary to properly enforce such rules and regulations.

**History:** L. 1973, ch. 415, sec. 4; L. 1975, ch. 462, sec. 128; July 1.  
Source or prior law: 82a-826.

**32-1155. Applications for license of vessels to indicate presence of marine toilets.** All applications for license or renewal application shall identify the presence of marine toilets constructed as required, and the department shall identify the presence of such toilets upon the certificate of number when issued to an applicant.

**History:** L. 1973, ch. 415, sec. 6; L. 1989, ch. 118, sec. 160; July 1.  
Source or prior law: 82a-828.

**32-1156. Abandonment of a vessel; removal from public waterway, when.** (a) No person shall abandon a vessel upon a public waterway or upon public or private property without the consent of the owner or person in lawful possession or control of the property.

(b) The abandonment of any vessel in a manner prohibited by subsection (a) is prima facie evidence that the last registered owner of record is responsible for the abandonment, unless such owner has notified the department or other appropriate law enforcement agency of such owner's relinquishment of title or registration or interest therein. The person so responsible shall be required to pay the cost of removal and disposition of the vessel.

(c) A law enforcement officer of this state may remove a vessel from a public waterway when:

(1) The vessel is left unattended and is adrift, moored, docked, beached or made fast to land in such a position as to interfere with navigation or in such a condition as to create a hazard to other vessels using the waterway, to public safety or to the property of another

(2) The vessel is found upon a waterway and a report has previously been made that the vessel has been stolen or embezzled.

(3) The person in charge of the vessel is by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(4) A law enforcement officer arresting a person operating or in control of the vessel for an alleged offense, and the officer is required or permitted to take, and does take, the person arrested into custody

without unnecessary delay.

(5) The vessel seriously interferes with navigation or otherwise poses a critical and immediate danger to navigation or to the public health, safety or welfare.

**History:** L. 2006, ch. 85, sec. 11; Jan. 1, 2007.

**32-1157. Same; notification of parties having interests in vessel; failure to reclaim; use, sale or destruction by law enforcement agency.** (a) A law enforcement officer may attempt to identify the registered owner of a vessel abandoned on private property by inspection of the vessel and any trailer to which it is attached and may supply the information to the real property owner upon which vessel is presumed abandoned. The real property owner must declare by affidavit the reasons why such real property owner believes the property to be abandoned. The real property owner must give 5-days' notice to the last registered vessel owner before causing the removal of the vessel. If the last registered owner is unknown or cannot be notified, the vessel may immediately be removed to a secure location designated by a law enforcement officer.

(b) A law enforcement officer, within 48 hours after directing the removal of an abandoned vessel on a public waterway or public or private property, shall notify the department of the status of the vessel.

(c) A law enforcement officer who has custody of an abandoned vessel, if the law enforcement agency knows or can reasonably discover the name and address of the owner of the vessel or any person who holds a security interest in the vessel, shall notify the owner or the holder of the security interest of the location of the vessel and the method by which the vessel may be claimed. This notice must be sent by certified or registered mail.

(d) If the abandoned vessel is held by a law enforcement agency as evidence in the investigation or prosecution of a criminal offense, the notice required by subsection (c) shall be sent:

(1) Upon the decision of the law enforcement agency or prosecuting attorney not to pursue or prosecute the case;

(2) upon the conviction of the person who committed the offense; or

(3) if the case is otherwise terminated.

(e) Failure to reclaim the vessel within 180 days after the date the notice is mailed constitutes a waiver of interest in the vessel by any person having an interest in the vessel and the vessel shall be deemed abandoned for all purposes.

(f) If all recorded interests in a vessel are waived, as provided in subsection (e) or by written disclaimer, the department may issue a certificate of ownership to the law enforcement agency that has custody of the vessel. If necessary, the secretary may assign a hull number to the vessel. This subsection shall not preclude the subsequent return of a vessel, or any component part thereof, by a law enforcement agency to the registered owner of the vessel upon presentation by the registered owner of satisfactory proof of ownership.

(g) A law enforcement agency to which a certificate of ownership is issued pursuant to subsection (f) may use, sell or destroy the vessel and shall keep a record of the disposition of the vessel. If the law enforcement agency:

(1) Sells the vessel, all proceeds from the sale of the vessel shall become the property of the law enforcement agency.

(2) Destroys the vessel, the law enforcement agency shall, within 10 days, give notice of the destruction of the vessel to the department.

**History:** L. 2006, ch. 85, sec. 12; Jan. 1, 2007.

**32-1158. Notice of destruction or abandonment of vessel by owner; surrender of certificates of number and ownership.** (a) The registered owner of a destroyed or abandoned vessel that is numbered pursuant to chapter 32 of the Kansas Statutes Annotated, and amendments thereto, shall provide the

notice required by K.S.A. 32-1111, and amendments thereto, to the secretary in writing. The written notice must be signed by the registered owner and notarized.

(b) The written notice provided pursuant to subsection (a) must indicate the reason for the destruction or abandonment of the vessel and the current location and condition of the vessel.

(c) The registered owner shall surrender to the secretary the certificate of number and the certificate of ownership issued for the motorboat, if in existence, at the time the owner provides the written notice to the secretary pursuant to subsection (a).

(d) Once a vessel has been destroyed or abandoned, the secretary shall print the word “salvage” on each subsequent certificate of number which it issues for that vessel.

**History:** L. 2006, ch. 85, sec. 13; Jan. 1, 2007.

**32-1159. Preservation of evidence of criminal offenses; liability for storage fees.** (a) If a law enforcement officer has probable cause to believe that a vessel or its contents contain evidence tending to show that a criminal offense has been committed or that a particular person has committed an offense, the officer may take whatever steps are reasonable to ensure the preservation of the evidence, including safe storage of the vessel or its contents.

(b) If a criminal conviction is obtained as a result of an action taken pursuant to subsection (a), the person convicted shall pay any storage fees incurred pursuant to that subsection. If a conviction is not obtained, the law enforcement agency that seized the vessel pursuant to subsection (a) shall pay any storage fees incurred.

**History:** L. 2006, ch. 85, sec. 14; Jan. 1, 2007.

**32-1160 to 32-1165. Reserved.**

**32-1166. Vessels exempt from provisions of act.** The provisions of K.S.A. 32-1110, 32-1111, 32-1119 and 32-1125 shall not apply to vessels used solely on lakes, ponds or streams privately owned or leased and not open to the general public.

**History:** L. 1970, ch. 408, sec. 10; Jan. 1, 1971.

Source or prior law: 82a-819a.

**32-1167 to 32-1171. Reserved.**

## FEES

**32-1172. Fees.** The secretary is authorized to adopt, in accordance with K.S.A. 32-805 and amendments thereto, rules and regulations fixing the amount of fees for the following items, subject to the following limitations and subject to the requirement that no such rules and regulations shall be adopted as temporary rules and regulations:

Dealer certificate of number: maximum \$50

Additional dealer certificates: maximum \$10

Dealer license: maximum \$50

Duplicate registrations, certificates or permits: maximum \$10

Vessel registrations: maximum \$30

Water event permits: maximum \$50

Special departmental services, materials or supplies: no maximum

**History:** L. 1989, ch. 118, sec. 161; L. 2001, ch. 131, sec. 3; L. 2004, ch. 79, sec. 4; Jan. 1, 2005.

Source or prior law: 32-164b, 82a-804, 82a-806.

**32-1173. Same; disposition.** All moneys received pursuant to K.S.A. 32-1101 through 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173, 32-1177 through 32-1180 and sections 9 and 10, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215 and 74-7336, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount as prescribed by K.S.A. 74-7336, and amendments thereto, in the state treasury to the credit of the boating fee fund, which is hereby created, to be dedicated and used to administer and enforce the provisions of K.S.A. 32-1101 through 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173, 32-1177 through 32-1180, and sections 7 through 14, and amendments thereto. When sufficient moneys are available from the fees so collected, the secretary may use the same to construct or repair boating facilities, ramps and docks at public waters within this state.

**History:** L. 1959, ch. 321, sec. 18; L. 1989, ch. 118, sec. 155; L. 2001, ch. 5, sec. 104; L. 2006, ch. 85, sec. 15; Jan. 1, 2007.

Source or prior law: 82a-818.

**32-1174. Boating fee fund; use of federal moneys.** All federal moneys received pursuant to federal assistance, federal-aid funds or federal-aid grant reimbursements related to boating or boating programs under the control, authorities and duties of the department of wildlife, parks and tourism shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the boating fund federal, which is hereby created, to be dedicated and used for the purposes authorized in K.S.A. 32-1173, and amendments thereto. The boating fund federal is hereby redesignated as the boating safety financial assistance fund.

(b) No moneys derived from sources described in subsection (a) or (c) shall be used for any purpose other than the administration of matters which are under the control, authorities and duties of the secretary of wildlife, parks and tourism and the Kansas department of wildlife, parks and tourism as provided by law.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the boating safety financial assistance fund, interest earnings based on:

(1) The average daily balance of moneys in the boating safety financial assistance fund, for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the boating safety financial assistance fund, shall be made in accordance with the appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, parks and tourism.

**History:** L. 2005, ch. 181, sec. 1; L. 2012, ch. 47, sec. 76; July 1.

**32-1175 to 32-1176. Reserved.**

## ENFORCEMENT

**32-1177. Accident Reports.** It shall be the duty of the operator of a vessel involved in a collision, accident or other casualty, so far as the operator can do so without serious danger to the operator's own vessel, crew, and passengers (if any) to render to other persons affected by the collision, accident or other casualty such assistance as practicable and as necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give the operator's name, address and identification of the operator's vessel, in writing, to any person injured and to the owner of



any property damaged in the collision, accident or other casualty.

(b) In the case of collision, accident or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of the amount established by rules and regulations of the secretary shall file with the department a full description of the collision, accident or other casualty, including such additional information as required by rules and regulations adopted by the secretary pursuant to K.S.A. 1992 Supp. 32-805 and amendments thereto.

**History:** L. 1959, ch. 321, sec. 11; L. 1989, ch. 118, sec. 151; L. 1993, ch. 185, sec. 17; July 1.  
Source or prior law: 82a-811.

**32-1178. Same; transmittal to federal agency.** In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the department pursuant to subsection (b) of K.S.A. 1989 Supp. 32-1177 and amendments thereto shall be transmitted to such official or agency of the United States.

**History:** L. 1959, ch. 321, sec. 12; L. 1961, ch. 471, sec. 5; L. 1989, ch. 118, sec. 152; July 1.  
Source or prior law: 82a-812.

**32-1179. Peace officer's powers.** Every peace officer of this state and its subdivisions or caretakers at federally impounded waters shall have the authority to enforce the provisions of this act and in the exercise thereof shall have the authority to stop and board any vessel subject to this act.

**History:** L. 1959, ch. 321, sec. 17; July 1.  
Source or prior law: 82a-817.

**32-1180. Penalties for violations.** Unless otherwise provided by statute or rules and regulations of the secretary, violation of K.S.A. 1989 Supp. 32-1101 through 32-1104, 32-1110 through 32-1113, 32-1119, 32-1125 through 32-1128, 32-1130 through 32-1137, 32-1148 through 32-1155, 32-1166, 32-1172, 32-1173, 32-1177 through 32-1180 and sections 7 and 11, and amendments thereto, or rules and regulations adopted thereunder is a class C misdemeanor.

**History:** L. 1973, ch. 415, sec. 5; L. 1989, ch. 118, sec. 159; L. 2006, ch. 85, sec. 16; Jan. 1, 2007.  
Source or prior law: 82a-819,82a-823,82a-827.

## **ARTICLE 12. KANSAS LOCAL GOVERNMENT OUTDOOR RECREATION GRANTS**

**32-1201. Short title.** The provisions of sections 1 through 3 and amendments thereto shall be known and may be cited as the Kansas local government outdoor recreation grant program act.

**History:** L. 1998, ch. 70, sec. 1; July 1.

**32-1202. Definitions.** As used in the Kansas local government outdoor recreation grant act: (a) "Local government" means any county, city or township or any two or more such local governments acting jointly pursuant to intergovernmental agreements or as otherwise authorized by statute.

(b) "Capital improvement project" means a capital improvement project to establish, develop, renovate or repair an outdoor recreational facility, including the acquisition of land, acquisition and installation of equipment, construction, renovation or repair of outdoor recreational facilities, and including renovations and repairs to provide safety improvements and handicapped accessibility and other improvements, including improvements to attain compliance with the requirements imposed under the federal Americans with disabilities act.

(c) "Outdoor recreational facility" means any public park or other outdoor recreational area or facility, including, but not limited to, parks, open spaces, trails, swimming pools, playgrounds and

playing courts and fields.

**History:** L. 1998, ch. 70, sec. 2; July 1.

**32-1203. Grants for local government outdoor recreational facilities; program guidelines; portion of grants for handicapped accessibility and related purposes.** (a) In accordance with the provisions of this act, the secretary of wildlife, parks and tourism shall develop and administer a grant program to award grants to Kansas local governments for capital improvements for local government outdoor recreation facilities. The grants shall be awarded annually on a competitive basis in accordance with guidelines and criteria prescribed by rules and regulations adopted by the secretary of wildlife, parks and tourism. Each grant shall be matched by the local government receiving the grant on the basis of \$1 provided by the local government for each \$1 provided under the grant for the capital improvement.

(b) The secretary of wildlife, parks and tourism shall designate annually a portion of all moneys appropriated for local government outdoor recreation grants for renovations and repairs to provide safety improvements and handicapped accessibility and other improvements, including improvements to attain compliance with the requirements imposed under the federal Americans with disabilities act.

**History:** L. 1998, ch. 70, sec. 3; L. 2012, ch. 47, sec. 77; July 1.

### **ARTICLE 13. Dangerous Regulated Animals**

**32-1301. Definitions.** As used in this act: (a) “Person” means any individual, firm, partnership, corporation, association, municipality or other business entity.

(b) “Wildlife sanctuary” means a not-for-profit organization exempt from federal income taxation pursuant to section 501 (c)(3) of the internal revenue code of 1986, as in effect on July 1, 2006, that:

(1) Operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned or displaced dangerous regulated animals are provided care for such animal’s lifetime;

(2) does not conduct any commercial activity with respect to any dangerous regulated animal possessed by the organization;

(3) does not sell, trade, auction, lease or loan dangerous regulated animals, or parts thereof, which the organization possesses;

(4) does not breed any dangerous regulated animal of which the organization possesses, except as an integral part of the species survival plan of the American zoo and aquarium association;

(5) does not conduct any activity that is not inherent to the dangerous regulated animal’s nature;

(6) does not use the dangerous regulated animal for any type of entertainment purposes; and

(7) operates a refuge in compliance with regulations promulgated by the United States department of agriculture for dangerous regulated animals, except non-native, venomous snakes, under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006, and the regulations and standards adopted under such act in effect on July 1, 2006, relating to operations, animal health and husbandry. All dangerous regulated animals shall be caged in compliance with the provisions set forth in section 6, and amendments thereto.

(c) “Possess” means to own, care for, have custody of or control.

(d) “Dangerous regulated animal” means a live or slaughtered parts of:

(1) Lions, tigers, leopards, jaguars, cheetahs and mountain lions, or any hybrid thereof;

(2) bears or any hybrid thereof; and

(3) all non-native, venomous snakes.

(e) “Local animal control authority” means an agency of the county or city that is responsible for animal control operations in such governmental entity’s jurisdiction and includes the animal control officer, as defined by K.S.A. 47-1701, and amendments thereto, of such county or city. If the county or city does not have an animal control officer, for cities of the first class, the chief law enforcement officer

shall have the local animal control authority duties and responsibilities pursuant to this act and for all other cities and counties, the county sheriff shall have the local animal control authority duties and responsibilities pursuant to this act.

(f) “Registered designated handler” means a person who is registered or would be required to be registered pursuant to section 10, and amendments thereto.

**History:** L. 2006, ch. 131, sec. 1; July 1.

**32-1302. Unlawful acts; compliance with USDA regulations; USDA license.** (a) Except as provided in this section, it is unlawful for a person to possess, slaughter, sell, purchase or otherwise acquire a dangerous regulated animal.

(b) On and after October 1, 2006, a person who possesses a dangerous regulated animal shall be in compliance with regulations promulgated by the United States department of agriculture for dangerous regulated animals, except non-native, venomous snakes, under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006, and the regulations and standards adopted under such act in effect on July 1, 2006, relating to operations, animal health and husbandry; and to provide adequate veterinary care for dangerous regulated animals. All dangerous regulated animals shall be caged in compliance with the provisions set forth in section 6, and amendments thereto.

(c) Except as provided in subsection (d), a person shall not take possession of a dangerous regulated animal or allow dangerous regulated animals in such person’s possession to breed.

(d) A person who possesses a valid United States department of agriculture license, is in compliance with the United States department of agriculture animal welfare act, regulations and standards on July 1, 2006, and, within 10 years preceding July 1, 2006, has not been convicted of a felony under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as a felony, may breed, purchase or otherwise acquire new dangerous regulated animals after July 1, 2006, in order to:

- (1) Maintain the operating inventory of dangerous regulated animals possessed on July 1, 2006;
- (2) sell dangerous regulated animals to other United States department of agriculture licensed and compliant facilities within Kansas for replacement purposes as provided in paragraph (1); and
- (3) sell dangerous regulated animals outside Kansas.

**History:** L. 2006, ch. 131, sec. 2; July 1.

**32-1303. Registration with local animal control authority; notification; microchip implant; inspection.** (a) On and after September 1, 2006, a person who possesses a dangerous regulated animal shall notify, in writing, and register the dangerous regulated animal with the local animal control authority.

(b) The notification shall include the person’s name, address, telephone number and a complete inventory of each dangerous regulated animal that the person possesses. The inventory shall include the following information: Number and species of each dangerous regulated animal; the microchip identification number and manufacturer of such microchip for each dangerous regulated animal, if available; the exact location where each dangerous regulated animal is kept; the age, sex, color, weight, scars and any distinguishing marks of each dangerous regulated animal; and the name of any person who is a registered designated handler.

(c) When a person who possesses a dangerous regulated animal has a microchip implanted in such animal for identification, the name of the microchip manufacturer and the microchip identification number shall be provided to the local animal control authority. If a dangerous regulated animal is sedated for any reason and such animal does not have a microchip implanted, a microchip shall be implanted in such animal. Within 30 days after the microchip is implanted, the name of the microchip manufacturer and the microchip identification number shall be provided to the local animal control authority. Within 30 days of acquisition, a person acquiring ownership of an offspring with a microchip implanted shall

comply with microchip information reporting requirements of this subsection.

(d) A local animal control authority may inspect the premises where dangerous regulated animals are physically located.

**History:** L. 2006, ch. 131, sec. 3; July 1.

**32-1304. Fees; liability coverage or bond.** (a) The local animal control authority may charge the following annual fees:

(1) Premises inspection fee not more than \$100.

(2) Dangerous regulated animal registration fee, per animal, not more than \$50. The maximum amount charged for such animal registration per person is \$500.

(3) Additional premise inspection fee, if the person acquires and possesses another type of dangerous regulated animal, not more than \$100.

(b) A certificate of registration shall be issued by the local animal control authority to the person for each dangerous regulated animal and inspection upon payment of the fee.

(c) Any person who possesses a dangerous regulated animal shall maintain liability insurance coverage or secure a bond in an amount of not less than \$250,000 for each occurrence for liability damages for destruction of or damage to property and death or bodily injury to a person caused by the dangerous regulated animal. The person possessing the animal shall provide a copy of the policy for liability insurance or proof of the bond to the local animal control authority. Any insurer shall notify the local animal control authority, in writing, of any expiration, reduction or cancellation of liability insurance, furnished as required by this subsection, not later than 10 days before the expiration, reduction or cancellation takes effect. Any surety company who secures the performance of the bond shall notify the local animal control authority, in writing, of any expiration, reduction or cancellation of the bond, furnished as required by this subsection, not later than 10 days before the expiration, reduction or cancellation takes effect.

(d) Any fees charged and collected shall be retained by the local animal control authority to be used to implement the provisions of this act.

**History:** L. 2006, ch. 131, sec. 4; July 1.

**32-1305. Health and ownership records; change of address notification; escape notification.** (a) A person who possesses a dangerous regulated animal shall meet the requirements set forth in this section.

(b) A person who possesses a dangerous regulated animal shall maintain health and ownership records on each dangerous regulated animal and shall maintain the records for the life of the animal. If possession of the dangerous regulated animal is transferred to another person, a copy of the health and ownership records shall accompany the animal.

(c) A person who possesses a dangerous regulated animal shall maintain an ongoing program of veterinary care which includes a veterinary visit to the premises at least annually.

(d) A person who possesses a dangerous regulated animal shall notify the local animal control authority in writing within 10 days of a change in address or location where the dangerous regulated animal is kept.

(e) A person with a United States department of agriculture license for dangerous regulated animals shall forward a copy of such person's United States department of agriculture inspection report to the local animal control authority within 30 days of receipt of the inspection report.

(f) A person who possesses a dangerous regulated animal shall prominently display a sign on the structure where the animal is housed indicating that a dangerous regulated animal is on the premises.

(g) A person who possesses a dangerous regulated animal shall immediately notify local law enforcement officials of any escape of a dangerous regulated animal. The person who possesses the

dangerous regulated animal is liable for any costs incurred by any person, city, county or state agency resulting from the escape of a dangerous regulated animal unless the escape is due to a criminal act by another person or a natural event.

(h) A person who possesses a dangerous regulated animal shall maintain a written recovery plan in the event of the escape of a dangerous regulated animal. The person shall maintain live traps or other equipment necessary to assist in the recovery of the dangerous regulated animal.

(i) If requested by the local animal control authority, a person may not move a dangerous regulated animal from such animal's location unless the person notifies the local animal control authority prior to moving the animal. The notification shall include the date and the location where the animal is moved. This subsection shall not apply to a dangerous regulated animal transported to a licensed veterinarian.

(j) If a person who possesses a dangerous regulated animal can no longer care for the animal, the person shall take the appropriate steps to find long-term placement for the dangerous regulated animal.

**History:** L. 2006, ch. 131, sec. 5; July 1.

**32-1306. Cage and care requirements; physical contact prohibition.** (a) All dangerous regulated animals shall be confined within a cage of sufficient strength and design for the purposes of maintaining and housing or transporting the animal. The requirements for sufficient caging shall be established by rules and regulations adopted by the secretary of wildlife, parks and tourism. Any cage or confinement structure shall be constructed in such a manner that prohibits physical contact with any person other than such persons listed in subsection (d).

(b) No dangerous regulated animal shall be allowed to be tethered, leashed or chained outdoors, or allowed to run at large.

(c) A dangerous regulated animal shall not be mistreated, neglected, abandoned or deprived of necessary food, water and sustenance.

(d) A dangerous regulated animal shall not be allowed to come into physical contact with any person other than the person possessing the animal, the registered designated handler or a veterinarian administering medical examination, treatment or care.

(e) A dangerous regulated animal shall not be brought to any public property or commercial or retail establishment, except to bring the animal to a licensed veterinarian or veterinarian clinic.

**History:** L. 2006, ch. 131, sec. 6; L. 2012, ch. 47, sec. 78; July 1.

**32-1307. Seizure of animals; access to premises; notice; hearing; costs.** (a) Any dangerous regulated animal may be seized by the local animal control authority as provided in this section.

(b) The local animal control authority, upon issuance of a notice of inspection, shall be granted access at reasonable times to premises where the local animal control authority has reason to believe a violation of this act is occurring or has occurred.

(c) If a person who possesses a dangerous regulated animal is not in compliance with the requirements of this act, the local animal control authority shall take possession of the animal for custody and care, following the procedures in this subsection.

(d) Upon request of a person possessing a dangerous regulated animal, the local animal control authority may allow the animal to remain in the physical custody of the owner for 30 days, during which time the owner shall take all necessary actions to come in compliance with this act. During the 30-day period, the local animal control authority may inspect, at any reasonable time, the premises where the animal is kept.

(e) If a person who possesses a dangerous regulated animal is not in compliance with this act following the 30-day period described in subsection (d), the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species for up to 10 days. The authority taking custody of an animal under this subsection shall provide a notice of the seizure by delivering or mailing

it to the person possessing such dangerous regulated animal, by posting a copy of the notice at the premise where the animal is taken into custody, or by delivering it to a person residing on the premise. The notice shall include:

- (1) A description of the animal seized; the authority for and purpose of the seizure; the time, place and circumstances under which the animal was seized; and a contact person and telephone number;
- (2) a statement that a person from whom a dangerous regulated animal was seized may post security to prevent disposition of the animal and may request a hearing concerning the seizure and that failure to do so within five business days of the date of the notice will result in disposition of the animal;
- (3) a statement that actual costs of the care, keeping and disposal of the dangerous regulated animal are the responsibility of the person from whom the animal was seized, except to the extent that a court or hearing officer finds that the seizure was not substantially justified by law; and
- (4) a form that can be used by a person from whom a dangerous regulated animal was seized for requesting a hearing under this subsection.

(f) If a person from whom the dangerous regulated animal was seized makes a request within five business days of the seizure, a hearing must be held within five business days of the request to determine the validity of the seizure and disposition of the animal. The judge or hearing officer may authorize the return of the animal to the person from whom the animal was seized if the judge or hearing officer finds:

- (1) That the person can and will provide the care required by law for the dangerous regulated animal; and
- (2) the dangerous regulated animal is physically fit.

(g) If a judge or hearing officer orders a permanent disposition of the dangerous regulated animal, the local animal control authority may take steps to find long-term placement for the animal with a wildlife sanctuary, or an appropriate United States department of agriculture licensed facility.

(h) A person from whom a dangerous regulated animal is seized is liable for all actual costs of care, keeping and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment shall be made between the local animal control authority and the person claiming an interest in the animal before return of the animal to the person.

(i) A person from whom a dangerous regulated animal has been seized under this subsection may prevent disposition of the animal by posting security in the amount sufficient to provide for the actual costs of care and keeping of the animal. The security shall be posted within five business days of the seizure, inclusive of the day of the seizure.

(j) If circumstances exist threatening the life of a person or the life of any animal, any law enforcement agency or the local animal control authority shall seize a dangerous regulated animal without an opportunity for hearing or court order, or destroy the animal.

(k) Upon proper determination by a licensed veterinarian, any dangerous regulated animal taken into custody under this section may be immediately euthanized when the dangerous regulated animal is suffering and is beyond cure through reasonable care and treatment.

(l) The agency or authority taking custody of the dangerous regulated animal may recover all costs incurred under this section.

**History:** L. 2006, ch. 131, sec. 7; July 1.

**32-1308. Exemptions.** Exemptions to the provisions set forth in this act are as follows:

- (a) Institutions accredited by the American zoo and aquarium association or the zoological association of America shall be exempt from sections 2 and 3, and amendments thereto.
- (b) A wildlife sanctuary registered with the local animal control authority shall be exempt from section 2, and amendments thereto.
- (c) The Kansas department of wildlife, parks and tourism, or a person issued a permit by the secretary

pursuant to K.S.A. 32-952, and amendments thereto, shall be exempt from this act.

(d) A licensed or accredited research or medical institution shall be exempt from sections 2 and 3, and amendments thereto.

(e) A United States department of agriculture licensed exhibitor of dangerous regulated animals while transporting or as part of a circus, carnival, rodeo or fair shall be exempt from this act.

**History:** L. 2006, ch. 131, sec. 8; L. 2012, ch. 47, sec. 79; July 1.

**32-1309. Selling or transferring animals.** Nothing in this act shall preclude a person who holds a valid United States department of agriculture license from selling or transferring the entire business and the dangerous regulated animals covered by such license to another person who holds a valid United States department of agriculture license.

**History:** L. 2006, ch. 131, sec. 9; July 1.

**32-1310. Reports to the department of wildlife and parks; registered designated handler, fee; educational training programs; rules and regulations.** (a) Annually, on or before April 1, a local animal control authority shall report to the secretary of wildlife, parks and tourism on dangerous regulated animals registered with the local animal control authority during the preceding calendar year. The report shall include all registration information submitted to the local animal control authority under subsection (b) of section 3, and amendments thereto, and information on enforcement actions taken under this act.

(b) It shall be a violation of this act for a person who does not own the dangerous regulated animal, to care for, have custody or control of such animal unless such person is a registered designated handler. Any such person applying for a designated handler registration shall file an application on a form prescribed by the local animal control authority.

Application for such registration shall be accompanied by an application fee not exceeding \$25. If the local animal control authority finds the applicant to be qualified to be a registered designated handler after meeting the training, experience and ability requirements determined by the secretary of wildlife, parks and tourism, the local animal control authority shall issue a designated handler registration which shall expire at the end of the calendar year.

(c) The secretary of wildlife, parks and tourism shall provide educational training programs for the local animal control authority concerning the provisions of this act and the handling of dangerous regulated animals.

(d) The secretary of wildlife, parks and tourism shall adopt rules and regulations:

- (1) Establishing training, experience and ability requirements for registered designated handlers; and
- (2) to implement the provisions of this act.

**History:** L. 2006, ch. 131, sec. 10; L. 2012, ch. 47, sec. 80; July 1.

**32-1311. Requirements of county resolutions or city ordinances; compliance with act.** A county or city may adopt resolutions or ordinances governing dangerous regulated animals that are more restrictive than this act. Such resolution or ordinance may include, but not be limited to, additional animals to the definition of a dangerous regulated animal, additional caging standards, and stricter care and treatment provisions. If a county or city already has a resolution or ordinance in existence that is substantially the same or more restrictive, such county or city shall be in compliance with this act.

**History:** L. 2006, ch. 131, sec. 11; July 1.

**32-1312. Penalty.** Any person who knowingly violates this act is guilty of a class A nonperson misdemeanor.

**History:** L. 2006, ch. 131, sec. 12; July 1.

**32-1401. Contracts for promotional advertising services; bidding exemption.** The secretary of wildlife, parks and tourism is hereby authorized to negotiate and enter into contracts for promotional advertising services for the performance of the powers, duties and functions of the Kansas department of wildlife, parks and tourism. All such contracts shall be exempt from the competitive bidding requirements of K.S.A. 75-3739, and amendments thereto.

**History:** L. 2012, ch. 47, sec. 1; July 1.



## **INFORMATION ON SERICEA LESPEDEZA TEST PLOT**

### **2-1334. Control and eradication of sericea lespedeza; research and demonstration efforts.** (a)

The purpose of this act is to provide for the coordination, enhancement and continuation of federal, state and local efforts as well as public and private efforts to develop an effective and affordable method of controlling or eradicating sericea lespedeza and to encourage communication of information about sericea control methods to landowners and land managers.

(b) The secretary of agriculture in cooperation with the secretary of wildlife, parks and tourism shall designate an appropriate parcel of land as a research area to study and demonstrate methods of controlling or eradicating sericea lespedeza. Such site shall be designated on land managed by the Kansas department of wildlife, parks and tourism at Toronto lake and shall be utilized to provide a focal point for activities that further the purposes of this act.

(c) The research and demonstration efforts conducted on the site designated as provided in subsection (b) shall include a variety of methods used to control or eradicate sericea lespedeza and shall include utilization of experiment and demonstration plots and development of field days and workshops to demonstrate methods of control or eradication of sericea lespedeza.

(d) The secretary of agriculture and the secretary of wildlife, parks and tourism shall have authority to request assistance from any federal, state or local authority, from any public or private university or other research institution, from any business organization, or from any individual in furthering the purposes of this act. All such entities are hereby requested to cooperate with the secretary of agriculture and the secretary of wildlife, parks and tourism in furthering the purposes of this act.

**History:** L. 2004, ch. 96, sec. 2; L. 2012, ch. 47, sec. 2; July 1.

## **INFORMATION ON KANSAS NATURAL RESOURCE LEGACY ALLIANCE**

**2-1921. Kansas natural resource legacy alliance; membership; nonvoting advisors.** (a) There is hereby created the Kansas natural resource legacy alliance.

(b) The alliance shall consist of the following appointed members all of whom shall be residents of the state of Kansas:

(1) The president of the senate or the president of the senate's designee, and two additional members appointed by the president of the senate, two of whom shall be landowners who own at least 160 acres of Kansas farm or ranch land and are principally engaged in production agriculture;

(2) the minority leader of the senate or the minority leader of the senate's designee and one additional member appointed by the minority leader of the senate who shall be a landowner who owns at least 160 acres and is principally engaged in production agriculture;

(3) the chairman of the senate committee on natural resources or the chairman of the senate committee on natural resources' designee provided that such designee is a member of the legislature of the state of Kansas;

(4) the speaker of the house of representatives or the speaker of the house of representative's designee, and two additional members appointed by the speaker of the house of representatives, two of whom shall be landowners who own at least 160 acres of Kansas farm or ranch land and are principally engaged in production agriculture;

(5) the minority leader of the house of representatives or the minority leader of the house of representative's designee and one additional member appointed by the minority leader of the house of representatives who shall be a landowner who owns at least 160 acres and is principally engaged in production agriculture;

(6) the chairman of the house committee on environment or the chairman of the house committee on environment's designee provided that such designee is a member of the legislature of the state of Kansas; and

(7) three members appointed by the governor, at least two of which shall be landowners who own at

least 160 acres of Kansas farm or ranch land and are principally engaged in production agriculture.

(c) The following shall be nonvoting advisors to the members of the alliance:

- (1) The secretary of wildlife and parks or the secretary's designee;
- (2) the secretary of agriculture or the secretary's designee;
- (3) the executive director of the state conservation commission or the executive director's designee;
- (4) the secretary of health and environment or the secretary's designee;
- (5) the director of the Kansas water office or the director's designee;
- (6) the state forester or the state forester's designee;
- (7) the secretary of commerce or the secretary's designee;
- (8) the president of the Kansas farm bureau or the president's designee; and
- (9) the president of the Kansas livestock association or the president's designee.

(d) Officers making appointments pursuant to subsection (b) shall consult and coordinate among themselves in making the appointments in order to achieve a membership that represents a balance of knowledge and experience among interests in natural resources, environmental interests and related economic interests, including parks and recreation, soil and water conservation, travel and tourism, economic development, agriculture, outdoor recreation, landowners and homeowners, fish and wildlife, forest resources, prairie and grassland resources and municipalities. At least two such members shall represent environmental interests. In making the appointments, the officers shall solicit and allow an opportunity for recommendations by interested groups and individual citizens

**History:** L. 2002, ch. 96, sec. 6; L. 2003, ch. 154, sec. 1; July 1.

**2-1922. Same; purpose; report activities and recommendations.** (a) The alliance shall develop a vision for utilizing the state's natural resources to assure economic development, a healthy environment, proper protection of natural resources, opportunities for natural resource and environmental education and quality of life for Kansas families and individual citizens. In developing the vision, the alliance shall:

- (1) Conduct public hearings across the state to seek citizen input and provide information to the public;
- (2) seek input from state and local governmental agencies;
- (3) examine the state's current natural resource programs;
- (4) consider the impact of the state's natural resources and programs on economic development and the environment;
- (5) examine the state's current and future resource needs, recognizing the basic American freedom of private ownership of land and the landowner's right to private property protection pursuant to K.S.A. 77-701 et seq., and amendments thereto;
- (6) expand voluntary public or private partnerships that support and implement the vision; and
- (7) develop goals and establish priorities for attaining the vision, including, but not limited to, goals and priorities for outdoor recreation, tourism, economic development, natural resource and environmental education, quality of life, water quality, water supplies, fish and wildlife resources, prairie and grassland resources, forest resources, parks and lakes, wetlands and riparian areas, soil and water conservation and air quality.

(b) The alliance shall submit a preliminary report of its activities and recommendations to the governor and the legislature on or before May 1, 2003, and shall submit a final report and recommendations to the governor and legislature on or before December 1, 2003.

**History:** L. 2002, ch. 96, sec. 7, May 2.

**2-1923. Same; meetings; attachment to conservation commission.** (a) The alliance shall meet at least once each calendar quarter. The first meeting shall be called by the governor, at which time the

alliance shall elect a chairperson and vice-chairperson. Thereafter, the alliance shall meet on call of the chairperson or on written request of a majority of the members. The alliance may hold its meetings at such times and at such places within the state as the members determine appropriate.

(b) The alliance shall be attached to the state conservation commission as a part thereof. All budgeting, purchasing and related management functions of the alliance shall be administered by the executive director of the state conservation commission. The executive director of the state conservation commission shall provide office and meeting space and such clerical and other staff assistance as may be necessary to assist the alliance in carrying out its powers, duties and functions under this act.

(c) Members of the alliance specified in subsection (b) of section 6, and amendments thereto, shall receive compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

**History:** L. 2002, ch. 96, sec. 8, May 2.

## **INFORMATION ON PESTICIDES**

**2-2473. Same; factors to examine in area development; pesticide management area technical advisory committee; composition and duties thereof.** (a) The pesticide management areas shall be developed by examination of the following factors:

- (1) Precipitation;
- (2) topography;
- (3) soil type;
- (4) depth to the watertable; and
- (5) other factors as the secretary deems relevant.

The areas shall be designated as permitted, modified or prohibited for the use of certain types of pesticides as determined by the pesticide management plan for the management area. The order of the secretary designating such pesticide management area shall define specifically the boundaries of the pesticide management area and shall indicate specifically the pesticide management plan for the area. Pesticide management plans may include provisions for the handling or release of pesticides, including but not limited to the application, mixing, loading, storage, disposal or transportation and guidelines for the best management practices.

(b) When considering whether to establish such pesticide management areas, the secretary shall consult with a pesticide management area technical advisory committee composed of a representative or representatives of each of the following: (1) Kansas department of health and environment appointed by the secretary of health and environment; (2) Kansas department of wildlife, parks and tourism appointed by the secretary of wildlife, parks and tourism; (3) Kansas state university appointed by the president of Kansas state university; (4) Kansas water authority appointed by the chairperson of the Kansas water authority; (5) conservation commission appointed by the chairperson of the state conservation commission; (6) Kansas geological survey appointed by the state geologist; and (7) other persons the secretary determines to have beneficial information to the establishment of such areas as appointed by the secretary. This technical advisory committee shall assist the secretary in the development of the proposed boundaries of the pesticide management area and the proposed plan for the pesticide management area.

**History:** L. 1989, ch. 6, sec. 5; L. 2012, ch. 47, sec. 3; July 1.

## **MOTOR VEHICLES RELATING TO PARKS AND RECREATION MOTOR VEHICLE PERMITS**

**8-134. Renewal of registration of certain vehicles; registration and reregistration of passenger vehicles; monthly system; decals for license plates; rules and regulations.** (a) Every vehicle registration under this act shall expire December 31 of each year, except passenger vehicles and vehicles

provided for in K.S.A. 8-134a, and amendments thereto. The registration of vehicles to which K.S.A. 8-134a, and amendments thereto, applies shall expire in 1982 and thereafter in accordance with the provisions of subsections (b) and (c). Registration of vehicles shall be renewed annually upon application by the owner and by payment of the fees required by law. Except vehicles subject to K.S.A. 8-134a, and amendments thereto, and passenger vehicles, the renewal shall take effect on January 1 of each year but the owner of the vehicle shall have until and including the last day of February of each year within which to make application for such renewal. The division shall issue for such vehicles a February month decal to correspond with the statutory grace period. Criminal sanctions provided in K.S.A. 8-142, and amendments thereto, for failure to display any license plate or plates or any registration decal required to be affixed to any such license plate for the current registration year shall not be enforced until March 1 of each year. An owner who has made proper application for renewal of registration of a vehicle prior to January 1, but who has not received the license plate or registration card for the ensuing year, shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the license plate issued for the preceding year for such time as the director of vehicles finds necessary for issuance of such new license plate.

(b) Every passenger vehicle required by this act to be registered, except as otherwise provided, shall be registered for a period of 12 consecutive months. The division of vehicles, in order to initiate a system of registering or reregistering passenger vehicles during any month of a calendar year, may register or reregister a passenger vehicle for less than a twelve-month period, prorating the annual registration fee, when in the director's opinion such proration tends to fulfill the purpose of the monthly registration system.

(c) Passenger vehicle registration, and the authority to legally operate, use, or tow such vehicle on the highway shall expire at 12 midnight on the last day of the last month of the twelve-month period for which such vehicle was registered, and the owner shall see that such vehicle is reregistered as required by this act. The director of vehicles shall designate the registration period for each passenger vehicle in order to as nearly as feasible equalize registration or reregistration within the 12 months of the year. Any vehicle after having once been registered shall upon reregistration, be registered for the same twelve-month period except when the certificate of title has been transferred as provided by law. In this case, the vehicle shall be registered by the division of vehicles in accordance with the system adopted.

(d) For the purpose of this act, hearses and electrically propelled vehicles shall be classified as passenger vehicles.

(e) Every owner who registers or reregisters a vehicle in a calendar year, and in any calendar year in which a license plate is not issued for the renewal of registration of such vehicle, shall be furnished by the division one decal for the license plate issued for such vehicle and required by K.S.A. 8-133, and amendments thereto, to be affixed to the rear of such vehicle. Such decal shall be affixed to the number plate affixed to the rear of such vehicle and shall contain the letters designating the county in which such vehicle is registered, as provided in K.S.A. 8-147, and amendments thereto, shall be numbered serially in each county and shall indicate the year in which such registration expires. The color of a decal shall be such that it contrasts with the color of the license plate to which it is to be affixed, and the director of vehicles shall change the color of such decals each year, without duplicating the same color in any five-year period or such extended period as the director designates under subsection (b) of K.S.A. 8-132, and amendments thereto. Such decals shall be so constructed that once a decal has been affixed to a license plate it cannot be removed without destroying the decal, and the surface of such decals shall be capable of reflecting light. Consistent with the foregoing, the director of vehicles shall prescribe the size of and material to be used in the production of such decals, and the director of vehicles shall designate the location on a number plate where such decal shall be affixed.

(f) (1) The owner of a vehicle may, at the time of such registration or reregistration, purchase a park and recreation motor vehicle permit. Such permit shall cost \$15 until such time as the amount for such permit is changed by rules and regulations of the secretary of wildlife, parks and tourism.

(2) Such permit shall be nontransferable and shall expire on the date of expiration of the vehicle registration.

(3) Except as provided in subsection (f)(4), the county treasurer shall remit all such moneys paid to the county treasurer to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall be credited as provided in K.S.A. 32-991, and amendments thereto.

(4) The county treasurer may collect and retain a service charge fee of up to \$.50 for each park and recreation motor vehicle permit issued or sold by the county treasurer.

(5) As a condition of receiving the park and recreation motor vehicle permit, the applicant shall consent to the sharing of information, including, but not limited to, the applicant's name, address, email address and phone number, with the secretary of wildlife, parks and tourism by the division of motor vehicles.

(g) The secretary of revenue shall adopt rules and regulations necessary to accomplish the purpose of this act.

**History:** L. 1929, ch. 81, sec. 12; L. 1969, ch. 47, sec. `; L. 1972, ch. 342, sec. 32; L. 1974, ch.35, sec. 3; L. 1975, ch. 30, sec. 3; L. 1979, ch. 35, sec. 1; L. 1981, ch. 36, sec. 2; L. 1983, ch. 29, sec. 2; L. 2003, ch. 34, sec. 1, L. 2012, ch. 164, sec. 1; Jan. 1, 2013.

## **COUNTIES AND COUNTY OFFICERS**

**19-2803b. Conveyance of certain real estate to department of wildlife and parks.** The board of commissioners of any county which has previously acquired real estate under K.S.A. 19-2801, and amendments thereto, or its predecessors, and which has not constructed and completed a lake or park facility thereon, is hereby authorized, without an election, to convey the fee simple title to such real estate to the Kansas department of wildlife, parks and tourism by a proper deed of conveyance.

**History:** L. 1955, ch. 164, sec. 1; L. 1989, ch. 118, sec. 162; L. 2012, ch. 47, sec. 4; July 1.

**19-2803d. Same; acceptance of gifts; regulations.** The board of county commissioners may receive donations and bequests of either money or property for the purpose of establishing and maintaining such lake and recreational grounds. The board shall make all regulations necessary for the supervision and conduct of such lake and recreational grounds, subject to the rules and regulations of the secretary of wildlife, parks and tourism, and may employ a supervisor and such other assistants as may be necessary to properly care for and manage the same.

**History:** L. 1963, ch. 188, sec. 2; L. 1989, ch. 118, sec. 163; L. 2012, ch. 47, sec. 5; July 1.

**19-2817. Agreement with department of wildlife and parks.** The board of county commissioners of any county to which this act applies and the secretary of wildlife, parks and tourism are each authorized and empowered to enter into an agreement to provide for the building and construction of one or more reservoirs, lakes, dams or embankments for impounding water on lands in the park and recreational grounds of any such county and to provide for the use, control and maintenance of such park and recreational grounds. Nothing in such agreement shall be construed to prohibit the secretary of wildlife, parks and tourism or the Kansas department of wildlife, parks and tourism from the right to exercise the same functions, rights and authority as though the lands for such park and recreational grounds had been acquired for the department, and the agreement between any such county and the

secretary shall expressly provide that, notwithstanding the title to such lands shall be vested in such county, all rights therein or thereon, waters and water rights, and for keeping, improving and maintaining them for the use and benefit of the department shall be unimpaired and shall likewise be public park and recreational grounds for the use and enjoyment of the public.

**History:** L. 1935, ch. 142, sec. 4; L. 1989, ch. 118, sec. 164; L. 2012, ch. 47, sec. 6; July 1.

**19-2822. Agreement with department of wildlife and parks.** The board of county commissioners of any county to which this act applies and the secretary of wildlife, parks and tourism are each authorized and empowered to enter into an agreement to provide for the building and construction of one or more reservoirs, lakes, dams or embankments for impounding water on lands in the park and recreational grounds of any such county and to provide for the use, control and maintenance of such park and recreational grounds. Nothing in such agreement shall be construed to prohibit the secretary of wildlife, parks and tourism or the Kansas department of wildlife, parks and tourism from the right to exercise the same functions, rights and authority as though the lands for such park and recreational grounds had been acquired by the department, and the agreement between any such county and the secretary shall expressly provide that, notwithstanding the title to such lands shall be vested in such county, all rights therein or thereon, waters and water rights, and for keeping, improving and maintaining them for the use and benefit of the department shall be unimpaired and shall likewise be public park and recreational grounds for the use and enjoyment of the public.

**History:** L. 1935, ch. 143, sec. 4; L. 1989, ch. 118, sec. 165; L. 2012, ch. 47, sec. 7; July 1.

**19-2835. Cooperation with department of wildlife and parks.** The board of county commissioners of any such county shall have the right to aid, assist, furnish and pay for a part or the whole of any real estate or property or constructing the whole or a part of any dam or construction work deemed by them necessary or proper in the aiding or assisting the Kansas department of wildlife, parks and tourism in the acquisition of a lake, park and recreational site or sites and in the construction of dams, lakes and reservoirs or construction work thereon, so as to insure the completion of a lake, park or recreational grounds in such county. The control and direction of the construction work shall be as determined by the board of county commissioners and the department should the department be in whole or in part interested in such project as such. The title to such real estate or part of such real estate as may be paid for exclusively by such board of county commissioners shall be taken in the name of the county or in the name of the state of Kansas, as the board of county commissioners and the department may agree, but the real estate paid for exclusively by the county shall revert to the county should such project ever be abandoned as a park or recreational project.

**History:** L. 1937, ch. 193, sec. 2; L. 1989, ch. 118, sec. 166; L. 2012, ch. 47, sec. 8; July 1.

**19-2836. Plans and specifications; payment of cost.** Before any board of county commissioners is authorized to proceed under this act, there shall be filed with such board under the certificate of the engineer for the Kansas department of wildlife, parks and tourism, or the county engineer of such county, maps, plans and specifications showing: (1) The description or outline of the land to be in such project; (2) the portion of such land, if any, owned by the state of Kansas or the department; (3) the portion of the land to be purchased by the county, if any; (4) the probable acre surface area of water to be impounded, estimating such acreage at low-water time; (5) a brief outline of the proposed plan of construction and of estimated cost thereof, including the estimated part of the cost, if any, to be borne by the county, the part of the cost, if any, to be borne by the department and the part of the cost, if any, to be borne by any other state or federal agencies or individuals. The cost of such maps, plans, specifications and preliminary work may be paid for by the county out of its general fund.

**History:** L. 1937, ch. 193, sec. 3; L. 1989, ch. 118, sec. 167; L. 2012, ch. 47, sec. 9; July 1.

**19-2839. Construction work; grants or gifts.** The construction work may be let by contract or done by day labor, as the board of county commissioners and the secretary of wildlife, parks and tourism may agree upon, and such board and such secretary are hereby authorized to accept funds from the state or any federal agencies or donations or bequests from any individuals in the promotion and completion of such work.

**History:** L. 1937, ch. 193, sec. 6; L. 1989, ch. 118, sec. 168; L. 2012, ch. 47, sec. 10; July 1.

**19-2844. Agreements with department of wildlife and parks.** The boards of county commissioners of any counties to which this act applies and the secretary of wildlife, parks and tourism are authorized and empowered to enter into an agreement to provide for the building and construction of one or more reservoirs, lakes, dams or embankments for impounding water on lands in the park and recreational grounds of any such counties and to provide for the use, control and maintenance of such park and recreational grounds. Nothing in such agreement shall be construed to prohibit the secretary of wildlife, parks and tourism or the Kansas department of wildlife, parks and tourism from the right to exercise the same functions, rights and authority as though the lands for such park and recreational grounds had been acquired for the department, and the agreement between any such counties and the secretary shall expressly provide that, notwithstanding the title to such lands shall be vested in such counties, all rights therein or thereon, waters and water rights, and for keeping, improving and maintaining them for the use and benefit of the department shall be unimpaired and shall likewise be public park and recreational grounds for the use and enjoyment of the public.

**History:** L. 1937, ch. 192, sec. 4; L. 1989, ch. 118, sec. 169; L. 2012, ch. 47, sec. 11; July 1.

**19-2844a. Construction and maintenance of roads and bridges by adjoining county.** Whenever a lake is being constructed by the Kansas department of wildlife, parks and tourism in any county within three miles of the county line of an adjoining county, the board of county commissioners of such adjoining county is hereby authorized to construct or aid in the construction of roads and bridges around such lake in the county in which such lake is situated and access roads thereto. The board of county commissioners of such adjoining county shall, by resolution, find that the lake is of public benefit to its county and fix the amount of money from its road and bridge fund to be expended for such purpose. Such board is authorized to enter into such agreements as may be necessary with the board of county commissioners of the county in which the lake is situated for the separate or joint construction and maintenance of such roads and bridges. Any roads so constructed shall have access to roads in such adjoining county.

**History:** L. 1957, ch. 371, sec. 1; L. 1989, ch. 118, sec. 170; L. 2012, ch. 47, sec. 12; July 1.

**19-2855. Powers; issuance of bonds; tax levy, use of proceeds.** The county board of park commissioners shall be vested with all the power, authority and control previously vested in the board of county commissioners relating to county parks, parkways and recreational areas, county lakes, roads and park drives, including all buildings, grounds and other structures located within such county parks, parkways and recreational areas. It shall have power to make bylaws, rules and regulations for the orderly transaction and management of its business. It is further empowered to enter into agreements with the secretary of wildlife, parks and tourism, by and with the consent of the board of county commissioners, for the building and construction of one or more reservoirs, lakes, dams or embankments for impounding water on lands in the park and recreational grounds of the county. Nothing in such agreements shall be construed to prohibit the secretary and the Kansas department of wildlife, parks and tourism from the right to exercise the same functions, rights and authority as though the lands for such park and recreational grounds had been acquired by the department, and any agreement between any

such county board of park commissioners and the secretary shall expressly provide that, notwithstanding the title to such lands shall be vested in such county, all rights therein or thereon, waters and water rights, and for keeping, improving and maintaining them for the use and benefit of the department shall be unimpaired and shall likewise be public park and recreational grounds for the use and enjoyment of the public. All bonds required or authorized by law to be issued relating to parks, parkways and recreational areas, and all taxes levied for the maintenance or improvement thereof, shall be issued and levied by the board of county commissioners, and for the purpose of creating such county park and recreational fund, hereinafter referred to, and for the purpose of enlarging existing park areas or acquiring additional park and recreational grounds or sites and for the making of permanent improvements to and for maintaining such park, recreational grounds or sites now owned or hereafter acquired by such county and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county, the board of county commissioners is hereby authorized to levy an annual tax on all taxable tangible property in the county.

Such new or additional grounds or sites for park and recreational purposes may be acquired by the board of county commissioners of such county by purchase, donation, long term leases or easements or the exercise of the right of eminent domain, as provided for in chapter 26 of the Kansas Statutes Annotated and amendments thereto. Following the acquisition of such grounds or sites, the county board of park commissioners shall improve, maintain and supervise all such park and recreational areas in the manner now provided by law. The board of county commissioners of any such county, with the consent of the board of park commissioners of any such county, may convey title to such portion or portions of the new park and recreational areas so acquired under the provisions of this act to any federal nonprofit corporation or foundation created under the laws of the United States, for the purpose of establishing and maintaining any national shrine, park or memorial upon any land in such county, which adjoins, abuts or is adjacent to the new park and recreational areas so acquired by any such county under the provisions of this act. The board of county commissioners shall have the power and duty, upon recommendation of the county board of park commissioners, to adopt resolutions from time to time for the regulation and orderly government of parks, parkways, recreational areas, county lakes, roads, park drives and public grounds, and to prescribe fines and penalties for the violation of the provisions of such resolutions.

**History:** L. 1945, ch. 177, sec. 3; L. 1947, ch. 200, sec. a; L. 1957, ch. 184, sec. 1; L. 1959, ch. 142, sec. 1; L. 1967, ch. 155, sec. 1; L. 1970, ch. 100, sec. 24; L. 1975, ch. 162, sec. 23; L. 1979, ch. 52, sec. 120; L. 1989, ch. 188, sec. 171; L. 2012, ch. 47, sec. 13; July 1.

**19-2868. Same; powers of board.** The board shall have power to:

(a) Finance, operate, improve and maintain the parks and playgrounds of the district as provided in this act;

(b) accept by gift or devise; purchase, lease and condemn real estate for use as parks and playgrounds for the district; sell any improvements of any real estate so acquired not usable for park purposes or take down such improvements and use or dispose of the salvage and use any of the proceeds thereof for park purposes without regard to budget limitations; and contract with school boards for joint use and improvement of school lands for park and playground purposes;

(c) improve the parks and playgrounds for the recreation, amusement and enjoyment of the inhabitants of the district;

(d) levy taxes for the acquisition of lands and improvements and operation, improvement and maintenance of the parks and playgrounds as authorized and limited by this act;

(e) issue bonds of the district for acquiring real estate and the improvement thereof for park and playground purposes upon authorization of the qualified electors of the district by election and within the limitations provided by this act;



(f) appoint park and recreation supervisory personnel and employ such other employees, servants, police and agents as may be necessary for the proper and adequate operation, improvement and maintenance of the park and recreation district, and may appoint, employ or retain attorneys, engineers, landscape architects, surveyors and other professional or technical persons or firms for a period or for specified projects and pay the necessary compensation therefor;

(g) adopt, promulgate and enforce reasonable rules and regulations for the operation and use of the parks and playgrounds and the conduct of persons using such parks and playgrounds as provided by this act;

(h) sell or salvage equipment found to be worn out or beyond repair or dangerous to use or to trade it in as part payment on new equipment, and the proceeds when resold or the trade-in value shall not be charged against the budget but may be in addition to the amount authorized for expenditure by the budget;

(i) sell and convey real estate acquired by purchase, condemnation, gift or devise when it appears such property is no longer needed for park, playground or recreational purposes, or is poorly situated for such purposes, or is poorly suited for such purposes, with the proceeds of such sale to be deposited in the land acquisition fund authorized by K.S.A. 19-2873b, and amendments thereto. No such sale shall be made except upon authorization of the majority of the votes cast by the qualified electors of the district at an election called and held for such purpose as provided by this act. If the instrument of gift or devise vests fee title in the district or authorizes the district to sell the real property, such property may be sold by the procedure herein provided. The board, when in its judgment deemed advisable and to the best interests of the district, by proper conveyances, may exchange any tract of land for lands similar in value, or exchange money and land for other land suitable for park or recreation purposes, or exchange land for land and money totaling the value of the land conveyed, provided that the money involved does not exceed 25% of the total value of the land involved, without vote of the qualified electors of the park district, subject to a public hearing having first been held with respect to such proposed exchange of lands, after notice of the time, place and purpose thereof, including a legal description of said lands, published once each week for two consecutive weeks prior thereto, in the official county paper, and subject further to final approval of such proposed exchange of lands, by the board of county commissioners of Johnson county, Kansas. The board may by proper conveyance exchange, transfer, sell, or lease any tract of district land with or without improvements to the state of Kansas, a political subdivision thereof, or an agency of the United States government, if the board determines that such property can properly be maintained and operated as park, playground, or recreational facilities by such governmental agency, or that such property may be utilized in whole or part in a contract with said governmental agencies in, on, or around other property of such governmental units, all or any part of which is located within boundaries of such district;

(j) adopt, change and modify a seal for the district and to use such seal in attestations by the secretary and in all other cases where a seal is required or advisable;

(k) cooperate with the Kansas department of wildlife, parks and tourism and with Miami county in the operation, improvement and maintenance of Hillsdale state park and to enforce rules and regulations for the operation of such park land; and

(l) do all other things provided by this act, and amendments thereto, have all the powers prescribed by this act and carry out and exercise the powers of the district as its governing body.

**History:** L. 1953, ch. 170, sec. 10; L. 1963, ch. 189, sec. 1; L. 1969, ch. 158, sec. 4; L. 1970, ch. 113, sec. 4; L. 1977, ch. 98, sec. 4; L. 1983, ch. 101, sec. 1; L. 1988, ch. 105, sec. 1; L. 2012, ch. 47, sec. 14; July 1.

**19-2873. Same; rules and regulations; conduct, fees.** The board may by resolution adopt rules and regulations for the operation of the park and recreation district and rules and regulations applying to any

particular park or playground and prescribe penalties for violation of any rules and regulations relating to the conduct of persons in the parks and playgrounds or park or playgrounds. Such penalties shall not exceed imprisonment in the county jail for not to exceed three months or a fine not to exceed \$100 or both. Any rules and regulations for the conduct of persons, applying to all parks or any park and providing penalties, shall be published once in the official county paper and copies of the rules and regulations shall be posted and kept posted in all parks to which they are applicable, and the violation of any penal rule or regulation when so published and posted shall constitute a misdemeanor. No charge shall be made for entrance into any park and no admission charge shall be made for use of any of the facilities of any park. The board may lease sites for food, soft drinks, boat rentals, amusements and other concessions as in its judgment may be deemed appropriate and lawful for the comfort, convenience and enjoyment of the public, and may limit purchase and use charges to be made by concessionaires in operating the same. The board may establish and operate food, soft drinks, boat rentals, amusements and other lawful and appropriate conveniences as may in its judgment be necessary or appeal to the public comfort and enjoyment, all in accordance with K.S.A. 19-2873a, and amendments thereto. A reasonable fee may be charged for recreational activities and the board may regulate and control all fishing and boating within the boundaries of park property, including daily and possession limits of fish caught and time limits when fishing may be restricted, subject to law and rules and regulations of the secretary of wildlife, parks and tourism with respect to such fishing and boating; and may require a park permit for fishing and boating for which a reasonable fee may be charged all persons so engaged.

A separate schedule of fees may be established for nonresidents. The board may enter into long term leases for such authorized concessions, not to exceed 50 years, under the terms of which the concessionaires (lessees), shall at their own expense, construct and install the facilities and improvements to be occupied and used under such lease, upon such terms, conditions and control as the park and recreation district may require and subject in all such long term leases to unconditional reversion of title to such facilities and improvements so constructed by the concessionaire to the district upon the expiration of the term of such lease or upon abandonment or forfeiture thereof by the concessionaire prior to its expiration.

**History:** L. 1953, ch. 170, sec. 15; L. 1961, ch. 151, sec. 3; L. 1963, ch. 189, sec. 2; L. 1969, ch. 158, sec. 6; L. 1970, ch. 113, sec. 6; L. 1989, ch. 118, sec. 172, L. 2012, ch. 47, sec. 15; July 1.

**19-2894. Same; rules and regulations; conduct, fees, leases, fishing and boating.** The park board may by resolution adopt rules and regulations for the operation of the park district and prescribe penalties for violation of any rules and regulations relating to the conduct of persons in the area where improvements are established,. Such penalties shall not exceed imprisonment in the county jail for not to exceed three months or a fine of not to exceed \$100, or both. Any rules and regulations for the conduct of persons and providing penalties shall be published once in the official county paper and copies of the rules and regulations shall be posted and kept posted in all areas to which they are applicable, and the violation of any penal rule or regulation when so published and posted shall constitute a misdemeanor.

No charge shall be made for entrance into any improved area and no admission charge shall be made for use of any of the facilities, except that the park board may lease sites for food, soft drinks, boat rentals, amusements and other concessions as in its judgment may be deemed appropriate and lawful for the comfort, convenience and enjoyment of the public, and may limit purchase and use charges to be made by concessionaires in operating them. The park board may regulate and control all fishing and boating within the boundaries of park property, including daily and possession limits of fish caught and time limits when fishing may be restricted, subject to law and rules and regulations of the secretary of wildlife, parks and tourism, and may require a park permit for fishing and boating for which a reasonable fee may be charged all persons so engaged.

**History:** L. 1963, ch. 193, sec. 13; L. 1989, ch. 118, sec. 173; L. 2012, ch. 47, sec. 16; July 1.

**19-3543. Construction and maintenance of lines along highways; contracts for purchase and sale of water.** The board shall have power to construct and maintain water lines through, under, across or along any public highway. The board is hereby authorized to enter into contracts with the secretary of wildlife, parks and tourism for the purchase of water for use by the district and for the sale of the same for domestic or other uses.

**History:** L. 1961, ch. 472, sec. 8; L. 1965, ch. 187, sec. 1; L. 1989, ch. 118, sec. 174; L. 2012, ch. 47, sec. 17; July 1.

## **CRIMES AND PUNISHMENTS**

**21-5808. Criminal trespass.** (a) Criminal trespass is entering or remaining upon or in any:

(1) Land, nonnavigable body of water, structure, vehicle, aircraft or watercraft by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person;

(B) such premises or property are posted as provided in K.S.A. 32-1013, and amendments thereto, or in any other manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

(C) such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 60-1607, 60-3105, 60-3106, 60-3107, 60-31a05 or 60-31a06 or K.S.A. 2011 Supp. 38-2243, 38-2244 or 38-2255, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or

(2) public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.

(b) Criminal trespass is a class B nonperson misdemeanor. Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which shall be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

(c) As used in this section:

(1) "Health care facility" means any licensed medical care facility, certificated health maintenance organization, licensed mental health center or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients; and

(2) "health care provider" means any person:

(A) Licensed to practice a branch of the healing arts;

(B) licensed to practice psychology;

(C) licensed to practice professional or practical nursing;

(D) licensed to practice dentistry;

(E) licensed to practice optometry;

(F) licensed to practice pharmacy;

(G) registered to practice podiatry;

(H) licensed as a social worker; or

(I) registered to practice physical therapy.

(d) This section shall not apply to:

(1) A land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees who enter upon lands, waters

and other premises in the making of a survey; or

(2) railroad property as defined in K.S.A. 2011 Supp. 21-5809, and amendments thereto, or nuclear generating facility as defined in K.S.A. 2011 Supp. 66-2302, and amendments thereto.

**History:** L. 1969, ch. 180, sec. 21-5821; L. 1979, ch. 92, sec. 13; L. 1980, ch. 99, sec. 1; L. 1986, ch. 161, sec. 3; L. 1992, ch. 183, sec. 6; L. 1993, ch. 291, sec. 79; L. 1996, ch. 30, sec. 2; L. 1996, ch. 211, sec. 2; L. 2002, ch. 141, sec. 11; L. 2003, ch. 128, sec. 17; L. 2004, ch. 129, sec. 1; L. 2006, ch. 194, sec. 18; L. 2010, ch. 136, sec. 94; L. 2012, ch. 154, sec. 3; July 1.

**21-5810. Criminal hunting.** (a) Criminal hunting is knowingly hunting, shooting, furharvesting, pursuing any bird or animal, or fishing:

(1) Upon any land or nonnavigable body of water of another, without having first obtained permission of the owner or person in possession of such premises;

(2) upon or from any public road, public road right-of-way or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises; or

(3) upon any land or nonnavigable body of water of another by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person remains therein and continues to hunt, shoot, furharvest, pursue any bird or animal or fish in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or

(B) such premises or property are posted in a manner consistent with K.S.A. 32-1013, and amendments thereto.

(b) Criminal hunting as defined in:

(1) Subsection (a)(1) or (a)(2) is a class C misdemeanor. Upon the first conviction of subsection (a)(1) or (a)(2), in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting, fishing or fur harvesting, or all, for up to one year from the date of such conviction. Upon a second or subsequent conviction of subsection (a)(1) or (a)(2), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or, in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting, fishing or furharvesting, or all, for one year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit, except that this provision shall not authorize a person to remain on such land if instructed to leave by the owner thereof or other authorized person. For the purpose of determining whether a conviction is a first, second or subsequent conviction of subsection (a)(1) or (a)(2), "conviction" or "convicted" includes being convicted of a violation of subsection (a) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(1) or (a)(2); and (2) subsection (a)(3) is a class B misdemeanor. Upon the first conviction or a diversion agreement of subsection (a)(3), in addition to any authorized sentence imposed by the court, the court shall require forfeiture of such person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for six months. Upon the second conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a

combination license, the court shall require forfeiture of a part or all of such license for one year. Upon the third or subsequent conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require forfeiture of the convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for five years. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction of subsection (a)(3), "conviction" or "convicted" includes being convicted of a violation of subsection (b) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(3).

(c) The court shall notify the Kansas department of wildlife, parks and tourism of any conviction or diversion for a violation of this section.

**History:** L. 2010, ch. 136, sec. 96; L. 2011, ch. 30, sec. 36; L. 2012, ch. 47, sec. 18; July 1.

**21-6307. Confiscation and disposition of weapons.** (a) Upon conviction of a violation or upon adjudication as a juvenile offender for a violation of subsections (a)(1) through (a)(6) or (a)(10) through (a)(14) of K.S.A. 21-6301, 21-6302, 21-6304, 21-6305, or subsection (a)(1) or (a)(2) of K.S.A. 21-6308, and amendments thereto, any weapon seized in connection therewith shall remain in the custody of the trial court.

(b) Any stolen weapon so seized and detained, when no longer needed for evidentiary purposes, shall be returned to the person entitled to possession, if known. All other confiscated weapons when no longer needed for evidentiary purposes, shall in the discretion of the trial court, be:

(1) Destroyed;

(2) forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use; or

(3) forfeited to the Kansas bureau of investigation for law enforcement, testing, comparison or destruction by the Kansas bureau of investigation forensic laboratory.

(c) If weapons are sold as authorized by subsection (b), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency.

**History:** L. 1969, ch. 180, § 21-4206; L. 1978, ch. 105, § 6; L. 1987, ch. 111, § 1; L. 1990, ch. 103, § 1; L. 1992, ch. 21, § 8; L. 1994, ch. 270, § 2; L. 1994, ch. 348, § 5; L. 2005, ch. 141, § 2; L. 2010, ch. 136, § 192; L. 2011, ch. 30, § 53, July 1.

**21-6308. Criminal discharge of a firearm.** (a) Criminal discharge of a firearm is the:

(1) Reckless and unauthorized discharge of any firearm:

(A) At a dwelling, building or structure in which there is a human being whether the person discharging the firearm knows or has reason to know that there is a human being present;

(B) at a motor vehicle, aircraft, watercraft, train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock or other means of conveyance of persons or property in which there is a human being whether the person discharging the firearm knows or has reason to know that there is a human being present;

(2) reckless and unauthorized discharge of any firearm at a dwelling in which there is no human being; or

(3) discharge of any firearm:

(A) Upon any land or nonnavigable body of water of another, without having obtained permission of the owner or person in possession of such land; or

(B) upon or from any public road, public road right-of-way or railroad right-of-way except as otherwise authorized by law.

- (b) Criminal discharge of a firearm as defined in:
- (1) Subsection (a)(1) is a:
- (A) Severity level 7, person felony except as provided in subsection (b)(1)(B) or (b)(1)(C);
- (B) severity level 3, person felony if such criminal discharge results in great bodily harm to a person during the commission thereof; or
- (C) severity level 5, person felony if such criminal discharge results in bodily harm to a person during the commission thereof;
- (2) subsection (a)(2) is a severity level 8, person felony; and
- (3) subsection (a)(3) is a class C misdemeanor.
- (c) Subsection (a)(1) shall not apply if the act is a violation of subsection (d) of K.S.A. 21-5412, and amendments thereto.
- (d) Subsection (a)(3) shall not apply to any of the following:
- (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
- (2) wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
- (3) members of the armed services or reserve forces of the United States or the national guard while in the performance of their official duty;
- (4) watchmen, while actually engaged in the performance of the duties of their employment;
- (5) private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;
- (6) detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment;
- (7) the state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157, and amendments thereto; or
- (8) the United States attorney for the district of Kansas, the attorney general, or any district attorney or county attorney, while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant United States attorney if authorized by the United States attorney for the district of Kansas and while actually engaged in the duties of their employment or any activities incidental to such duties; any assistant attorney general if authorized by the attorney general and while actually engaged in the duties of their employment or any activities incidental to such duties; or any assistant district attorney or assistant county attorney if authorized by the district attorney or county attorney by whom such assistant is employed and while actually engaged in the duties of their employment or any activities incidental to such duties. The provisions of this paragraph shall not apply to any person not in compliance with K.S.A. 2009 Supp. 75-7c19, and amendments thereto.

**History:** L. 1986, ch. 126, § 2; L. 1992, ch. 21, § 1; L. 1993, ch. 291, §§ 73, 158; L. 1994, ch. 348, § 17; L. 1996, ch. 30, § 4; L. 1996, ch. 258, § 9; L. 2009, ch. 92, § 2; L. 2010, ch. 136, § 193; July 1, 2011.

**21-6308a. Unlawful discharge of a firearm in a city.** (a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of any city.

(b) This section shall not apply to the discharge of any firearm within or into the corporate limits of any city if:

- (1) The firearm is discharged in the lawful defense of one's person, another person or one's property;
- (2) the firearm is discharged at a private or public shooting range;

- (3) the firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, parks and tourism or the governing body of the city;
  - (4) the firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, parks and tourism;
  - (5) the firearm is discharged by special permit of the chief of police or by the sheriff when the city has no police department;
  - (6) the firearm is discharged using blanks; or
  - (7) the firearm is discharged in lawful self-defense or defense of another person against an animal attack.
- (c) A violation of subsection (a) shall be a class B nonperson misdemeanor.
- History:** L. 2013, ch. 105, sec. 1; July 1.

**21-6332. Possession of a firearm while under the influence.** (a) Possession of a firearm under the influence is knowingly possessing or carrying a loaded firearm on or about such person, or within such person's immediate access and control while in a vehicle, while under the influence of alcohol or drugs, or both, to such a degree as to render such person incapable of safely operating a firearm.

(b) Possession of a firearm under the influence is a class A nonperson misdemeanor.

(c) This section shall not apply to:

- (1) A person who possesses or carries a firearm while in such person's own dwelling or place of business or on land owned or possessed by such person; or
- (2) the transitory possession or use of a firearm during an act committed in self-defense or in defense of another person or any other act committed if legally justified or excused, provided such possession or use lasts no longer than is immediately necessary.

(d) If probable cause exists for a law enforcement officer to believe a person is in possession of a firearm under the influence of alcohol or drugs, or both, such law enforcement officer shall request such person submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The selection of the test or tests shall be made by the officer.

(e) (1) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by:

- (A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;
- (B) a registered nurse or a licensed practical nurse;
- (C) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, an emergency medical technician-intermediate/defibrillator, an advanced emergency medical technician or a paramedic, as those terms are defined in K.S.A. 65-6112, and amendments thereto, authorized by medical protocol; or
- (D) a phlebotomist.

(2) A law enforcement officer may direct a medical professional described in this subsection to draw a sample of blood from a person if the person has given consent or upon meeting the requirements of subsection (d).

(3) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with the written statement provided for under this subsection.

The medical professional shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

(4) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document provided by law enforcement.

(5) If a sample is to be taken under authority of a search warrant, and the person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.

(6) A law enforcement officer may request a urine sample upon meeting the requirements of subsection (d).

(7) If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by:

(A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;

(B) a registered nurse or a licensed practical nurse; or

(C) a law enforcement officer of the same sex as the person being tested.

The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in paragraphs (2) and (3) shall apply to the collection of a urine sample.

(8) The person performing or assisting in the performance of any such test and the law enforcement officer requesting any such test who is acting in accordance with this section shall not be liable in any civil and criminal proceeding involving the action.

(f) (1) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of possession of a firearm under the influence of alcohol or drugs, or both.

(2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.

(3) In any criminal prosecution for a violation of this section, if the court finds that a person refused to submit to testing when requested pursuant to this section, the county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this section, a civil penalty not exceeding \$1,000 for each violation.

(g) If a person who holds a valid license to carry a concealed handgun issued pursuant to K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto, is convicted of a violation of this section, such person's license to carry a concealed handgun shall be revoked for a minimum of one year for a first offense and three years for a second or subsequent offense.

(h) In any criminal prosecution for possession of a firearm under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:

(1) If the alcohol concentration is less than .08, that fact may be considered with other competent



evidence to determine if the defendant was under the influence of alcohol or drugs, or both.

(2) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol.

(3) If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapacitated, that fact may be considered to determine if the defendant was under the influence of alcohol or drugs, or both.

(i) The provisions of subsection (h) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.

(j) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

**History:** L. 2014, ch. 97, sec. 6; July 1.

**21-6416. Inflicting harm, disability or death to a police, arson dog or search and rescue dog.** (a) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is knowingly, and without lawful cause or justification poisoning, inflicting great bodily harm, permanent disability or death, upon a police dog, arson dog, assistance dog, game warden dog or search and rescue dog.

(b) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is a nonperson felony. Upon conviction of this subsection, a person shall be sentenced to not less than 30 days or more than one year's imprisonment and be fined not less than \$500 nor more than \$5,000. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. During the mandatory 30 days imprisonment, such offender shall have a psychological evaluation prepared for the court to assist the court in determining conditions of probation. Such conditions shall include, but not be limited to, the completion of an anger management program.

(c) As used in this section:

(1) "Arson dog" means any dog which is owned, or the service of which is employed, by the state fire marshal or a fire department for the principal purpose of aiding in the detection of liquid accelerants in the investigation of fires;

(2) "assistance dog" has the meaning provided by K.S.A. 2011 Supp. 39-1113, and amendments thereto;

(3) "fire department" means a public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district;

(4) "game warden dog" means any dog which is owned, or the service of which is employed, by the Kansas department of wildlife, parks and tourism for the purpose of aiding in detection of criminal activity, enforcement of laws, apprehension of offenders or location of persons or wildlife;

(5) "police dog" means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders; and

(6) "search and rescue dog" means any dog which is owned or the service of which is employed, by a law enforcement or emergency response agency for the purpose of aiding in the location of persons missing in disasters or other times of need.

**History:** L. 1992, ch. 298, sec. 82; L. 1993, ch. 291, sec. 250; L. 1998, ch. 52, sec. 1; L. 2002, ch. 45, sec. 1; L. 2003, ch. 64, sec. 11; L. 2004, ch. 175, sec. 4; L. 2006, ch. 126, sec. 3; L. 2010, ch. 136, sec. 227; L. 2012, ch. 47, sec. 19; July 1.

## **FORFEITED FIREARMS TO KDWP**

**22-2512. Custody and disposition of property seized.** (a) Property seized under a search warrant or validly seized without a warrant shall be safely kept by the officer seizing the same unless otherwise directed by the magistrate, and shall be so kept as long as necessary for the purpose of being produced as evidence on any trial. The property seized may not be taken from the officer having it in custody so long as it is or may be required as evidence in any trial. The officer seizing the property shall give a receipt to the person detained or arrested particularly describing each article of property being held and shall file a copy of such receipt with the magistrate before whom the person detained or arrested is taken. Where seized property is no longer required as evidence in the prosecution of any indictment or information, the court which has jurisdiction of such property may transfer the same to the jurisdiction of any other court, including courts of another state or federal courts, where it is shown to the satisfaction of the court that such property is required as evidence in any prosecution in such other court.

(b) (1) Notwithstanding the provisions of subsection (a) and with the approval of the affected court, any law enforcement officer who seizes hazardous materials as evidence related to a criminal investigation may collect representative samples of such hazardous materials, and lawfully destroy or dispose of, or direct another person to lawfully destroy or dispose of the remaining quantity of such hazardous materials.

(2) In any prosecution, representative samples of hazardous materials accompanied by photographs, videotapes, laboratory analysis reports or other means used to verify and document the identity and quantity of the material shall be deemed competent evidence of such hazardous materials and shall be admissible in any proceeding, hearing or trial as if such materials had been introduced as evidence.

(3) As used in this section, the term “hazardous materials” means any substance which is capable of posing an unreasonable risk to health, safety and property. It shall include any substance which by its nature is explosive, flammable, corrosive, poisonous, radioactive, a biological hazard or a material which may cause spontaneous combustion. It shall include, but not be limited to, substances listed in the table of hazardous materials contained in the code of federal regulations title 49 and national fire protection association’s fire protection guide on hazardous materials.

(4) The provisions of this subsection shall not apply to ammunition and components thereof.

(c) When property seized is no longer required as evidence, it shall be disposed of as follows:

(1) Property stolen, embezzled, obtained by false pretenses, or otherwise obtained unlawfully from the rightful owner thereof shall be restored to the owner;

(2) money shall be restored to the owner unless it was contained in a slot machine or otherwise used in unlawful gambling or lotteries, in which case it shall be forfeited, and shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto;

(3) property which is unclaimed or the ownership of which is unknown shall be sold at public auction to be held by the sheriff and the proceeds, less the cost of sale and any storage charges incurred in preserving it, shall be paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments thereto;

(4) articles of contraband shall be destroyed, except that any such articles the disposition of which is otherwise provided by law shall be dealt with as so provided and any such articles the disposition of which is not otherwise provided by law and which may be capable of innocent use may in the discretion of the court be sold and the proceeds disposed of as provided in subsection (c)(3);

(5) firearms, ammunition, explosives, bombs and like devices, which have been used in the commission of crime, may be returned to the rightful owner, or in the discretion of the court having jurisdiction of the property, destroyed or forfeited to the Kansas bureau of investigation as provided in K.S.A. 2013 Supp. 21-6307, and amendments thereto;

(6) (A) except as provided in subsections (c)(6)(B) and (d), any weapon or ammunition, in the discretion of the court having jurisdiction of the property, shall be:

(i) Forfeited to the law enforcement agency seizing the weapon for use within such agency, for sale to a properly licensed federal firearms dealer, for trading to a properly licensed federal firearms dealer for other new or used firearms or accessories for use within such agency or for trading to another law enforcement agency for that agency's use;

(ii) forfeited to the Kansas bureau of investigation for law enforcement, testing or comparison by the Kansas bureau of investigation forensic laboratory;

(iii) forfeited to a county regional forensic science center, or other county forensic laboratory for testing, comparison or other forensic science purposes; or

(iv) forfeited to the Kansas department of wildlife, parks and tourism for use pursuant to the conditions set forth in K.S.A. 32-1047, and amendments thereto.

(B) Except as provided in subsection (d), any weapon which cannot be forfeited pursuant to subsection (c)(6)(A) due to the condition of the weapon, and any weapon which was used in the commission of a felony as described in K.S.A. 2013 Supp. 21-5401, 21-5402, 21-5403, 21-5404 or 21-5405, and amendments thereto, shall be destroyed.

(7) controlled substances forfeited for violations of K.S.A. 2013 Supp. 21-5701 through 21-5717, and amendments thereto, shall be dealt with as provided under K.S.A. 60-4101 through 60-4126, and amendments thereto;

(8) unless otherwise provided by law, all other property shall be disposed of in such manner as the court in its sound discretion shall direct.

(d) If a weapon is seized from an individual and the individual is not convicted of or adjudicated as a juvenile offender for the violation for which the weapon was seized, then within 30 days after the declination

or conclusion of prosecution of the case against the individual, including any period of appeal, the law enforcement agency that seized the weapon shall verify that the weapon is not stolen, and upon such verification shall notify the person from whom it was seized that the weapon may be retrieved. Such notification shall include the location where such weapon may be retrieved.

(e) If weapons are sold as authorized by subsection (c)(6)(A), the proceeds of the sale shall be credited to the asset seizure and forfeiture fund of the seizing agency.

(f) For purposes of this section, the term "weapon" means a weapon described in K.S.A. 2013 Supp. 21-6301, and amendments thereto.

**History:** L. 1970, ch. 129, sec. 22-2512; L. 1973, ch. 106, sec. 15; L. 1978, ch. 105, sec. 7; L. 1987, ch. 114, sec. 1; L. 1994, ch. 348, sec. 6; L. 1996, ch. 247, sec. 1; L. 1999, ch. 170, sec. 2; L. 2009, ch. 32, sec. 40; L. 2014, ch. 97, sec.13; July 1.

## **INFORMATION ON RABIES CONTROL IN WILDLIFE ANIMALS**

**28-1-14. Rabies control in wildlife animals.** (a) The possession or sale of skunks, raccoons, foxes and coyotes for keeping of these mammals as pets shall be prohibited.

(b) Removal of musk glands of skunks for purposes of attempted domestication shall be prohibited.

(c) Except as permitted by the secretary, attempts to immunize skunks, coyotes, raccoons, foxes, and other wildlife mammals known to be involved in the transmission of rabies shall be prohibited.

(d) Subsections (a) and (b) of this regulation shall not apply to bonafide zoological parks or research institutions. (Authorized by and implementing K.S.A. 65-101; effective May 1, 1982; amended May 1, 1983; amended July 5, 1996.)

## **INTOXICATING LIQUORS PROHIBITED ACTS**

**41-719. Consumption of alcoholic liquor prohibited in certain places; exemptions.** (a) (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.

(3) No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(4) No person shall possess or consume alcoholic liquor inside the premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or

(5) on the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or section 2, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary

permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with *bona fide* scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.

(10) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(11) On the premises of any land or waters owned or managed by the department of wildlife, parks and tourism, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto.

(12) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

(j) For the purposes of this section, “special event” means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local governing body of any city, county or township.

**History:** L. 1949, ch. 242, sec. 82; L. 1968, ch. 35, sec. 1; L. 1969, ch. 242, sec. 1; L. 1971, ch. 175, sec. 1; L. 1975, ch. 251, sec. 1; L. 1979, ch. 153, sec. 13; L. 1981, ch. 200, sec. 1; L. 1987, ch. 182, sec. 54; L. 1988, ch. 165, sec. 3; L. 1990, ch. 180, sec. 2; L. 1991, ch. 143, sec. 1; L. 1992, ch. 269, sec. 1; L.

1995, ch. 59, sec. 1; L. 1998, ch. 92, sec. 8; L. 1998, ch. 191, sec. 4; L. 1999, ch. 153, sec. 2; L. 2000, ch. 166, sec. 3; L. 2002, ch. 139, sec. 1; L. 2005, ch. 201, sec. 11; L. 2006, ch. 206, sec. 1; L. 2008, ch. 126, sec. 7; L. 2009, ch. 114, sec. 9; L. 2012, ch. 144, sec. 29; Jan. 1, 2013.

## **INFORMATION ON RAISING DOMESTICATED DEER**

**47-2101. Raising domesticated deer; unlawful acts; permit; identification of deer; inspection of premises; communications with wildlife and parks; definitions.** (a) It shall be unlawful for any person to possess domesticated deer unless such person has obtained from the animal health commissioner a domesticated deer permit. Application for such permit shall be made in writing on a form provided by the commissioner. The permit period shall be for the permit year ending on June 30 following the issuance date.

(b) Each application for issuance or renewal of a permit shall be accompanied by a fee of not more than \$400 as established by the commissioner in rules and regulations.

(c) The animal health commissioner shall adopt any rules and regulations necessary to enforce the provisions of article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto, ensure compliance with federal requirements and protect domestic animals and wildlife from disease risks related to domestic deer production.

(d) Any person who fails to obtain a permit as prescribed in subsection (a) shall be deemed guilty of a class C nonperson misdemeanor and upon conviction shall be punished by a fine not exceeding \$1,000. Continued operation, after a conviction, shall constitute a separate offense for each day of operation.

(e) The commissioner may refuse to issue or renew or may suspend or revoke any permit for any one of the following reasons:

(1) Material misstatement in the application for the original permit or in the application for any renewal of a permit;

(2) the conviction of any crime, an essential element of which is misstatement, fraud or dishonesty, or relating to the theft of or cruelty to animals;

(3) substantial misrepresentation;

(4) the person who is issued a permit is found to be poaching or illegally obtaining deer; or

(5) the permit holder's willful disregard of any rule or regulation adopted under this section.

(f) Any refusal to issue or renew a permit and any suspension or revocation of a permit under this section shall be in accordance with the provisions of the Kansas administrative procedure act and shall be subject to review in accordance with the Kansas judicial review act.

(g) Each domesticated deer, regardless of age, that enters a premises alive or leaves a premises alive or dead for any purpose, other than for direct movement to a licensed or registered slaughter facility in Kansas, shall have official identification, as prescribed by rules and regulations of the commissioner. Any person who receives a permit issued pursuant to subsection (a) shall keep records of such deer as required by rules and regulations adopted pursuant to this section.

(h) (1) The animal health commissioner or the commissioner's representatives may inspect the premises and records of any person issued a domesticated deer permit, but shall not inspect such premises and records more than once each permit year, unless the commissioner has:

(A) Discovered a violation of article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto; or

(B) received a complaint that such premises is not being operated, managed or maintained in accordance with rules and regulations adopted pursuant to this section.

(2) The commissioner or the commissioner's representatives may inspect unlicensed premises when the commissioner has reasonable grounds to believe that a person is violating the provisions of this section.

(i) The animal health commissioner, on an annual basis, shall transmit to the secretary of wildlife and parks and tourism a current list of persons issued a permit pursuant to this section. The department of agriculture may request assistance from the department of wildlife, parks and tourism to assist in implementing and enforcing article 21 of chapter 47 of the Kansas Statutes Annotated, and amendments thereto.

(j) All moneys received under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the animal disease control fund.

(k) As used in this section:

(1) "Deer" means any member of the family cervidae.

(2) "Domesticated deer" means any member of the family cervidae which was legally obtained and is being sold or raised in a confined area for: (A) Breeding stock; (B) any carcass, skin or part of such animal; (C) exhibition; or (D) companionship.

**History:** L. 1993, ch. 143, sec. 1; L. 2001, ch. 5, sec. 176; L. 2010, ch. 105, sec. 4; L. 2010, ch. 155, sec. 17; L. 2012, ch. 47, sec. 81; L. 2013, ch. 90, sec. 5; L. 2015, ch. 2, sec. 1; July 1.

**47-2102. Intentionally releasing domesticated deer; penalty.** (a) it shall be unlawful for any person to intentionally release or set free domesticated deer from a confined area.

(b) Violation of this section is a class C nonperson misdemeanor.

**History:** L. 1993, ch. 143, sec. 2; July 1.

## **INFORMATION ON FERAL SWINE**

**47-1809. Feral swine; prohibited acts related to such swine; penalties; appeals; destruction of such swine; duties of livestock commissioner.** (a) As used in this section, "feral swine" means any untamed or undomesticated hog, boar or pig; swine whose reversion from the domesticated state to the wild state is apparent; or an otherwise freely roaming swine having no visible tags, markings or characteristics indicating that such swine is from a domestic herd, and reasonable inquiry within the area does not identify an owner.

(b) No person shall import, transport or possess live feral swine in this state.

(c) No person shall intentionally or knowingly release any hog, boar, pig or swine to live in a wild or feral state upon public or private land.

(d) No person shall engage in, sponsor, instigate, assist or profit from the release, killing, wounding or attempted killing or wounding of feral swine for the purpose of sport, pleasure, amusement or production of a trophy.

(e) Violation of subsection (b) or (c) may result in a civil penalty in the amount of not less than \$1,000 nor more than \$5,000 for each such violation. In the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(f) Violation of subsection (d) may result in a civil penalty of not less than \$250 nor more than \$2,500 for each such violation.

(g) Any duly authorized agent of the livestock commissioner, upon a finding that any person, or agent or employee thereof, has violated any of the provisions stated above, may impose a civil penalty upon such person as provided in this section.

(h) No civil penalty shall be imposed pursuant to this section except upon the written order of the duly authorized agent of the livestock commissioner to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of the person to appeal to the commissioner. Any such person, within 20 days after notification, may make written request to the commissioner for a hearing in accordance with the provisions of the Kansas administrative procedure act. The commissioner shall affirm, reverse or modify the order and shall specify the reasons therefor.

(i) Any person aggrieved by an order of the commissioner made under this section may appeal such order to the district court in the manner provided by the Kansas judicial review act.

(j) Any civil penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(k) The livestock commissioner, or the authorized representative of the livestock commissioner, may destroy or require the destruction of any feral swine upon discovery of such swine.

(l) The provisions of this section shall not be construed to prevent owners or legal occupants of land, the employees of such owners or legal occupants or persons designated by such owners or legal occupants from killing any feral swine when found on their premises or when destroying property. Such designees shall have a permit issued by the livestock commissioner in their possession at the time of the killing of the feral swine.

(m) The livestock commissioner may adopt rules and regulations to carry out the provisions of this section.

**History:** L. 1995, ch. 244, sec. 1; L. 2000, ch. 121, sec. 2; L. 2001, ch. 5, sec. 174; L. 2006, ch. 114, sec. 1, L. 2010, ch. 17, sec. 91; July 1.

## **MINES AND MINING**

**49-408. Reclamation of land; regulations of secretary; public waters, extent.** All land affected by surface coal mining and reclamation operations, except as otherwise provided in this act, shall be reclaimed and all operations shall be conducted, in accordance with the requirements and specifications of the national surface mining control and reclamation act of 1977 (public law 95-87) and federal rules and regulations adopted pursuant thereto. The secretary shall issue such regulations as may be required to conform to the requirements of the national act.

All waters in existence on mined land after reclamation is completed shall become public waters to the extent they may be stocked with fish from the state or federal hatcheries and shall be under the law enforcement jurisdiction of the Kansas department of wildlife, parks and tourism. The owner of the mined land containing such waters shall retain all other rights consistent with the ownership thereof.

**History:** L. 1968, ch. 395, sec. 8; L. 1974, ch. 229, sec. 3; L. 1978, ch. 208, sec. 7; L. 1979, ch. 169, sec. 6; L. 1988, ch. 192, sec. 16; L. 2012, ch. 47, sec. 82; July 1.

## **INFORMATION ON PERSONAL AND REAL PROPERTY**

**58-3208. Same; prohibition of easements.** Nothing in the provisions of K.S.A. 58-3201 *et seq.*, and amendments thereto, shall be construed as the granting of an easement over such land by the owner thereof, nor as the granting of an easement over such land by adverse possession.

**History:** L. 2012, ch. 154, sec. 2; July 1.

**58-3214. Adjacent property owner's duty of care.** An adjacent property owner has no duty of care to: (a) Any person using a recreational trail, except that this subsection shall not relieve an adjacent property owner from liability for injury to another that is a direct result of such property owner's gross negligence or willful or wanton misconduct; or (b) any person entering such adjacent property owner's land by way of the recreational trail without implied or expressed permission or consent of the adjacent property owner, except that this subsection shall not relieve an adjacent property owner from liability for injury to another that is a direct result of an intentional or unlawful act of the adjacent property owner.

**History:** L. 1996, ch. 223, sec. 4; L. 2006, ch. 178, sec. 1; May 25.

**58-3215. Remedies for violations.** If the responsible party fails to comply with the provisions of this



act, any adjacent property owner, city or county aggrieved by the noncompliance may bring an action in the district court to enforce the provisions of this act. Upon a finding that the responsible party has failed to comply with the provisions of this act, the court may enter an order requiring the responsible party to comply with the provisions of this act.

**History:** L. 1996, ch. 223, sec. 5; L. 2006, ch. 178, sec. 2; May 25.

## **INFORMATION ON SPORT SHOOTING RANGES**

**58-3221. Sport Shooting Ranges; definitions.** As used in this act:

(a) “Generally accepted operation practice” means those safety practices adopted, pursuant to rules and regulations, by the Kansas department of wildlife, parks and tourism and established by a nationally recognized nonprofit membership organization that provides voluntary firearms safety programs which include training individuals in the safe handling and use of firearms and which practices are developed with consideration of all information reasonably available regarding the operation of shooting ranges.

(b) “Local unit of government” means a county, city, township or any other political subdivision of the state, or any agency, authority, institution or instrumentality thereof.

(c) “Person” means an individual, proprietorship, partnership, corporation, club, governmental entity or other legal entity.

(d) “Sport shooting range” or “range” means an area designed and operated for the use of archery, rifles, shotguns, pistols, semiautomatic firearms, skeet, trap, black powder or any other similar sport shooting.

**History:** L. 2001, ch. 185, sec. 4; L. 2012, ch. 47, sec. 83; July 1.

**58-3222. Same; conformants to generally accepted operation practices; application of law relating to noise control and nuisance.** (a) Notwithstanding any other provisions of law, and in addition to other protections provided in this act, a person who owns, operates, manages or uses a sport shooting range that conforms to generally accepted operation practices in the state is not subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution resulting from the operation or use of the range if the range is in compliance with any noise control laws or ordinances or resolutions that applied to the range and its operation at the time of construction and initial operation of the range.

(b) In addition to any civil protection provided by the act, a person who owns, operates, manages or uses a sport shooting range that conforms to generally accepted operation practices is not subject to an action for nuisance, and a court of the state shall not enjoin or restrain the use or operation of a range on the basis of noise or noise pollution, if the range is in compliance with any noise control laws or ordinances or resolutions that applied to the range and its operation at the time of construction or initial operation of the range.

(c) Rules or regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level which may occur in the outdoor atmosphere do not apply to a sport shooting range immune from liability under this act. However, this subsection does not constrict the application of any provision of generally accepted operation practices.

(d) A person who acquires title to real property adversely affected by the use of property with a permanently located and improved sport shooting range constructed and initially operated prior to the time the person acquires title shall not maintain a nuisance action on the basis of noise or noise pollution or based upon known or inherent dangers against the person who owns, operates or uses the range to restrain, enjoin, or impede the use of the range. This section does not prohibit actions for negligence or recklessness in the operation of the range.

**History:** L. 2001, ch. 185, sec. 6; July 1.

**58-3223. Same; application of local law.** (a) A sport shooting range that is operated and is not in violation of state law at the time of the enactment of an ordinance or resolution shall be permitted to continue in operation even if the operation of the sport shooting range at a later date does not conform to the new ordinance or resolution or amendment to an existing ordinance or resolution.

(b) A sport shooting range that is in existence as of the effective date of this act and operates in compliance with generally accepted operation practices, even if not in compliance with an ordinance or resolution of a local unit of government, shall be permitted to do all of the following within its preexisting geographic boundaries if in compliance with generally accepted operation practices:

(1) Repair, remodel or reinforce any improvement or facilities or building or structure as may be necessary in the interest of public safety or to secure the continued use of the building or improvement;

(2) reconstruct, repair, rebuild or resume the use of a facility or building damaged by fire, collapse, explosion, act of God or act of war occurring after the effective date of this act. The reconstruction, repair or restoration shall be completed within one year following the date of the damage or settlement of any property damage claim. If reconstruction, repair or restoration is not completed within one year as provided in this subsection, such reconstruction, repair or restoration may be terminated in the discretion of the local unit of government; or

(3) do anything authorized under generally accepted operation practices, including, but not limited to:

(A) Expand or enhance its membership or opportunities for public participation; and

(B) reasonably expand or increase facilities or activities.

**History:** L. 2001, ch. 185, sec. 6; July 1.

**58-3224. Same; regulations by local governments; taking of range for certain uses prohibited.**

(a) Except as otherwise provided, the provisions of this act shall not prohibit a local unit of government from regulating the location and construction of a sport shooting range.

(b) No person or governmental entity may take title to property which has a permanently located and improved sport shooting range, by condemnation, eminent domain or similar process when the proposed use of said property would be for shooting related activities or recreational activities or for private or commercial development. However, this provision does not limit governmental exercise of eminent domain or easement necessary for infrastructure additions or improvements, such as highways, waterways or utilities.

**History:** L. 2001, ch. 185, sec. 7; July 1.

**58-3225. Same; rules and regulations.** The secretary of the Kansas department of wildlife, parks and tourism is hereby authorized to adopt rules and regulations necessary to implement the provisions of this act. Rules and regulations establishing generally accepted operation practices shall be adopted and be in effect on or before January 1, 2002.

**History:** L. 2001, ch. 185, sec. 185, sec. 8; L. 2012, ch. 47, sec. 84, July 1.

## **INFORMATION ON SELF SERVICE STORAGE ACT-RENTAL FACILITIES/ABANDONED PROPERTIES**

### **58-814**

#### **Chapter 58.--PERSONAL AND REAL PROPERTY**

##### **Article 8.--MISCELLANEOUS PROVISIONS**

**58-814. Definitions.** In the self-service storage act the following words shall mean the following:

(a) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a self-service basis.

(b) "Rental agreement" means any written statement that establishes or modifies the terms, conditions or rules concerning the use and occupancy of a self-service storage facility.

(c) "Leased space" means the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement.

(d) "Occupant" means a person, a sublessee, successor or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement.

(e) "Operator" means the owner, operator, lessor or sublessor of a self-service storage facility, an agent or any other person authorized to manage the facility, except that "operator" does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

(f) "Personal property" means movable property, not affixed to land, and "personal property" includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, household items and furnishings.

(g) "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.

(h) "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

(i) "Late fee" means a fee or charge assessed by an operator for an occupant's failure to pay rent when due. A late fee is not interest on a debt, nor is a late fee a reasonable expense that the operator may incur in the course of collecting unpaid rent in enforcing the operator's lien right pursuant to K.S.A. 58-814, et seq., and amendments thereto, or enforcing any other remedy provided by statute or contract.

**History:** L. 1983, ch. 187, § 3; L. 2005, ch. 113, § 1; July 1.

**58-815. Storage facility not to be used for residential purposes.** (a) An operator may not knowingly permit a leased space at a self-service storage facility to be used for residential purposes.

(b) An occupant may not use a leased space for residential purposes.

(c) An operator may enter leased space at times reasonably necessary.

**History:** L. 1983, ch. 187, § 4; July 1.

**58-816. Operator to have lien on stored property; rental agreement.** (a) The operator of a self-service storage facility has a lien on all personal property stored within each leased space for rent, labor or other charges, and for expenses reasonably incurred in its sale, as provided in the self-service storage act.

(b) The rental agreement shall contain a statement, in bold type, advising the occupant:

(1) Of the existence of the lien;

(2) that property stored in the leased space may be sold to satisfy the lien if the occupant is in default; and

(3) that any proceeds from the sale of the property which remain after satisfaction of the lien will be paid to the state treasurer if unclaimed by the occupant within one year after sale of the property.

**History:** L. 1983, ch. 187, § 5; July 1.

**58-816a. Late fees; rental agreement provision required.** (a) An operator may impose a reasonable late fee, as defined in K.S.A. 58-814, and amendments thereto, for each month an occupant does not pay rent when it is due, in an amount not to exceed \$20 per month or 20% of the monthly rental amount, whichever is greater, for each late rental payment. An operator may set a late fee at a rate other than the rate provided for in this section if it is reasonable. The operator has the burden of proving that a higher late fee is reasonable.

(b) Any late fee charged by the operator shall be stated in the rental agreement. No late fee shall be collected unless it is provided for in the rental agreement, as defined in K.S.A. 58-814, and amendments thereto, or in an addendum to the rental agreement.

(c) The operator may recover all reasonable rent collection and lien enforcement expenses from the occupant in addition to any late fees imposed.

(d) This section shall be part of and supplemental to the self-service storage act.

**History:** L. 2005, ch. 113, § 2; July 1.

**58-817. Sale of stored property; procedure; redemption; notices.** (a) (1) If the occupant is in default for a period of more than 45 days, the operator may enforce the lien by selling the property stored in the leased space for cash. Sale of the property stored on the premises may be by public or private proceedings and may also be as a unit or in parcels, or by way of one or more contracts and at any time or place, and on any terms as long as the sale is commercially reasonable. The operator may otherwise dispose of any property which has no commercial value.

(2) The proceeds of such sale shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (d).

(b) Before conducting a sale under subsection (a), the operator shall:

(1) Notify the occupant of the default by first-class mail at the occupant's last-known address;

(2) send a second notice of default, not less than seven days after the notice required by subsection (b)(1), by restricted mail to the occupant at the occupant's last-known address which includes:

(A) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(B) a statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of release for sale and the date those additional charges shall become due;

(C) a demand for payment of the charges due within a specified time, not less than 10 days after the date of the notice;

(D) a statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold after a specified time; and

(E) the name, street address and telephone number of the operator, or a designated agent whom the occupant may contact to respond to the notice.

(3) At least seven days before the sale, advertise the time, place and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held. Such advertisement shall be in the classified section of the newspaper. The ad shall state the items that will be released for sale.

(c) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(d) If a sale is held under this section, the operator shall:

(1) Satisfy the lien from the proceeds of the sale; and

(2) hold the balance, if any, for delivery on demand to the occupant or any other recorded lienholders for a period of one year after receipt of proceeds of the sale and satisfaction of the lien. Thereafter, the proceeds remaining after satisfaction of the lien shall be considered abandoned property to be reported and paid to the state treasurer in accordance with the disposition of unclaimed property act.

(e) A purchaser in good faith of any personal property sold under the self-service storage act takes the property free and clear of any rights of:

(1) Persons against whom the lien was valid; and

(2) other lienholders.

(f) If the operator complies with the provisions of the self-service storage act, the operator's liability:

(1) To the occupant shall be limited to the net proceeds received from the sale of the personal property, and

(2) to other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by the other lien.

(g) If an occupant is in default, the operator may deny the occupant access to the leased space.

(h) Unless otherwise specifically provided, all notices required by the self-service storage act shall be sent by restricted mail. Notices sent to the operator shall be sent to the self-service storage facility where the occupant's property is stored. Notices to the occupant shall be sent to the occupant at the occupant's last-known address. Notices shall be deemed delivered when deposited with the United States postal service, properly addressed as provided in subsection (b), with postage prepaid.

**History:** L. 1983, ch. 187, § 6; L. 1984, ch. 204, § 1; April 26.

**58-818. Care, custody and control of stored property vested in occupant; exceptions.** Unless the rental agreement specifically provides otherwise and until a lien sale under the self-service storage act, the exclusive care, custody and control of all personal property stored in the leased self-service storage space remains vested in the occupant.

**History:** L. 1983, ch. 187, § 7; July 1.

**58-819. Rental agreements entered into prior to July 1, 1983.** All rental agreements, entered into before July 1, 1983, which have not been extended or renewed after that date, shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this state.

**History:** L. 1983, ch. 187, § 8; July 1.

## **PUBLIC HEALTH**

**65-189e. Act inapplicable to certain lands.** The provisions of this act shall not apply to:

(a) Land used exclusively for agricultural purposes as defined in this act or to land under the control of the Kansas department of wildlife, parks and tourism, but the department shall not develop any land under its control without providing water, sewage disposal and refuse disposal facilities that are in conformity with these standards and have submitted plans therefor to the secretary of health and environment and obtained the secretary's approval;

(b) subdivisions platted and approved by the board of county commissioners prior to August 1, 1965, except that this exemption shall not be extended to any construction other than a single family residence and shall not permit violation of any local ordinance or code or the creation of any condition that is detrimental to the health or property of an adjacent property owner; or

(c) land subject to a sanitary code or codes as defined in K.S.A. 19-3701 through 19-3708, and amendments thereto, which contain provisions for control of the subsurface disposal of sewage, supplying of water from on-lot wells and the disposal of refuse, if the county, city-county or multicounty health department enforcing such sanitary codes shall furnish to the secretary of health and environment such information as the secretary may require concerning the number and types of such sewage, water and refuse facilities installed in the sanitation zone.

**History:** L. 1969, ch. 294, sec. 6; L. 1974, ch. 352, sec. 57; L. 1980, ch. 182, sec. 24; L. 1989, ch. 118, sec. 177; L. 2012, ch. 47, sec. 85; July 1.

**65-3424b. Permits and standards.** (a) The secretary shall establish a system of permits for mobile waste tire processors, waste tire processing facilities, waste tire transporters and waste tire collection

centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall adopt rules and regulations establishing standards for mobile waste tire processors, waste tire processing facilities, waste tire collection centers and waste tire transporters. Such standards shall include a requirement that the permittee file with the secretary a bond or other financial assurance in an amount determined by the secretary to be sufficient to pay any costs which may be incurred by the state to process any waste tires or dispose of any waste tires or processed waste tires if the permittee ceases business or fails to comply with this act.

(c) Any person who contracts or arranges with another person to collect or transport waste tires for storage, processing or disposal shall so contract or arrange only with a person holding a permit from the secretary. Any person contracting or arranging with a person, permitted by the secretary, to collect or transport waste tires for storage, processing or, disposal, transfers ownership of those waste tires to the permitted person and the person contracting or arranging with the person holding such permit to collect or transport such tires shall be released from liability therefor. Any person contracting or arranging with any person, for the collection, transportation, storage, processing, disposal or beneficial use of such tires shall maintain a record of such transaction for a period of not less than three years following the date of the transfer of such tires. Record-keeping requirements for beneficial use shall not apply when tire retailers allow customers to retain their old tires at the time of sale.

(d) The owner or operator of each site that contains a waste tire, used tire or new tire accumulation of any size must control mosquito breeding and other disease vectors.

(e) No person shall own or operate a waste tire processing facility or waste tire collection center or act as a mobile waste tire processor or waste tire transporter unless such person holds a valid permit issued therefor pursuant to subsection (a), except that:

(1) A tire retreading business where fewer than 1,500 waste tires are kept on the business premises may operate a waste tire collection center on the premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles where fewer than 1,500 of these tires are kept on the business premises may operate a waste tire collection center or a waste tire processing facility or both on the premises;

(3) a retail tire-selling business where fewer than 1,500 waste tires are kept on the business premises may operate a waste tire collection center or a waste tire processing facility or both on the premises;

(4) the Kansas department of wildlife, parks and tourism may perform one or more of the following to facilitate a beneficial use of waste tires: (A) Operate a waste tire collection center on the premises of any state park, state wildlife area, or state fishing lake; (B) operate a waste tire processing facility on the premises of any state park, state wildlife area, or state fishing lake; or (C) act as a waste tire transporter to transport waste tires to any state park, state wildlife area, or state fishing lake;

(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, may perform one or more of the following to facilitate a beneficial use of waste tires: (A) Operate an on-site waste tire collection center; (B) operate an on-site waste tire processing facility; or (C) act as a waste tire transporter to transport waste tires to the farm, ranch or the feedlot;

(6) a watershed district may perform one or more of the following to facilitate a beneficial use of waste tires: (A) Operate a waste tire collection center on the premises of a watershed district project or work of improvement; (B) operate a waste tire processing facility on the district's property; or (C) act as a waste tire transporter to transport waste tires to the district's property;

(7) a person may operate a waste tire collection center if: (A) Fewer than 1,500 used tires are kept on the premises; or (B) 1,500 or more used tires are kept on the premises, if the owner demonstrates through sales and inventory records that such tires have value, as established in accordance with

standards adopted by rules and regulations of the secretary;

(8) local units of government managing waste tires at solid waste processing facilities or solid waste disposal areas permitted by the secretary under the authority of K.S.A. 65-3407, and amendments thereto, may perform one or more of the following in accordance with the conditions of the solid waste permit: (A) Operate a waste tire collection center on the premises of the permitted facility; (B) operate a waste tire processing facility on the premises of the permitted facility; (C) act as a waste tire transporter to transport waste tires to the permitted facility; or (D) act as a mobile waste tire processor;

(9) a person may act as a waste tire transporter to transport: (A) Waste tires mixed with other municipal solid waste; (B) fewer than five waste tires for lawful disposal; (C) waste tires generated by the business, farming activities of the person or the person's employer; (D) waste tires for a beneficial use approved by statute, rules and regulations, or by the secretary; (E) waste tires from an illegal waste tire accumulation to a person who has been issued a permit by the secretary pursuant to K.S.A. 65-3407 or 65-3424b, and amendments thereto, provided approval has been obtained from the secretary; or (F) five to 50 waste tires for lawful disposal, provided the transportation act is a onetime occurrence to abate a legal accumulation of waste tires; or

(10) a tire retailer that in the ordinary course of business also serves as a tire wholesaler to other tire retailers may act as a waste tire transporter to transport waste tires from those retailers back to a central location owned or operated by the wholesaler for consolidation and final disposal or recycling.

(f) All fees collected by the secretary pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the waste tire management fund.

**History:** L. 1990, ch. 319, sec. 3; L. 1991, ch. 197, sec. 3; L. 1996, ch. 173, sec. 3; L. 2001, ch. 5, sec. 245; L. 2001, ch. 167, sec. 3; L. 2003, ch. 130, sec. 18; L. 2012, ch. 47, sec. 86; July 1.

## **SOLID AND HAZARDOUS WASTE**

**65-3483. Regulation of PCB disposal facilities; procedure for approval by secretary of disposal facility; timetable for consideration; notice requirements; considerations required.** (a) If, within 150 days after receipt of an application, the secretary has not denied the application, the secretary shall notify the board of county commissioners and the governing bodies of all cities located within a 10-mile radius of the proposed facility. The secretary also shall notify the state corporation commission and the secretary of wildlife, parks and tourism of the proposed facility.

(b) If the secretary determines that such application should be approved, the secretary shall immediately notify the county commissioners and the governing bodies of all cities located within a 10-mile radius of the proposed facility.

(c) Within 10 days after the secretary has determined that such application should be approved, the secretary shall:

(1) Set a date and arrange for publication of notice of a public hearing in a newspaper having major circulation in the vicinity of the proposed facility. Such hearing shall be in the county in which the proposed facility will be located. Additional hearings may be held at such other places as the secretary deems suitable. At such hearing or hearings, the applicant may present testimony in favor of the application. Any person may appear or be represented by counsel to present testimony in support of or opposition to the application. The public notice shall:

(A) Contain a map indicating the location of the proposed facility, a description of the proposed action and the location where the application may be reviewed and where copies may be obtained.

(B) Identify the time, place and location for the public hearing held to receive public comment and input on the application.

- (2) Publish the notice not less than 30 days before the date of the public hearing.
- (d) Comment and input on the proposed facility may be presented orally or in writing at the public hearing, and shall continue to be accepted in writing by the secretary for 15 days after the public hearing date.
- (e) The secretary shall consider the impact of the proposed facility on the surrounding area in which it is to be located and make a final determination on the application.
- (f) The secretary shall consider, at a minimum:
- (1) The risk and impact of accident during the transportation of PCB;
  - (2) the risk and impact of contamination of ground and surface water by leaching and runoff from the proposed facility;
  - (3) the risk of fires or explosions from improper storage and disposal methods;
  - (4) the impact on the surrounding area where the proposed facility is to be located in terms of the health, safety, cost and consistency with local planning and existing development. The secretary also shall consider local ordinances, permits or other requirements and their potential relationship to the proposed facility;
  - (5) an evaluation of measures to mitigate adverse effects;
  - (6) the nature of the probable environmental impact including the specification of the predictable adverse effects on the following:
    - (A) The natural environment and ecology;
    - (B) public health and safety;
    - (C) scenic, historic, cultural and recreational value; and
    - (D) water and air quality and wildlife.
- (g) The secretary also shall consider the concerns and objections submitted by the public. The secretary shall facilitate efforts to provide that the concerns and objections are mitigated by establishing additional stipulations specifically applicable to the proposed site and operation at that site. The secretary, to the fullest extent practicable, shall integrate by stipulation the provisions of the local ordinances, permits or requirements.
- (h) The secretary may seek the advice, which shall be given in writing and entered into the public record of the public hearing, of any person in order to render a decision to approve or deny the application.
- (i) The public hearing required under subsection (c) shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

**History:** L. 1986, ch. 226, sec. 4; L. 1989, ch. 118, sec. 178; L. 1992, ch. 192, sec. 10; L. 2004, ch. 145, sec. 25; L. 2012, ch. 47, sec. 87; July 1.

## **EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW**

**65-5703. State emergency response commission created; membership; terms compensation and expenses; duties.** (a) There is hereby created the state emergency response commission for the purpose of carrying out all requirements of the federal act and for the purpose of providing assistance in the coordination of state agency activities relating to: (1) Chemical emergency training, preparedness, and response; and (2) chemical release reporting and prevention, transportation, manufacture, storage, handling, and use.

(b) The commission shall consist of: (1) The following state officers or their appointed designees: The lieutenant governor, the secretary of wildlife, parks and tourism, the secretary of labor, the secretary of agriculture, the secretary of health and environment, the adjutant general, the superintendent of the Kansas highway patrol, the state fire marshal, the secretary of transportation, the attorney general, the chairperson of the state corporation commission, and the governor; (2) three members appointed by the governor to represent the general public; and (3) two members appointed by the governor to represent



owners and operators of facilities regulated pursuant to this act.

(c) Members of the commission appointed by the governor shall serve for terms of two years. Any vacancy in the office of an appointed member of the commission shall be filled for the unexpired term by appointment by the governor.

(d) A chairperson shall be elected annually by the members of the commission. A vice-chairperson shall be designated by the chairperson to serve in the absence of the chairperson.

(e) Members of the commission attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(f) The commission shall perform such duties as are specified in the federal act to be performed by such commissions and, in addition thereto, such duties as are specified in the laws of this state or as are deemed necessary and appropriate by the commission to achieving its purposes. In accordance with the requirements of the federal act, the commission shall establish local planning districts, subject to approval by the secretary of health and environment and the adjutant general, and shall appoint a local planning committee for each such district. Local planning committees shall perform such duties as are specified in the federal act to be performed by such committees, and in addition thereto, such duties as are assigned by the commission or by any member of the commission acting on behalf of or at the direction of the commission, or as are deemed necessary and appropriate by each such committee to achieving its purposes. The duties of the commission and the local planning committees shall be performed in accordance with rules and regulations adopted pursuant to this act.

**History:** L. 1987, ch. 231, sec. 3; L. 1991, ch. 202, sec. 1; L. 2004, ch. 179, sec. 91; L. 2005, ch. 186, sec. 17; L. 2012, ch. 47, sec. 88; July 1.

## STATE HIGHWAYS

**68-406. Designation of highways in state system; total mileage, exclusions; revision and classification; connecting links and detours; direct routes to certain facilities and institutions; roads in state parks; posting speed limits and establishing facilities on certain streets and roads; temporary road closings.** (a) The secretary of transportation shall designate, adopt and establish and may lay out, open, relocate, alter, vacate, remove, redesignate and reestablish highways in every county in the state, the total mileage of which shall not exceed 10,000 miles. The total mileage of such highways in each county shall be not less than the sum of the north to south and east to west diameters of the county. The highways so designated shall connect the county seats and principal cities and market centers, and all such highways, including bridges and culverts thereon, shall comprise the state highway system. The secretary of transportation shall make such revisions, classifications or reclassifications in the state highway system as are found on the basis of engineering and traffic study to be necessary, and such revisions, classifications or reclassifications may include, after due public hearing, removal from the system of roads which have little or no statewide significance, and the addition of roads which have statewide importance and will provide relief for traffic congestion on existing routes on the system. All roads which have been placed upon the state highway system shall be a part of the state highway system, but changes may be made in the state highway system when the public safety, convenience, economy, classification or reclassification require such change. The total mileage of the state highway system shall not be extended except by act of the legislature. Highways designated under this section shall be state highways, and all other highways outside of the city limits of cities shall be either county roads or township roads as provided for by law. The state highway system thus designated shall be constructed, improved, reconstructed and maintained by the secretary of transportation from funds provided by law.

(b) In addition to highways of the state highway system, the secretary of transportation shall designate in those cities on such system certain streets as city connecting links. "City connecting link" means a routing inside the city limits of a city which: (1) Connects a state highway through a city; (2) connects a state highway to a city connecting link of another state highway; (3) is a state highway which terminates within such city; (4) connects a state highway with a road or highway under the jurisdiction of the Kansas turnpike authority; or (5) begins and ends within a city's limits and is designated as part of the national system of interstate and defense highways.

(c) The secretary of transportation may mark and maintain existing roads as detours, but detour roads shall not be a part of the state highway system, except that such roads shall be marked and maintained by the secretary of transportation only until that portion of the state highway system for which such road is substituted is completed and open for travel.

(d) The secretary of transportation may use moneys appropriated from the state highway fund for the purchase of right-of-way, construction, improvement, reconstruction and maintenance of a highway over the most direct and practicable routes from state highways to a state lake, a federal lake or reservoir established by federal authority, any property managed or controlled by the Kansas department of wildlife, parks, and tourism, national monuments and national historical sites, military reservations, motor carrier inspection stations, approaches and connections within an urban area, as defined by federal highway laws, places of major scenic attractions which possess unusual historical interest, as defined by subsections (1) and (2) of K.S.A. 76-2018, and amendments thereto, on which the state now holds or may hereafter hold a long-term lease, a state institution, from the city limits of the nearest city to a state institution, a state-owned natural and scientific preserve, as defined by subsection (b) of K.S.A. 74-6603, and amendments thereto, or such road or roads located within the boundaries of a state park and not presently maintained by a federal agency as shall be designated by the secretary of transportation. Such highways or roads shall not be a part of the state highway system, and the secretary of transportation is not required to plan, design or construct such highways or roads in conformity with the standards applicable to the state highway system.

(e) The secretary of transportation may make reroutings of any portion of the state highway system if such rerouting is required in writing by the United States department of transportation of the federal highway administration before it will permit federal funds to be used thereon. The secretary of transportation shall have control and regulation for purposes of posting speed limits and establishing access and egress facilities on any and all portions of streets and roads which are, or have been, a part of the state highway system, and which have been or may be, placed inside of the limits of an incorporated city by the creation of a new municipality or by the extension of the limits or boundaries of any existing municipality.

(f) Except pursuant to article 21 of chapter 68 of Kansas Statutes Annotated, only the secretary of transportation may authorize temporary closing of any part of the state highway system by any person for any purpose in the interest of the state. Every authorization granted under this subsection shall be granted subject to conditions specified by the secretary to provide for: (1) proper detours, signing and markings,; (2) timing which will not unreasonably inconvenience the public,; and (3) such additional conditions as are appropriate to avoid unreasonable risk of injury to any person. Such requests shall be made in writing and submitted to the secretary at least five days prior to the closing date. In emergencies, temporary closing may be authorized by the secretary by oral communications. The secretary may waive all or any part of the notice otherwise required by this subsection. Except as provided in subsection (g), any person failing or neglecting to comply with the provisions of this subsection, upon conviction, shall be guilty of a nonperson unclassified misdemeanor.

(g) In cases of sudden emergency, temporary closing of any part of the state highway system may be authorized by order of a person designated by the board of county commissioners for an area outside of any city or a person designated by the governing body of a city for an area

within such city. In such cases of sudden emergency the person authorizing such closing shall inform the secretary of transportation thereof as soon as practicable and obtain the authorization of the secretary for any additional time thereafter for such closing.

**History:** L. 1927, ch. 255, sec. 6; L. 1929, ch. 225, sec. 3; L. 1933, ch. 97, sec. 1 (Special Session); L. 1935, ch. 245, sec. 1; L. 1937, ch. 285, sec. 1; L. 1949, ch. 344, sec. 1; L. 1953, ch. 300, sec. 1; L. 1961, ch. 302, sec. 1; L. 1972, ch. 245, sec. 1; L. 1975, ch. 350, sec. 1; L. 1975, ch. 427, sec. 85; L. 1978, ch. 271, sec. 3; L. 1981, ch. 263, sec. 1; L. 1984, ch. 251, sec. 1; L. 1984, ch. 293, sec. 6; L. 1984, ch. 252, sec. 1; L. 1988, ch. 269, sec. 1; L. 1989, ch. 118, sec. 179, L. 1993, ch. 124, sec. 1; L. 2012, ch. 47, sec. 89; July 1.

## INFORMATION ON SALVAGE

### Chapter 70.--SALVAGE

#### Article 1.--GENERAL PROVISIONS

**70-101. Taking up boat, raft or timber.** When any boat, raft, lumber, staves, shingles, logs, rails, posts, cordwood or other valuable timber shall be lost or wrecked upon any river or creek any person may take up and secure the same.

**History:** L. 1869, ch. 85, § 1; Feb. 25; R.S. 1923, 70-101.

**70-102. Return to owner on proof of right; premium cost.** When any person shall claim such property and shall prove his right to the same before any judge of a court of competent jurisdiction in the county where said property was taken up, the same shall be restored to such owner upon the payment to salvor of a premium for salvage equal to ten percent (10%) of the valuation of such property, to be determined by such judge, if not agreed upon by such owner and salvor, and the legal costs of proceedings

**History:** L. 1869, ch. 85, § 2; L. 1873, ch. 127, § 1; R.S. 1923, 70-102; L. 1973, ch. 134, § 54; July 1, 1974.

**70-103. Oath of salvor; sale of property, when; notice; disposition of proceeds.** Within two (2) days after the taking up and securing of any such wrecked property, the salvor shall make oath before a judge of a court of competent jurisdiction of the county in which such property is taken up or secured, that the property was lost or wrecked, and in a perishable condition, and that he or she was not directly or indirectly instrumental in causing the property to be so wrecked or lost, and also the quantity, quality and estimated value of such property, and the time and place of taking up, and that he or she has not disposed of or secreted any part of the same.

If such property be not claimed and proved by the owner within ten (10) days after the filing of such affidavit, such judge, on the application of such salvor, shall issue a warrant directed to the sheriff of such county directing the sheriff to sell the same at vendue, first giving ten (10) days' notice by three (3) advertisements, put up in public places within the county, of the time and place of sale; and if such property be not claimed and proved by the owner, and the salvage and costs paid, then such property shall be sold, and the proceeds shall be returned to such judge, who shall pay to the proper parties the salvage and the costs of proceedings, and the remainder, if any, shall be paid to the state treasurer as provided in K.S.A. 20-2801, and any amendments thereto, unless the owner shall make proof of his or her right to the same within three (3) months. If the name or initial of the owner of any log, tow, or other property, be plainly marked or branded thereon, then the salvor shall in addition to the foregoing proceedings also give notice to the owner, if known from such mark or brand.

**History:** L. 1869, ch. 85, § 8; L. 1873, ch. 127, § 2; R.S. 1923, 70-103; L. 1974, ch. 446, § 22; L. 1978, ch. 105, § 28; Jan. 1, 1979.

**70-104. Penalty for violations.** If any person shall retain, sell or dispose of any such property wrecked, lost or adrift, without complying with each and all of the requirements of this act, such person shall be deemed guilty of the larceny of such property, and on conviction thereof shall be punished as for the unlawful taking, stealing and carrying away of such property.

**History:** L. 1869, ch. 85, § 9; L. 1873, ch. 127, § 3; April 4; R.S. 1923, 70-104.

**73-3301. State marine fossil.** Tylosaurus, a giant mosasaur which inhabited the great inland sea that covered portions of Kansas during the cretaceous period of the mesozoic era and grew to lengths of more than 40 feet, is hereby designated as the official marine fossil of the state of Kansas.

**History:** L. 2014, ch. 22, sec. 1; July 1.

**73-3401. State flying fossil.** Pteranodon, a great, winged pterosaur with a wingspread of more than 24 feet, which flew the skies of Kansas during the cretaceous period of the mesozoic era, is hereby designated as the official flying fossil of the state of Kansas.

**History:** L. 2014, ch. 22, sec. 2; July 1.

## **STATE BOARDS, COMMISSIONS AND AUTHORITIES**

**74-5,133. Arkansas river gaging fund; expenditures; funding.** (a) (1) There is hereby established in the state treasury the Arkansas river gaging fund, which shall be administered by the secretary of agriculture. All expenditures from the Arkansas river gaging fund shall be for the operation and maintenance of the gages along the Arkansas river necessary to manage the river under the Arkansas river compact, except that, after all expenditures are made during the fiscal year for the operation and maintenance of the gages along the Arkansas river necessary to manage the river under the Arkansas river compact, then, in accordance with the following priorities and subject to the expenditure limitations prescribed therefor:

(A) First, any remaining moneys authorized to be expended from the fund for the fiscal year shall be expended for the purposes of livestock market reporting in an amount not to exceed \$20,000 in a fiscal year; and

(B) second, if there are any remaining moneys authorized to be expended from the fund for the fiscal year after the expenditures for livestock market reporting, then expenditures shall be made from the fund for the purpose of funding the bluestem pasture report in an amount not to exceed \$5,000.

(2) All expenditures from the Arkansas river gaging fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of agriculture or the designee of the secretary of agriculture.

(b) All moneys received as royalties from the state's oil and gas leases in Hamilton, Kearny, Finney, Gray and Ford counties, except those moneys arising from leases on lands under the control of the secretary of wildlife, parks, and tourism as provided by K.S.A. 32-854, and amendments thereto, shall be deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the Arkansas river gaging fund. During each fiscal year, when the total amount of moneys credited to the fund is equal to \$75,000, no further moneys shall be credited to the fund. The remainder of the moneys received for such royalties for such fiscal year shall be credited to the state general fund.

**History:** L. 2011, ch. 89, sec. 29; L. 2012, ch. 47, sec. 91; July 1.

**74-134. Same; books, records and property of joint council on recreation transferred to department of wildlife and parks.** On July 1, 1988, all books, records and other property of the joint council on recreation abolished by K.S.A. 74-131, and amendments thereto, are

hereby transferred to the custody of the state Kansas department of wildlife, parks and tourism.

**History:** L. 1988, ch. 301, sec. 4; L. 2012, ch. 47, sec. 90; July 1.

**74-2622. Kansas water authority; membership; appointment; qualifications; terms; compensation and allowances; powers and duties; application of K-GOAL.** (a) There is hereby established within and as a part of the Kansas water office the Kansas water authority. The authority shall be composed of 24 members of whom 13 shall be appointed as follows:

(1) One member shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, such person shall not exercise any power, duty or function as a member or chairperson of the water authority until confirmed by the senate. Such member shall serve at the pleasure of the governor and shall be the chairperson of the authority; (2) except as provided by subsection (b), 10 members shall be appointed by the governor for terms of four years. Of the members appointed under this provision one shall be a representative of large municipal water users, one shall be representative of small municipal water users, one shall be a board member of a western Kansas groundwater management district, one shall be a board member of a central Kansas groundwater management district, one shall be a member of the Kansas association of conservation districts, one shall be representative of industrial water users, one shall be a member of the state association of watershed districts, one shall have a demonstrated background and interest in water use conservation and environmental issues, and two shall be representative of the general public. The member who is representative of large municipal water users shall be appointed from three nominations submitted by the league of Kansas municipalities. The member who is representative of small municipal water users shall be appointed from three nominations submitted by the Kansas rural water district's association. The member who is representative of a western Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 1, 3 and 4. The member who is representative of a central Kansas groundwater management district shall be appointed from three nominations submitted by the presidents of the groundwater management district boards No. 2 and 5. The member who is representative of industrial water users shall be appointed from three nominations submitted by the Kansas association of commerce and industry. The member who is representative of the state association of watershed districts shall be appointed from three nominations submitted by the state association of watershed districts. The member who is representative of the Kansas association of conservation districts shall be appointed from three nominations submitted by the state association of conservation districts. If the governor cannot make an appointment from the original nominations, the nominating authority shall be so advised and, within 30 days thereafter, shall submit three new nominations. Members appointed by the governor shall be selected with special reference to training and experience with respect to the functions of the Kansas water authority, and no more than six of such members shall belong to the same political party; (3) one member shall be appointed by the president of the senate for a term of two years; and (4) one member shall be appointed by the speaker of the house of representatives for a term of two years. The state geologist, the state biologist, the chief engineer of the division of water resources of the Kansas department of agriculture, the director of the division of environment of the department of health and environment, the chairperson of the state corporation commission, the secretary of commerce, the director of the Kansas water office, the secretary of wildlife, parks and tourism, the administrative officer of the state conservation commission, the secretary of agriculture and the director of the agricultural experiment stations of Kansas state university of agriculture and applied science shall be nonvoting members ex officio of the authority. The director of the Kansas water office shall serve as the secretary of the authority.

(b) A member appointed pursuant to subsection (a)(2) shall be appointed for a term expiring on January 15 of the fourth calendar year following appointment and until a successor is appointed and qualified.

(c) In the case of a vacancy in the appointed membership of the Kansas water authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Appointed members of the authority attending regular or special meetings thereof shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(d) The Kansas water authority shall:

(1) Consult with and be advisory to the governor, the legislature and the director of the Kansas water office.

(2) Review plans for the development, management and use of the water resources of the state by any state or local agency.

(3) Make a study of the laws of this state, other states and the federal government relating to conservation and development of water resources, appropriation of water for beneficial use, flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream and stream pollution for the purpose of determining the necessity or advisability of the enactment of new or amendatory legislation in this state on such subjects.

(4) Make recommendations to other state agencies and political subdivisions of the state for the coordination of their activities relating to flood control, construction of levees, drainage, irrigation, soil conservation, watershed development, stream control, gauging of stream, stream pollution and groundwater studies.

(5) Make recommendations to each regular session of the legislature and to the governor at such times as the authority considers advisable concerning necessary or advisable legislation relating to any of the matters or subjects which it is required by this act to study for the purpose of making recommendations to the legislature. All such recommendations to the legislature shall be in drafted bill form together with such explanatory information and data as the authority considers advisable.

(6) Approve, prior to submission to the legislature by the Kansas water office or its director; (A) Any contract entered into pursuant to the state water plan storage act; (B) any amendments to the state water plan or the state water planning act; and (C) any other legislation concerning water resources of the state.

(7) Approve, before they become effective, any policy changes proposed by the Kansas water office concerning the pricing of water for sale pursuant to the state water plan storage act.

(8) Approve, before it becomes effective, any agreement entered into with the federal government by the Kansas water office.

(9) Request any agency of the state, which shall have the duty upon that request, to submit its budget estimate pertaining to the state's water resources and any plans or programs related thereto and, upon the authority's receipt of such budget estimate, review and evaluate it and furnish recommendations relating thereto to the governor and the legislature.

(10) Approve, prior to adoption by the director of the Kansas water office, rules and regulations authorized by law to be adopted.

(11) Approve, prior to adoption by the director of the Kansas water office, guidelines for conservation plans and practices developed pursuant to subsection (c) of K.S.A. 74-2608, and amendments thereto.

(e) The Kansas water authority may appoint citizens' advisory committees to study and advise on any subjects upon which the authority is required or authorized by this act to study or make recommendations.

(f) The provisions of the Kansas governmental operations accountability law apply to the Kansas water

authority, and the authority is subject to audit, review and evaluation under such law.

**History:** L. 1981, ch. 302, sec. 10; L. 1981, ch. 299, sec. 42; L. 1982, ch. 347, sec. 35; L. 1982, ch. 311, sec. 1; L. 1982, ch. 312, sec. 4; L. 1986, ch. 396, sec. 10; 1990, ch. 276, sec. 1; L. 1992, ch. 116, sec. 36; L. 1993, ch. 216, sec. 1; L. 1995, ch. 241, sec. 10; L. 2000, ch. 29, sec. 2; L. 2003, ch. 154, sec. 27; L. 2004, ch. 101, sec. 128; L. 2005, ch. 186, sec. 18; L. 2012, ch. 47, sec. 92; July 1.

**74-3322. Conveyance of certain real estate to city of Oberlin.** (a) The state forestry, fish and game commission is hereby empowered and directed to convey by quitclaim deed, without consideration, to the city of Oberlin, Kansas, all of the following described real estate located in Decatur county, Kansas, to wit:

All that part of the E1/2 SE1/4 Sec. 31 and all that part of the W1/2 W1/2 SW1/4 Sec. 32, Twp. 2, South, Range 28, West 6th P.M. lying North of the C.B.&Q. Railroad Right-of-Way. Containing 112 acres more or less.

The SW1/4 NW1/4 Sec. 32, Twp. 2 South, Range 28 West 6th P.M. Also a tract of land out of the SW1/4 NE1/4 Sec. 31, Twp. 2 South, Range 28 West 6th P.M. more particularly described as follows: Beginning at the southeast corner of the SW1/4 NE1/4 of said Sec. 31, thence north parallel with the East line of Sec. 31, 405 feet, thence in a southwesterly direction 114713' a distance of 1003 feet to intersect the south line of said NE1/4, this point being 396 feet east of the southwest corner of the NE1/4, thence east along the south line of the NE1/4 924 feet to place of beginning.

The E1/2 NE1/4 Sec. 31, Twp. 2 South, Range 28 West 6th P.M. except a tract of land described as follows: Beginning at a point 1072.5 feet west of the Northeast corner of the NE1/4 thence south parallel with the East line of the NE1/4 1485 feet, thence West at right angles 247.5 feet, thence north parallel with the east line of said NE1/4 1485 feet, thence East at right angles and along the north line of said NE1/4 247.5 feet to place of beginning; total acreage conveyed 116.1 acres more or less.

A tract of land out of the NW1/4 SE1/4 Sec. 31, Twp. 2 South, Range 28 West 6th P.M. more particularly described as follows: Commencing at the Northeast corner of the NW1/4 SE1/4 Sec. 31, Twp. 2 South, Range 28, West 6th P.M., thence west along the north line of said NW1/4 SE1/4 56 rods; thence south at right angles 70 rods, thence east at right angles 56 rods, thence north along the East line of said NW1/4 SE1/4 70 rods to the place of beginning, containing about 24 1/2 acres more or less.

A tract of land out of the NW1/4 SE1/4 Sec. 31, Twp. 2 South, Range 28 West 6th P.M. more particularly described as follows: Beginning at the Northwest corner of the SE1/4 of said Sec. 31, thence East along said half section line 24 rods, thence south at right angles 70 rods, thence West at right angles and parallel with the North line of said SE1/4 24 rods, thence North along the half section line 70 rods to place of beginning. Containing 10.5 acres more or less.

NW1/4 NW1/4; E1/2 NW1/4; W1/2 W1/2 NE1/4 Sec. 32, Twp. 2, Range 28, West of the 6th P.M.

A tract of land described as follows: Beginning at the Southwest corner of the SW1/4 of Sec. 29, Twp. 2 South, Range 28 West 6th P.M. thence North along and upon the West line of said SW1/4 95 feet, thence East at right angles and parallel with the South line of said SW1/4 575 feet, thence in a northeasterly direction at an angle of 27715' left 490 feet, thence North at an angle of 29715' left 639 feet, thence East at an angle of 46730' right 1288 feet to the East line of said SW1/4, thence South along and upon the East line of said SW1/4 855 feet to the Southeast corner of the SW1/4; thence West along and upon the South line of said SW1/4 2640 feet to place of beginning.

A tract of land out of the SE1/4 Sec. 29, Twp. 2 South, Range 28, West 6th P.M. more particularly described as follows: Beginning at the Southwest corner of the SE1/4 of Sec. 29, in Twp. 2, Range 28, West 6th P.M. thence North along the half section line 855 feet, thence East at right angle and parallel with South line of said Section 1019 feet, thence South at right angle and parallel with East line of said Section 855 feet, thence West along the South line of said section 1019 feet to place of beginning,

containing 20 acres more or less.

A tract of land out of the NE1/4 of Sec. 32, Twp. 2, Range 28 West of the 6th P.M. described as follows: Beginning at a point 1224.7 feet north of the southeast corner of the W1/2 W1/2 NE1/4 of said Sec. 32, thence northeasterly at an angle of 59723' right, 170.6 feet, thence north at an angle of 61754' left, 123.3 feet, thence northwesterly at an angle of 25748' left, 298.5 feet, to the east line of the W1/2 W1/2 NE1/4 of said Sec. 32, thence south 473.9 feet, along said line to point of beginning. Containing .98 acre more or less.

(b) The instruments of conveyance of such real estate authorized by this act shall be executed in the name of the state forestry, fish and game commission by its chairman and secretary.

(c) As soon as is practicable after the effective date of this act, the secretary of wildlife, parks, and tourism shall convey by quit claim quitclaim deed, without consideration, any title or interest of the Kansas department of wildlife, parks, and tourism in the property described in subsection (a).

**History:** L. 1969, ch. 373, sec. 1; L. 1975, ch. 402, sec. 1; L. 1998, ch. 127, sec. 7; L. 2012, ch. 47, sec. 93; July 1.

## **INFORMATION ON LIABILITY INSURANCE COVERAGE FOR WILDLIFE AND PARKS VESSELS**

**74-4722. Liability insurance coverage for wildlife and parks vessels.** (a) The Kansas department of wildlife, parks, and tourism shall purchase vessel liability insurance for the protection and benefit of the state, the department and officers, agents and employees of the department responsible for the operation of vessels owned, operated, maintained or controlled by the department, and of persons while riding in or upon such vessels.

(b) As used in this section, the term “vessel” shall include includes motorized and nonmotorized vessels, and other methods of aquatic transportation used by the department.

**History:** L. 2008, ch. 4, sec. 1; L. 2012, ch. 47, sec. 94; July 1.

## **PUBLIC EMPLOYEES RETIREMENT SYSTEMS**

**74-4911f. Election by certain state officers to not be a member of system; filing; anticipation in deferred compensation plan; contribution by state.** (a) Subject to procedures or limitations prescribed by the governor, any person who is not an employee and who becomes a state officer may elect to not become a member of the system. The election to not become a member of the system must be filed within 90 days of assuming the position of state officer. Such election shall be irrevocable. If such election is not filed by such state officer, such state officer shall be a member of the system.

(b) Any such state officer who is a member of the Kansas public employees retirement system, on or after the effective date of this act, may elect to not be a member by filing an election with the office of the retirement system. The election to not become a member of the system must be filed within 90 days of assuming the position of state officer. If such election is not filed by such state officer, such state officer shall be a member of the system.

(c) Subject to limitations prescribed by the board, the state agency employing any employee who has filed an election as provided under subsection (a) or (b) and who has entered into an employee participation agreement, as provided in K.S.A. 2011 Supp. 74-49b10, and amendments thereto, for deferred compensation pursuant to the Kansas public employees deferred compensation plan shall contribute to such plan on such employee’s behalf an amount equal to 8% of the employee’s salary, as such salary has been approved pursuant to K.S.A. 75-2935b, and amendments thereto, or as otherwise prescribed by law. With regard to a state officer who is a member of the legislature who has retired pursuant to the Kansas public employees retirement system and who files an election as provided in this section, employee’s salary means per diem compensation as provided by law as a member of the legislature.



(d) As used in this section and K.S.A. 74-4927k, and amendments thereto, “state officer” means the secretary of administration, secretary on aging, secretary of commerce, secretary of corrections, secretary of health and environment, secretary of labor, secretary of revenue, secretary of social and rehabilitation services, secretary of transportation, secretary of wildlife, parks, and tourism, superintendent of the Kansas highway patrol, secretary of agriculture, executive director of the Kansas lottery, executive director of the Kansas racing commission, president of the Kansas development finance authority, state fire marshal, state librarian, securities commissioner, adjutant general, judges and chief hearing officer of the state court of tax appeals, members of the Kansas parole board, members of the state corporation commission, any unclassified employee on the staff of officers of both houses of the legislature, any unclassified employee appointed to the governor’s or lieutenant governor’s staff, any person employed by the legislative branch of the state of Kansas, other than any such person receiving service credited under the Kansas public employees retirement system or any other retirement system of the state of Kansas therefor, who elected to be covered by the provisions of this section as provided in subsection (e) of K.S.A. 46-1302, and amendments thereto, or who is first employed on or after July 1, 1996, by the legislative branch of the state of Kansas and any member of the legislature who has retired pursuant to the Kansas public employees retirement system.

(e) The provisions of this section shall not apply to any state officer who has elected to remain eligible for assistance by the state board of regents as provided in subsection (a) of K.S.A. 74-4925, and amendments thereto.

**History:** L. 1988, ch. 302, sec. 31; L. 1995, ch. 267, sec. 7; L. 1996, ch. 93, sec. 2; L. 1996, ch. 266, sec. 8; L. 1997, ch. 160, sec. 40; L. 1998, ch. 64, sec. 31; L. 2003, ch. 155, sec. 7; L. 2004, ch. 179, sec. 101; L. 2007, ch. 74, sec. 8; L. 2008, ch. 109, sec. 65; L. 2012, ch. 47, sec. 95; July 1.

## **DEPARTMENT OF COMMERCE**

**74-5005. Powers and duties of department.** The department shall be the lead agency of the state for economic development of commerce through the promotion of business, industry and trade within the state. In general, but not by way of limitation, the department shall have, exercise and perform the following powers and duties:

(a) To assume central responsibility for implementing all facets of a comprehensive, long-term, economic development strategy and for coordinating the efforts of both state agencies and local economic development groups as they relate to that objective;

(b) to coordinate the implementation of the strategy with all other state and local agencies and offices and state educational institutions which do research work, develop materials and programs, gather statistics, or which perform functions related to economic development; and such state and local agencies and offices and state educational institutions shall advise and cooperate with the department in the planning and accomplishment of the purposes of this act;

(c) to advise and cooperate with all federal departments, research institutions, educational institutions and agencies, quasi-public professional societies, private business and agricultural organizations and associations, and any other party, public or private, and to call upon such parties for consultation and assistance in their respective fields of interest, to the end that all up-to-date available technical advice, information and assistance be gathered for the use of the department, the governor, the legislature and the people of this state;

(d) to enter into agreements necessary to carry out the purposes of this act;

(e) to conduct an effective business information service, keeping up-to-date information on such things as manufacturing industries, labor supply and economic trends in employment, income, savings and purchasing power within the state, utilizing the services and information available from the division of the budget of the department of administration;

(f) to support a coordinated program of scientific and industrial research with the objective of developing additional uses of the state's natural resources, agriculture, agricultural products, new and better industrial products and processes, and the best possible utilization of the raw materials in the state; and to coordinate this responsibility with the state educational institutions, with all state and federal agencies, and all public and private institutions within or outside the state, all in an effort to assist and encourage new industries or expansion of existing industries through basic research, applied research and new development;

(g) to maintain and keep current all available information regarding the industrial opportunities and possibilities of the state, including raw materials and by-products; power and water resources; transportation facilities; available markets and the marketing limitations of the state; labor supply; banking and financing facilities; availability of industrial sites; and the advantages the state and its particular sections have as industrial locations; and such information shall be used for the encouragement of new industries in the state and the expansion of existing industries within the state;

(h) to publicize information and the economic advantages of the state which make it a desirable place for commercial and industrial operations and a good place in which to live;

(i) to establish a clearinghouse for the collection and dissemination of information concerning the number and location of public and private postsecondary vocational and technical education programs in areas critical to economic development;

(j) to acquaint the people of this state with the industries within the state and encourage closer cooperation between the farming, commercial and industrial enterprises and the people of the state;

(k) to participate in economic development and planning assistance programs of the federal government to political subdivisions;

(l) to assist counties and cities in industrial development through the establishment of industrial development corporations, including site surveys, small business administration situations, and render such other similar assistance as may be required; and in those instances where it is deemed appropriate, to contract with and make a service charge to the county or city involved for such services rendered;

(m) to render assistance to private enterprise on planning problems and site surveys upon request and shall make a reasonable service charge for such services rendered; and any moneys received for services rendered, as provided in this subsection, shall be deposited in the fund and expended therefrom, as provided in subsection (o);

(n) to make agreements with other states and with the United States government, or its agencies, and to accept funds from the federal government, or its agencies, or any other source for research studies, investigation, planning and other purposes related to the duties of the department; and any funds so received shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of a special revenue fund which is hereby created and shall be known as the "economic development fund" or used in accordance with or direction of the contributing federal agencies; and expenditures from such fund may be made for any purpose in keeping with the responsibilities, functions and authority of the department; and warrants on such fund shall be drawn in the same manner as required of other state agencies upon vouchers signed by the secretary;

(o) to do other and further acts as shall be necessary and proper in fostering and promoting the industrial development and economic welfare of the state;

(p) to organize, or cause to be organized, an advisory board or boards representing interested groups, including industry, labor, agriculture, scientific research, the press, the professions, industrial associations, civic groups, etc.; and such board or boards shall advise with the department as to its work and the department shall, as far as practicable, cooperate with such board or boards, and secure the active aid thereof in the accomplishment of the aims and objectives of the department;

- (q) to perform the duties imposed under the Kansas venture capital company act;
- (r) to serve as the central agency and clearinghouse to collect and disseminate ideas and information bearing on local planning problems; and, in so doing, the department, upon request of the board of county commissioners of any county or the governing body of any city in the state, may make a study and report upon any planning problem of such county or city submitted to it;
- (s) to disseminate to the public information concerning economic development programs available in the state, regardless of whether such programs are administered by the department or some other agency and the department shall make available audio-visual and written materials describing the economic development programs to local chambers of commerce, economic development organizations, banks and public libraries and shall take other measures as may be necessary to effectuate the purpose of this subsection;
- (t) to perform the duties imposed under the individual development account program act, K.S.A. 2011 Supp. 74-50,201 through 74-50,208, and amendments thereto; and
- (u) except as otherwise provided by law, perform the duties and carry out the purposes of K.S.A. 74-8102 through 74-8104 and 74-8107 through 74-8111, and amendments thereto.

**History:** L. 1963, ch. 407, sec. 5; L. 1974, ch. 350, sec. 12; L. 1975, ch. 427, sec. 242; L. 1976, ch. 350, sec. 1; L. 1976, ch. 349, sec. 1; L. 1980, ch. 284, sec. 18; L. 1983, ch. 255, sec. 1; L. 1986, ch. 296, sec. 7; L. 1987, ch. 304, sec. 1; L. 1989, ch. 118, sec. 181; L. 1990, ch. 283, sec. 4; L. 1994, ch. 122, sec. 1; L. 2001, ch. 5, sec. 322; L. 2005, ch. 104, sec. 9; L. 2011, ch. 104, sec. 12; L. 2012, ch. 47, sec. 96; July 1.

**74-5032. Division of travel and tourism development, establishment, administration and purpose; director of travel and tourism development, appointment, authority and compensation.**

There is hereby established within and as a part of the Kansas department of wildlife, parks and tourism a division of tourism, the head of which shall be the director of tourism. The purpose of the division of tourism shall be to increase the number of visitors to Kansas by promoting the state as a travel and learning opportunity to both Kansans and non-Kansans alike. Under the supervision of the secretary of wildlife, parks and tourism, the director of tourism shall administer the division of tourism. The secretary of wildlife, parks and tourism shall appoint the director of tourism and the director shall serve at the pleasure of the secretary. The director of tourism shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of wildlife, parks and tourism and approved by the governor.

**History:** L. 1982, ch. 340, sec. 1; L. 1985, ch. 256, sec. 14; L. 1986, ch. 296, sec. 15; L. 2012, ch. 47, sec. 97; July 1.

**74-5032a. Division of travel and tourism development; powers.** The division of tourism of the Kansas department of wildlife, parks and tourism is hereby authorized and empowered to:

- (a) Encourage and promote the traveling public to visit this state by publicizing information as to the recreational, historic and natural advantages of the state and its facilities for transient travel and to contract with organizations for the purpose of promoting tourism within the state;
- (b) request other state agencies such as, but not limited to, Kansas water office, the department of commerce and the department of transportation, for assistance and all such agencies shall coordinate information and their respective efforts with the department to most efficiently and economically carry out the purpose and intent of this subsection; and
- (c) Solicit and receive moneys from any public or private source and administer a program of matching grants to provide assistance to those entities described in K.S.A. 74-5089, and amendments thereto, in the promotion of tourism and the development of quality tourist attractions in this state.

**History:** L. 1986, ch. 296, sec. 16; L. 1989, ch. 118, sec. 182; L. 1990, ch. 284, sec. 2; L. 2012, ch.

**74-5089. Matching grant program to assist tourism and tourist attractions development; eligibility; administration by secretary; rules and regulations.** (a) There is hereby established a state matching grant program to provide assistance in the promotion of tourism and development of quality tourist attractions within the state of Kansas. Grants awarded under this program shall be limited to not more than 40% of the cost of any proposed project. Applicants shall not utilize any state moneys to meet the matching requirements under the provisions of this program. Both public and private entities shall be eligible to apply for a grant under the provisions of this act. Not less than 75% of all moneys granted under this program shall be allocated to public entities or entities exempt from taxation under the provisions of 501(c)(3) of the federal internal revenue code of 1986 and amendments thereto. No more than 20% of moneys granted to public or nonprofit entities shall be granted to any single such entity. Furthermore, no more than 20% of moneys granted to private entities shall be granted to any single such entity. The secretary of wildlife, parks and tourism shall administer the provisions of this act and the secretary may adopt rules and regulations establishing criteria for qualification for a matching grant and such other matters deemed necessary by the secretary for the administration of this act.

(b) For the purpose of K.S.A. 74-5089 through 74-5091, and amendments thereto, “tourist attraction” means a site that is of significant interest to tourists as a historic, cultural, scientific, educational, recreational or architecturally unique site, or as a site of natural scenic beauty or an area naturally suited for outdoor recreation, however, under no circumstances shall “tourist attraction” mean a race track facility, as defined in K.S.A. 74-8802, and amendments thereto, or any casino or other establishment which operates class three games, as defined in the 1991 version of 25 U.S.C. § 2703.

**History:** L. 1990, ch. 284, sec. 1; L. 1993, ch. 248, sec. 1; L. 2012, ch. 47, sec. 99; July 1.

**74-5090. Kansas tourist attraction evaluation committee; composition organization; powers and duties.** (a) There is hereby established the Kansas tourist attraction evaluation committee within the Kansas department of commerce wildlife, parks and tourism. The committee shall consist of three members, all of whom shall have appropriate experience and expertise in the area of travel and tourism. The members of the committee shall be appointed by the secretary of wildlife, parks and tourism and shall serve at the secretary’s pleasure.

(b) The committee shall screen, evaluate and approve or disapprove all applications for matching grants by those entities described in K.S.A. 74-5089, and amendments thereto, for the promotion of tourism and the development of tourist attractions in the state. The committee shall also provide technical advice upon request to any local tourist attraction upon ways to improve its operations.

(c) The director of tourism shall serve as a nonvoting chairperson of the committee and the committee shall annually elect a vice-chairperson from among its members. The committee shall meet upon call of the chairperson or upon call of any two of its members. Two voting members shall constitute a quorum for the transaction of business.

(d) All members of the committee shall serve without compensation or any other allowances authorized under the provisions of article 32 of chapter 75 of the Kansas Statutes Annotated.

**History:** L. 1990, ch. 284, sec. 3; L. 2012, ch. 47, sec. 100; July 1.

**74-5091. Kansas tourist attraction matching grant development fund; administration; authorized uses; interest earned transferred from general fund.** (a) There is hereby established the Kansas tourist attraction matching grant development fund in the state treasury. The Kansas tourist attraction matching grant development fund shall be administered by the secretary of wildlife, parks and tourism. All

moneys in the Kansas tourist attraction matching grant development fund shall be used to provide matching grants to provide assistance in the promotion of tourism and the development of quality tourist attractions within this state in accordance with this act.

(b) All moneys received pursuant to subsection (c) of K.S.A. 74-5032a, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas tourist attraction matching grant development fund.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas tourist attraction matching grant development fund interest earnings based on:

(1) The average daily balance of moneys in the Kansas tourist attraction matching grant development fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

**History:** L. 1990, ch. 284, sec. 4; L. 1992, ch. 272, sec. 10; L. 1996, ch. 253, sec. 25; L. 2001, ch. 5, sec. 326; L. 2012, ch. 47, sec. 101; July 1.

**74-50,167. Definitions.** As used in K.S.A. 2011 Supp. 74-50,165 through 74-50,173, and amendments thereto:

(a) “Agritourism activity” means any activity which allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including, but not limited to, farming activities, ranching activities or historic, cultural or natural attractions. An activity may be an agritourism activity whether or not the participant pays to participate in the activity. An activity is not an agritourism activity if the participant is paid to participate in the activity.

(b) “Inherent risks of a registered agritourism activity” means those dangers or conditions which are an integral part of such agritourism activity including, but not limited to, certain hazards such as surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming or ranching operations. “Inherent risks of a registered agritourism activity” also includes the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to follow instructions given by the registered agritourism operator or failing to exercise reasonable caution while engaging in the registered agritourism activity.

(c) “Participant” means any person who engages in a registered agritourism activity.

(d) “Registered agritourism activity” means any agritourism activity registered with the secretary pursuant to K.S.A. 2011 Supp. 74-50,168, and amendments thereto.

(e) “Registered agritourism location” means a specific parcel of land which is registered with the secretary pursuant to K.S.A. 2011 Supp. 74-50,168, and amendments thereto, and where a registered agritourism operator engages in registered agritourism activities.

(f) “Registered agritourism operator” means any person who is engaged in the business of providing one or more agritourism activities and is registered with the secretary pursuant to K.S.A. 2011 Supp. 74-50,168, and amendments thereto.

(g) “Secretary” means the secretary of wildlife, parks and tourism.

**History:** L. 2004, ch. 97, sec. 3; L. 2012, ch. 47, sec. 102; July 1.

**74-50,168. Registration of agritourism operators.** (a) Any person who is engaged in the business of providing one or more agritourism activities may register with the secretary of wildlife, parks and tourism. The registration shall contain all of the following:

(1) Information describing the agritourism activity which the person conducts or intends to conduct.

(2) Information describing the location where the person conducts or intends to conduct such agritourism activity.

(b) The secretary shall maintain a list of all registered agritourism operators, the registered agritourism activities conducted by each operator and the registered agritourism location where the operator conducts such activities. Such list shall be made available to the public. The secretary, in conjunction with other agritourism and rural economic efforts of the secretary, shall promote and publicize registered agritourism operators, activities and locations to advance the purpose of this act by promoting and encouraging tourism.

(c) Registration pursuant to this section shall be for a period of five years.

(d) No fee shall be charged to persons registering under this section.

**History:** L. 2004, ch. 97, sec. 4; L. 2012, ch. 47, sec. 103; July 1.

**74-50,173. Tax credits allowed for certain costs of liability insurance; rules and regulations; report to legislature.** (a) For taxable years commencing on and after December 31, 2003, December 31, 2004, December 31, 2005, December 31, 2006, and December 31, 2007, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator who operates an agritourism activity on the effective date of this act. No tax credit claimed pursuant to this subsection shall exceed \$2,000. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from

the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the third taxable year succeeding the taxable year in which the tax credit is claimed.

(b) For the first five taxable years commencing after a taxpayer opens such taxpayer's business, after the effective date of this act, there shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act, an amount equal to 20% of the cost of liability insurance paid by a registered agritourism operator who starts an agritourism activity after the effective date of this act. No tax credit claimed pursuant to this subsection shall exceed \$2,000. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the third taxable year succeeding the taxable year in which the tax credit is claimed.

(c) The secretary of wildlife, parks and tourism shall adopt rules and regulations establishing criteria for determining those costs which qualify as costs of liability insurance for agritourism activities of a registered agritourism operator.

(d) On or before the 15th day of the regular legislative session in 2006, the secretary of commerce shall submit to the senate standing committee on commerce and the house standing committee on tourism and parks a report on the implementation and use of the tax credit provided by this section.

**History:** L. 2004, ch. 97, sec. 9; L. 2012, ch. 47, sec. 104; July 1.

## **LAW ENFORCEMENT TRAINING CENTER; TRAINING COMMISSION**

**74-5602. Definitions.** As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603, and amendments thereto.

(b) "Commission" means the Kansas commission on peace officers' standards and training, created by K.S.A. 74-5606, and amendments thereto.

- (c) “Dean” means the dean of continuing education of the university of Kansas.
- (d) “Director of police training” means the director of police training at the law enforcement training center.
- (e) “Director” means the executive director of the Kansas commission on peace officers’ standards and training.
- (f) “Law enforcement” means the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof.
- (g) “Police officer” or “law enforcement officer” means a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of the criminal or traffic laws of this state or of any municipality thereof. Such terms shall include, but not be limited to, the sheriff, undersheriff and full-time or part-time salaried deputies in the sheriff’s office in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858, and amendments thereto; conservation officers of the Kansas department of wildlife, parks and tourism; university police officers, as defined in K.S.A. 22-2401a, and amendments thereto; campus police officers, as defined in K.S.A. 22-2401a, and amendments thereto; law enforcement agents of the director of alcoholic beverage control; law enforcement agents designated by the secretary of revenue pursuant to K.S.A. 2011 Supp. 75-5157, and amendments thereto; law enforcement agents of the Kansas lottery; law enforcement agents of the Kansas racing commission; deputies and assistants of the state fire marshal having law enforcement authority; capitol police, existing under the authority of K.S.A. 75-4503, and amendments thereto; and law enforcement officers appointed by the adjutant general pursuant to K.S.A. 48-204, and amendments thereto. Such terms shall also include railroad policemen appointed pursuant to K.S.A. 66-524, and amendments thereto; school security officers designated as school law enforcement officers pursuant to K.S.A. 72-8222, and amendments thereto; the manager and employees of the horsethief reservoir benefit district pursuant to K.S.A. 2011 Supp. 82a-2212, and amendments thereto; and the director of the Kansas commission on peace officers’ standards and training and any other employee of such commission designated by the director pursuant to K.S.A. 74-5603, and amendments thereto, as a law enforcement officer. Such terms shall not include any elected official, other than a sheriff, serving in the capacity of a law enforcement or police officer solely by virtue of such official’s elected position; any attorney-at-law having responsibility for law enforcement and discharging such responsibility solely in the capacity of an attorney; any employee of the commissioner of juvenile justice, the secretary of corrections or the secretary of social and rehabilitation services; any deputy conservation officer of the Kansas department of wildlife, parks and tourism; or any employee of a city or county who is employed solely to perform correctional duties related to jail inmates and the administration and operation of a jail; or any full-time or part-time salaried officer or employee whose duties include the issuance of a citation or notice to appear provided such officer or employee is not vested by law with the authority to make an arrest for violation of the laws of this state or any municipality thereof, and is not authorized to carry firearms when discharging the duties of such person’s office or employment. Such term shall include any officer appointed or elected on a provisional basis.
- (h) “Full-time” means employment requiring at least 1,000 hours of law enforcement related work per year.
- (i) “Part-time” means employment on a regular schedule or employment which requires a minimum number of hours each payroll period, but in any case requiring less than 1,000 hours of law enforcement related work per year.
- (j) “Misdemeanor crime of domestic violence” means a violation of domestic battery as provided by K.S.A. 21-3412a, prior to its repeal, or K.S.A. 2011 Supp. 21-5414, and amendments thereto, or any other misdemeanor under federal, municipal or state law that has as an element the use or attempted use

of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.

(k) “Auxiliary personnel” means members of organized nonsalaried groups which operate as an adjunct to a police or sheriff’s department, including reserve officers, posses and search and rescue groups.

(l) “Active law enforcement certificate” means a certificate which attests to the qualification of a person to perform the duties of a law enforcement officer and which has not been suspended or revoked by action of the Kansas commission on peace officers’ standards and training and has not lapsed by operation of law as provided in K.S.A. 74-5622, and amendments thereto.

**History:** L. 1968, ch. 81, sec. 2; L. 1973, ch. 331, sec. 1; L. 1976, ch. 351, sec. 1; L. 1977, ch. 278; sec. 1; L. 1978, ch. 365, sec. 3; L. 1978, ch. 324, sec. 1; L. 1979, ch. 255, sec. 1; L. 1982, ch. 315, sec. 2; L. 1982, ch. 322, sec. 2; L. 1982, ch. 323, sec. 1; L. 1985, ch. 257, sec. 1; L. 1987, ch. 292, sec. 27; L. 1987, ch. 277, sec. 2; L. 1987, ch. 112, sec. 39; L. 1989, ch. 118, sec. 183; L. 1995, ch. 180, sec. 3; L. 1997, ch. 168, sec. 2; L. 2001, ch. 177, sec. 13; L. 2003, ch. 29, sec. 4; L. 2004, ch. 180, sec. 11; L. 2006, ch. 107, sec. 5; L. 2006, ch. 170, sec. 7; L. 2007, ch. 160, sec. 15; L. 2007, ch. 195, sec. 38; L. 2010, ch. 42, sec. 3; L. 2012, ch. 47, sec. 105; July 1.

## **INFORMATION ON TRAINING AND RETIRED OFFICERS TO CARRY FIREARMS**

**74-5607. Powers and duties of commission; compensation and expenses; meetings.** (a) In addition to other powers and duties prescribed by law, the commission shall adopt, in accordance with the provisions of K.S.A. 77-415 et seq., and amendments thereto, rules and regulations necessary to carry out the provisions of subsection (c) of K.S.A. 74-5616, and amendments thereto, and such other rules and regulations as necessary to administer this act. The commission may also adopt such rules of procedure as are necessary for conducting the business of the commission.

(b) In all matters pending before the commission, the commission shall have the power to:

(1) Administer oaths and take testimony;

(2) issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of the failure of any person to comply with any subpoena issued on behalf of the commission, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, the district court of any county, on application of a member of the commission, may require compliance by proceedings for contempt, as in the case of failure to comply with a subpoena issued from such court or a refusal to testify in such court. Each witness who appears before the commission by its order or subpoena, other than a state officer or employee, shall receive for such attendance the fees and mileage provided for witnesses in civil cases in courts of record which shall be audited and paid upon presentation of proper vouchers sworn to by such witnesses and approved by the chairperson of the commission or by a person or persons designated by the chairperson;

(3) enter into contracts necessary to administer the provisions of this act and the certification of law enforcement officers; and

(4) assess the costs of such matters pending before the commission under this section against the governmental entity employing the police officer or law enforcement officer.

(c) Members of the commission attending meetings of the commission, or attending a subcommittee meeting authorized by the commission, shall be paid amounts provided for in subsection (e) of K.S.A. 75-3223, and amendments thereto. The director shall be responsible for approving all expense vouchers of members.



(d) The commission shall meet at least once each year at the training center and may hold other meetings whenever they are called by the chairperson.

(e) The commission shall adopt the rules and regulations that are necessary to ensure that law enforcement officers are adequately trained and to enforce the provisions of this act. Such rules and regulations shall include, but are not limited to, the establishment of a course of fire as a standard qualification for active law enforcement officers to carry firearms that may also be used for qualified retired officers to carry firearms pursuant to federal law. The director shall provide qualification opportunities for qualified retired officers at least twice a year at the times and places the director determines to be necessary. The training center shall charge and collect a fee from retired state, local and federal officers for the qualification opportunities, but these fees shall be limited to the actual costs of presenting the standard qualifications course.

**History:** L. 1968, ch. 81, sec. 7; L. 1973, ch. 331, sec. 4; L. 1974, ch. 348, sec. 80; L. 1975, ch. 416, sec. 13; L. 1982, ch. 322, sec. 11; L. 1983, ch. 256, sec. 5; L. 1988, ch. 306, sec. 1; L. 2005, ch. 141, sec. 4; L. 2006, ch. 170, sec. 12; July 1.

### **NATURAL AND SCIENTIFIC AREAS ADVISORY BOARD**

**74-6614. Advisory board.** There is hereby created the natural and scientific areas advisory board. The advisory board shall be attached to the state biological survey and shall be within the survey as a part thereof. All budgeting, purchasing and related management functions of the advisory board shall be administered under the direction and supervision of the state biological survey. All vouchers for expenditures and all payrolls of the advisory board shall be approved by the state biological survey. The board shall consist of 11 members designated by the following: The state biologist; the secretary of wildlife, parks and tourism; the state forester; the state geologist; the director of the state historical society; the director of the state water office; the chairperson of the nongame wildlife advisory council; the secretary of health and environment; a member of the house of representatives appointed by the speaker of the house; a member of the senate appointed by the president of the senate; a representative of the governor.

Whenever a vacancy on the board shall occur by death, resignation or otherwise of any member so appointed, the responsible appointor shall fill the same by appointment.

**History:** L. 1985, ch. 259, sec. 2; L. 1989, ch. 118, sec. 184; L. 2012, ch. 47, sec. 106; July 1.

### **CRIME VICTIMS COMPENSATION BOARD**

**74-7336. Disposition of district court fines, penalties and forfeitures.** (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit:

- (1) 10.94% to the crime victims compensation fund;
- (2) 2.24% to the crime victims assistance fund;
- (3) 2.75% to the community alcoholism and intoxication programs fund;
- (4) 7.65% to the department of corrections alcohol and drug abuse treatment fund;
- (5) 0.16% to the boating fee fund;
- (6) 0.11% to the children's advocacy center fund;
- (7) 2.28% to the EMS revolving fund;
- (8) 2.28% to the trauma fund;
- (9) 2.28% to the traffic records enhancement fund;
- (10) 2.91% to the criminal justice information system line fund; and
- (11) the remainder of the remittances to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in

establishing and maintaining programs to aid witnesses and victims of crime.

**History:** L. 1989, ch. 239, sec. 31; L. 1995, ch. 243, sec. 8; L. 2001, ch. 200, sec. 18; L. 2001, ch. 211, sec. 17; L. 2006, ch. 85, sec. 17; L. 2007, ch. 195, sec. 40; L. 2010, ch. 145, sec. 2; July 1.

### **KANSAS WILDLIFE ARTS COUNCIL**

**74-7901. Kansas wildlife arts council; composition; chairperson; staff assistance.** There is hereby created a Kansas wildlife arts council which shall be composed of five members. One member shall be a member of the Kansas wildlife, parks and tourism commission appointed by such commission, one member shall be a member of the Kansas arts commission appointed by such commission, one member shall be the director of the Fort Hays state university Sternberg museum, and two members shall be from the public at large appointed by the president of Fort Hays state university. The director of the Fort Hays state university Sternberg museum shall be chairperson of the council, and personnel of the Fort Hays state university Sternberg museum shall provide such staff and clerical services as the council may require.

**History:** L. 1986, ch. 280, sec. 1; L. 1989, ch. 118, sec. 185; L. 1992, ch. 96, sec. 1; L. 2012, ch. 47, sec. 107; July 1.

### **COUNCIL ON TRAVEL AND TOURISM**

**74-9001. Establishment; composition, voting and nonvoting members; terms, vacancies; chairperson and vice-chairperson; meetings; quorum; travel expenses, sources.** (a) There is hereby established the council on travel and tourism. The council shall consist of 17 voting members as follows: (1) The chairperson of the standing committee on commerce of the senate, or a member of the senate appointed by the president of the senate; (2) the vice-chairperson of the standing committee on commerce of the senate, or a member of the senate appointed by the president of the senate; (3) the ranking minority member of the standing committee on commerce of the senate, or a member of the senate appointed by the minority leader of the senate; (4) the chairperson of the standing committee on tourism and parks of the house of representatives, or its successor committee, or a member of the house of representatives appointed by the speaker of the house of representatives; (5) the vice-chairperson of the standing committee on tourism and parks of the house of representatives, or its successor committee, or a member of the house of representatives appointed by the speaker of the house of representatives; (6) the ranking minority member of the standing committee on tourism and parks of the house of representatives, or its successor committee, or a member of the house of representatives appointed by the minority leader of the house of representatives; and (7) eleven members appointed by the governor. Of the 11 members appointed by the governor, one shall be appointed from a list of three nominations made by the travel industry association of Kansas, one shall be an individual engaged in the lodging industry and appointed from a list of three nominations made by the Kansas restaurant and hospitality association, one shall be an individual engaged in the restaurant industry and appointed from a list of three nominations made by the Kansas restaurant and hospitality association, one shall be appointed from a list of three nominations made by the petroleum marketers and convenience store association of Kansas, one shall be appointed from a list of three nominations by the Kansas sport hunting association and six shall be appointed to represent the general public. In addition to the voting members of the council, four members of the council shall serve ex officio: The secretary of commerce, the secretary of transportation, the secretary of wildlife, parks and tourism and the executive director of the state historical society. Each ex officio member of the council may designate an officer or employee of the state agency of the ex officio member to serve on the council in place of the ex officio member. The ex officio members of the council, or their designees, shall be nonvoting members of the council and shall provide information and

advice to the council.

(b) Legislator members shall be appointed for terms coinciding with the terms for which such members are elected. Of the 11 members first appointed by the governor, six shall be appointed for terms of three years and five shall be appointed for terms of two years as determined by the governor. Thereafter, all members appointed by the governor shall be appointed for terms of three years. All members appointed to fill vacancies in the membership of the council and all members appointed to succeed members appointed to membership on the council shall be appointed in like manner as that provided for the original appointment of the member succeeded.

(c) On July 1 of each year the council shall elect a chairperson and vice-chairperson from among its members. The council shall meet at least four times each year at the call of the chairperson of the council. Nine voting members of the council shall constitute a quorum.

(d) Members of the council attending meetings of such council, or attending a subcommittee meeting thereof authorized by such council, shall be paid amounts for mileage as provided in subsection (c) of K.S.A. 75-3223, and amendments thereto, or a lesser amount as determined by the Kansas department of wildlife, parks and tourism. Amounts paid under this subsection to ex officio members of the council, or their designees, shall be from appropriations to the state agencies of which such members are officers or employees upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief administrative officers of such agencies. Amounts paid under this subsection to voting members of the council shall be from moneys available for the payment of such amounts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the council.

**History:** L. 1987, ch. 279, sec. 1; L. 1997, ch. 171, sec. 5; L. 2012, ch. 47, sec. 108; July 1.

**74-9002. Duties; reports.** The council on travel and tourism shall: (a) Advise the Kansas department of wildlife, parks and tourism in the development and implementation of the state's tourism marketing and business development program including, but not limited to, long-range strategies for attracting visitors to the state;

(b) report to the Kansas department of wildlife, parks and tourism information for preparation of the annual budget for the division of travel and tourism development;

(c) identify and review tourism related issues and current state policies and programs which directly or indirectly affect travel and tourism in the state and, as appropriate, recommend the adoption of new, or the modification of existing, policies and programs; and

(d) perform such other acts as may be necessary in carrying out the duties of the council.

**History:** L. 1987, ch. 279, sec. 2; L. 1996, ch. 205, sec. 4; L. 1997, ch. 171, sec. 6; L. 2003, ch. 154, sec. 85; L. 2012, ch. 47, sec. 109; July 1.

**74-9003. State tourism fund, establishment, administration, expenditures, budget estimates; legislative approval of itemized expenditures.** (a) There is hereby established in the state treasury the state tourism fund. All moneys credited to the state tourism fund shall only be used for expenditures for the purposes of developing new tourism attractions in Kansas and to significantly expand existing tourism attractions in Kansas. Both public and private entities shall be eligible to apply for funds under the provisions of this act.

(b) The secretary of wildlife, parks and tourism shall administer the provisions of this act. The secretary may adopt rules and regulations establishing criteria for obtaining grants and other expenditures from such fund and other matters deemed necessary for the administration of this act.

(c) All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, parks and tourism or the secretary's designee.

(d) The secretary of wildlife, parks and tourism shall prepare and submit budget estimates for all proposed expenditures from the state tourism fund in accordance with the provisions of K.S.A. 75-3717 and 75-3717b, and amendments thereto. Such budget estimates shall include detailed information regarding all proposed expenditures for programs, projects, activities and other matters and shall set forth separately each program, project, activity or other expenditure for which the proposed expenditures from the state tourism fund for a fiscal year are for an amount that is equal to \$50,000 or more. Appropriations for the Kansas department of wildlife, parks and tourism of moneys in the state tourism fund for each program, project, activity or other expenditure for a fiscal year for an amount that is equal to \$50,000 or more shall be made as a separate item of appropriation.

(e) The legislature shall approve or disapprove of any itemized expenditure from the state tourism fund.

(f) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the state tourism fund established in subsection (a) interest earnings based on:

- (1) The average daily balance of moneys in the state tourism fund for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

**History:** L. 1997, ch. 171, sec. 1; L. 2003, ch. 154, sec. 86; L. 2012, ch. 47, sec. 110; July 1.

**74-9004. Same; oversight, inclusion of expenditures in department of commerce budget.** (a) The council on travel and tourism, established under K.S.A. 74-9001, and amendments thereto, shall oversee all matters concerning the state tourism fund and expenditures therefrom.

(b) The council, by a majority vote, shall determine for inclusion in the Kansas department of wildlife, parks and tourism budget expenditures from the state tourism fund.

**History:** L. 1997, ch. 171, sec. 2; L. 2003, ch. 154, sec. 87; L. 2012, ch. 47, sec. 111; July 1.

## **FILM SERVICES COMMISSION**

**74-9201. Kansas film services commission; establishment; composition; appointment; terms; vacancies; chairperson and vice-chairperson; meetings; quorum; travel expenses.** (a) There is hereby established the Kansas film services commission. The commission shall consist of 19 voting members as follows: (1) One member of the senate appointed by the president of the senate; (2) one member of the senate appointed by the minority leader of the senate; (3) one member of the house of representatives appointed by the speaker of the house of representatives; (4) one member of the house of representatives appointed by the minority leader of the house of representatives; and (5) fifteen members appointed by the governor. Of the members appointed by the governor, one shall be appointed from each United States congressional district. All members appointed by the governor shall be appointed for terms of three years, except that of the members first appointed, five shall be appointed for one-year terms, five shall be appointed for two-year terms and five shall be appointed for three-year terms. The governor shall designate the term for which each of the members first appointed shall serve. In addition to the voting members of the commission, six members of the commission shall serve ex officio: The secretary of commerce, the secretary of transportation, the secretary of wildlife, parks and tourism, the secretary of health and environment, the executive director of the Kansas arts commission and the secretary of the state historical society. Each ex officio member of the commission may designate an officer or employee of the state agency of the ex officio member to serve on the commission in place of the ex officio member. The ex officio members of the commission, or their designees, shall be nonvoting members of the commission and shall provide information and advice to the commission. In addition to the voting and ex officio members of the commission, the governor may appoint such number of representatives of the film industry to nonvoting membership on the commission as may be recommended by the secretary of commerce.

(b) Legislative members shall be appointed for terms coinciding with the terms for which such members are elected. All members appointed to fill vacancies in the membership of the commission and all members appointed to succeed members appointed to membership on the commission shall be appointed in like manner as that provided for the original appointment of the member succeeded. All members appointed to fill vacancies of a member of the commission appointed by the governor shall be appointed to fill the unexpired term of such member.

(c) The members of the commission shall elect annually a chairperson and vice-chairperson for the commission from among its members. The commission shall meet at least four times each year at the call of the chairperson of the commission. Ten voting members of the commission shall constitute a quorum.

(d) Members of the commission who are not legislators shall receive mileage, tolls and parking as provided in K.S.A. 75-3223, and amendments thereto, for attendance at any meeting of the commission or any subcommittee meeting authorized by the commission. Legislative members of the commission shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, for attendance at any meeting of the commission or any subcommittee meeting authorized by the commission.

**History:** L. 1990, ch. 267, sec. 1; L. 2001, ch. 116, sec. 1; L. 2003, ch. 154, sec. 89; L. 2005, ch. 89, sec. 1; L. 2012, ch. 47, sec. 112; July 1.

## **CONTRACTS FOR ARCHITECTURAL SERVICES**

**75-1253. Negotiating committee convened, when; list of qualified firms for project architects, engineers and land surveyors prepared by state building advisory commission; combining projects; repetitive projects, exempted.** (a) Whenever it becomes necessary in the judgment of the secretary of administration or in any case when the total cost of a project for the construction of a building or for major repairs or improvements to a building for a state agency is expected to exceed \$750,000 when architectural services are desired for the project or to exceed \$500,000 when engineering services or land surveying services are desired for the project, the secretary of administration shall convene a negotiating committee. The state building advisory commission shall prepare a list of at least three and not more than five firms which are, in the opinion of the state building advisory commission, qualified to serve as project architect, engineer or land surveyor for the project. Such list shall be submitted to the negotiating committee, without any recommendation of preference or other recommendation.

(b) The secretary of administration may combine two or more separate projects for the construction of buildings or for major repairs or improvements to buildings for state agencies, for the purpose of procuring architectural, engineering or land surveying services for all such projects from a single firm. In each case, the combined projects shall be construed to be a single project for all purposes under the provisions of K.S.A. 75- 1250 through 75-1267, and amendments thereto.

(c) (1) This section shall not apply to any repetitive project with a standard plan that was originally designed by the secretary of administration or an agency architect pursuant to paragraphs (2) and (3) of subsection (a) of K.S.A. 75-1254, and amendments thereto. In such a case, the secretary of administration or the agency architect may provide architectural services for the repetitive project.

(2) "Repetitive project" means a project which uses the same standard design as was used for a project constructed previously, including, but not limited to, sub-area shops and salt domes of the department of transportation and showers and toilet buildings of the Kansas department of wildlife, parks and tourism. The plans for the project may be modified as required for current codes, operational needs or cost control. The total floor area of the project may be increased by an area of not more than 25% of the floor area of the originally constructed project, except that not more than 25% of the linear feet of the exterior and interior walls may be moved for such increase. A project shall not be

considered to be repetitive if it has been over four years between the substantial completion of the last project using the design plans and the appropriation of funds for the proposed project.

**History:** L. 1974, ch. 376, sec. 4; L. 1977, ch. 308, sec. 1; L. 1978, ch. 337, sec. 17; L. 1979, ch. 280, sec. 10; L. 1990, ch. 302, sec. 1; L. 1996, ch. 176, sec. 1; L. 2006, ch. 1, sec. 1; L. 2008, ch. 130, sec. 4; L. 2012, ch. 47, sec. 113; July 1.

## **STATE HISTORICAL SOCIETY**

**75-2720. Same; powers and duties.** (a) The state historic sites board of review shall have the power and duty to: (1) Subject to the provisions of subsection (b), approve nominations to the state and national registers of historic places.

(2) Review the state survey of historic properties undertaken in accordance with the provisions of this act.

(3) Review the content of the state preservation plan developed in accordance with the provisions of this act.

(4) Approve the removal of properties from the state register of historic places.

(5) Recommend the removal of properties from the national register of historic places.

(6) Otherwise act in an advisory capacity to the state historic preservation agency.

(7) Upon request, to advise the legislature concerning matters relating to historic properties and historic preservation.

(8) Elect a chairman and vice-chairman and establish such rules of procedure as it deems necessary.

(b) The state historic sites board of review shall not consider or approve any nomination of historic property located in an unincorporated area of any county to either the state register of historic places or the national register of historic places unless owners of land located within 500 feet of the boundaries of a proposed historic property have been notified of the time and place of the board meeting at which such nomination is to be considered or approved. Notification shall be by mail or publication notice. Publication notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in each county in which all, or any part, of the proposed historic property is located. The last publication shall be at least 30 days, but not more than 50 days, prior to the date of such board meeting. Whenever the state historic sites board of review submits a notice to a newspaper for publication under this subsection, such board shall, at the same time, also submit a copy of such notice to the secretary of wildlife, parks and tourism.

**History:** L. 1977, ch. 284, sec. 6; L. 2004, ch. 74, sec. 6; L. 2012, ch. 47, sec. 114; July 1.

## **CIVIL SERVICE**

**75-2935. Classified and unclassified services.** The civil service of the state of Kansas is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

(a) Chosen by election or appointment to fill an elective office;

(b) members of boards and commissions, heads of departments required by law to be appointed by the governor or by other elective officers, and the executive or administrative heads of offices, departments, divisions and institutions specifically established by law;

(c) except as otherwise provided under this section, one personal secretary to each elective officer of this state, and in addition thereto, 10 deputies, clerks or employees designated by such elective officer;

(d) all employees in the office of the governor;

(e) officers and employees of the senate and house of representatives of the legislature and of the legislative coordinating council and all officers and employees of the office of revisor of statutes, of the legislative research department, of the division of legislative administrative services, of the division of post audit and the legislative counsel;

(f) chancellor, president, deans, administrative officers, student health service physicians, pharmacists, teaching and research personnel, health care employees and student employees in the institutions under the state board of regents, the executive officer of the board of regents and the executive officer's employees other than clerical employees, and, at the discretion of the state board of regents, directors or administrative officers of departments and divisions of the institution and county extension agents, except that this subsection (1)(f) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors; as used in this subsection (1)(f), "health care employees" means employees of the university of Kansas medical center who provide health care services at the university of Kansas medical center and who are medical technicians or technologists or respiratory therapists, who are licensed professional nurses or licensed practical nurses, or who are in job classes which are designated for this purpose by the chancellor of the university of Kansas upon a finding by the chancellor that such designation is required for the university of Kansas medical center to recruit or retain personnel for positions in the designated job classes; and employees of any institution under the state board of regents who are medical technologists;

(g) operations, maintenance and security personnel employed to implement agreements entered into by the adjutant general and the federal national guard bureau, and officers and enlisted persons in the national guard and the naval militia;

(h) persons engaged in public work for the state but employed by contractors when the performance of such contract is authorized by the legislature or other competent authority;

(i) persons temporarily employed or designated by the legislature or by a legislative committee or commission or other competent authority to make or conduct a special inquiry, investigation, examination or installation;

(j) officers and employees in the office of the attorney general and special counsel to state departments appointed by the attorney general, except that officers and employees of the division of the Kansas bureau of investigation shall be in the classified or unclassified service as provided in K.S.A. 75-711, and amendments thereto;

(k) all employees of courts;

(l) client, patient and inmate help in any state facility or institution;

(m) all attorneys for boards, commissions and departments;

(n) the secretary and assistant secretary of the Kansas state historical society;

(o) physician specialists, dentists, dental hygienists, pharmacists, medical technologists and long term care workers employed by the department of social and rehabilitation services;

(p) physician specialists, dentists and medical technologists employed by any board, commission or department or by any institution under the jurisdiction thereof;

(q) student employees enrolled in public institutions of higher learning;

(r) administrative officers, directors and teaching personnel of the state board of education and the state department of education and of any institution under the supervision and control of the state board of education, except that this subsection (1)(r) shall not be construed to include the custodial, clerical or maintenance employees, or any employees performing duties in connection with the business operations of any such institution, except administrative officers and directors;

(s) all officers and employees in the office of the secretary of state;

(t) one personal secretary and one special assistant to the following: The secretary of administration, the secretary of aging, the secretary of agriculture, the secretary of commerce, the secretary of corrections, the secretary of health and environment, the superintendent of the Kansas highway patrol, the secretary of labor, the secretary of revenue, the secretary of social and rehabilitation services, the secretary of transportation, the secretary of wildlife, parks and tourism and the commissioner of juvenile

justice;

(u) one personal secretary and one special assistant to the chancellor and presidents of institutions under the state board of regents;

(v) one personal secretary and one special assistant to the executive vice chancellor of the university of Kansas medical center;

(w) one public information officer and one chief attorney for the following: The department of administration, the department on aging, the department of agriculture, the department of commerce, the department of corrections, the department of health and environment, the department of labor, the department of revenue, the department of social and rehabilitation services, the department of transportation, the Kansas department of wildlife, parks and tourism and the commissioner of juvenile justice;

(x) civil service examination monitors;

(y) one executive director, one general counsel and one director of public affairs and consumer protection in the office of the state corporation commission;

(z) specifically designated by law as being in the unclassified service;

(aa) all officers and employees of Kansas, Inc.;

(bb) any position that is classified as a position in the information resource manager job class series, that is the chief position responsible for all information resources management for a state agency, and that becomes vacant on or after the effective date of this act. Nothing in this section shall affect the classified status of any employee in the classified service who is employed on the date immediately preceding the effective date of this act in any position that is a classified position in the information resource manager job class series and the unclassified status as prescribed by this subsection shall apply only to a person appointed to any such position on or after the effective date of this act that is the chief position responsible for all information resources management for a state agency; and

(cc) positions at state institutions of higher education that have been converted to unclassified positions pursuant to K.S.A. 2011 Supp. 76-715a, and amendments thereto.

(2) The classified service comprises all positions now existing or hereafter created which are not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible pools which so far as practicable shall be competitive. No person shall be appointed, promoted, reduced or discharged as an officer, clerk, employee or laborer in the classified service in any manner or by any means other than those prescribed in the Kansas civil service act and the rules adopted in accordance therewith.

(3) For positions involving unskilled, or semiskilled duties, the secretary of administration, as provided by law, shall establish rules and regulations concerning certifications, appointments, layoffs and reemployment which may be different from the rules and regulations established concerning these processes for other positions in the classified service.

(4) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of the Kansas civil service act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate pools of eligibles maintained by the division of personnel services.

**History:** L. 1941, ch. 358, sec. 11; L. 1957, ch. 445, sec. 1; L. 1963, ch. 424, sec. 1; L. 1963, ch. 400, sec. 3; L. 1965, ch. 464, sec. 1; L. 1969, ch. 399, sec. 1; L. 1971, ch. 272, sec. 1; L. 1972, ch. 318, sec. 1; L. 1974, ch. 383, sec. 1; L. 1976, ch. 377, sec. 1; L. 1976, ch. 378, sec. 1; L. 1978, ch. 332, sec. 7; L. 1982, ch. 225, sec. 5; L. 1985, ch. 256, sec. 15; L. 1987, ch. 347, sec. 1; L. 1989, ch. 266, sec. 2; L. 1989, ch. 233, sec. 2; L. 1990, ch. 305, sec. 1; L. 1992, ch. 293, sec. 1; L. ch. 255, sec. 12; L. 1997, ch. 156, sec. 88; L. 1998, ch. 187, sec. 14; L. 1999, ch. 149, sec. 10; L. 2003, ch. 154, sec. 90; L. 2004, ch.



## **DEPARTMENT OF ADMINISTRATION**

**75-37,121. Office of administrative hearings; presiding officers; director, duties of; rules and regulations; required utilization of presiding officers; personnel transfers.** (a) There is created the office of administrative hearings within the department of administration, to be headed by a director appointed by the secretary of administration. The director shall be in the unclassified service under the Kansas civil service act.

(b) The office may employ or contract with presiding officers, court reporters and other support personnel as necessary to conduct proceedings required by the Kansas administrative procedure act for adjudicative proceedings of the state agencies, boards and commissions specified in subsection (h). The office shall conduct adjudicative proceedings of any state agency which is specified in subsection (h) when requested by such agency. Only a person admitted to practice law in this state or a person directly supervised by a person admitted to practice law in this state may be employed as a presiding officer. The office may employ regular parttime personnel. Persons employed by the office shall be under the classified civil service.

(c) If the office cannot furnish one of its presiding officers within 60 days in response to a requesting agency's request, the director shall designate in writing a full-time employee of an agency other than the requesting agency to serve as presiding officer for the proceeding, but only with the consent of the employing agency. The designee must possess the same qualifications required of presiding officers employed by the office.

(d) The director may furnish presiding officers on a contract basis to any governmental entity to conduct any proceeding other than a proceeding as provided in subsection (h).

(e) The secretary of administration may adopt rules and regulations:

(1) To establish procedures for agencies to request and for the director to assign presiding officers. An agency may neither select nor reject any individual presiding officer for any proceeding except in accordance with the Kansas administrative procedure act;

(2) to establish procedures and adopt forms, consistent with the Kansas administrative procedure act, the model rules of procedure, and other provisions of law, to govern presiding officers; and

(3) to facilitate the performance of the responsibilities conferred upon the office by the Kansas administrative procedure act.

(f) The director may implement the provisions of this section and rules and regulations adopted under its authority.

(g) The secretary of administration may adopt rules and regulations to establish fees to charge a state agency for the cost of using a presiding officer.

(h) The following state agencies, boards and commissions shall utilize the office of administrative hearings for conducting adjudicative hearings under the Kansas administrative procedures act in which the presiding officer is not the agency head or one or more members of the agency head:

(1) On and after July 1, 2005: Department of social and rehabilitation services, juvenile justice authority, department on aging, department of health and environment, Kansas public employees retirement system, Kansas water office, Kansas animal health department and Kansas insurance department.

(2) On and after July 1, 2006: Emergency medical services board, emergency medical services council, Kansas health policy authority and Kansas human rights commission.

(3) On and after July 1, 2007: Kansas lottery, Kansas racing and gaming commission, state treasurer, pooled money investment board, Kansas department of wildlife, parks and tourism and state court of tax appeals.

(4) On and after July 1, 2008: Department of human resources, state corporation commission, state

conservation commission, agricultural labor relations board, department of administration, department of revenue, board of adult care home administrators, Kansas state grain inspection department, board of accountancy and Kansas wheat commission.

(5) On and after July 1, 2009, all other Kansas administrative procedure act hearings not mentioned in subsections (1), (2), (3) and (4).

(i) (1) Effective July 1, 2005, any presiding officer in agencies specified in subsection (h)(1) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed

to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(2) Effective July 1, 2006, any presiding officer in agencies specified in subsection (h)(2) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(4) Effective July 1, 2008, any full-time presiding officer in agencies specified in subsection (h)(4) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed

to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

(5) Effective July 1, 2009, any full-time presiding officer in agencies specified in subsection (h)(5) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment occurred.

**History:** L. 1997, ch. 182, sec. 88; L. 2000, ch. 132, sec. 1; L. 2004, ch. 145, sec. 34; L. 2006, ch. 4, sec. 1; L. 2007, ch. 192, sec. 1; L. 2008, ch. 109, sec. 67; L. 2012, ch. 47, sec. 117; July 1.

## **DEPARTMENT OF WILDLIFE AND PARKS**

**75-3907. Transfer of officers and employees; rights and benefits preserved.** Except as otherwise provided in this order, on the effective date of this order, officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of any state agency or office which is abolished by this order, or which becomes a part of the Kansas department of wildlife and, parks and tourism, or the powers, duties and functions of which are transferred to the secretary of wildlife, parks and tourism, and who, in the opinion of the secretary of wildlife, parks and tourism, are necessary to perform the powers, duties and functions of the Kansas department of wildlife, parks and tourism, shall be transferred to, and shall become officers and employees of the department. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this order. The service of each such officer and employee so transferred shall be deemed to have been continuous.

**History:** L. 1987, ch. 417, sec. 7; L. 2012, ch. 47, sec. 118; July 1.

**75-3908. Resolution of conflicts concerning disposition of property, powers, duties or functions and appropriations; department of wildlife and parks to succeed to property, property rights and records.** (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition, transfer, attachment or change made by or under authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The Kansas department of wildlife, parks and tourism shall succeed to all property, property rights and records which were used for or pertain to the performance of the powers, duties and functions transferred to the secretary of wildlife, parks and tourism. Any conflict as to the proper disposition of property or records arising under this section, and resulting from the transfer, attachment or abolition of any state agency or office, or all or part of the powers, duties and functions thereof, shall be determined by the governor, whose decision shall be final.

**History:** L. 1987, ch. 417, sec. 8; L. 2012, ch. 47, sec. 119; July 1.

**75-3910. Transfer of appropriations; liability for compensation or salaries of officers and employees of abolished agencies assumed by department.** (a) On the effective date of this order, the balance of all funds appropriated and reappropriated to any of the state agencies abolished by this order is hereby transferred to the Kansas department of wildlife, parks and tourism and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this order, the liability for all accrued compensation or salaries of officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of any state agency or office abolished by this order, or which becomes a part of the Kansas department of wildlife, parks and tourism established by this order, or the powers, duties and functions of which are transferred to the secretary of wildlife, parks and tourism provided for by this order, shall be assumed and paid by the Kansas department of wildlife, parks and tourism established by this order.

**History:** L. 1987, ch. 417, sec. 10; L. 2012, ch.47, sec. 120; July 1.

## **CONCEALED FIREARMS**

**75-7c20. Concealed handguns in public buildings; when prohibited; public buildings exempted; definitions.** (a) The carrying of a concealed handgun as authorized by the personal and family protection act shall not be prohibited in any state or municipal building unless such building has adequate security measures to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto.

(b) Any state or municipal building which contains both public access entrances and restricted access entrances shall provide adequate security measures at the public access entrances in order to prohibit the carrying of any weapons into such building.

(c) No state agency or municipality shall prohibit an employee who is licensed to carry a concealed handgun under the provisions of the personal and family protection act from carrying such concealed handgun at the employee's work place unless the building has adequate security measures and the building is conspicuously posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto.

(d) It shall not be a violation of the personal and family protection act for a person to carry a concealed handgun into a state or municipal building so long as that person is licensed to carry a concealed handgun under the provisions of the personal and family protection act and has authority to enter through a restricted access entrance into such building which provides adequate security measures and the building is conspicuously posted in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto.

(e) A state agency or municipality which provides adequate security measures in a state or municipal building and which conspicuously posts signage in accordance with K.S.A. 2012 Supp. 75-7c10, and amendments thereto, prohibiting the carrying of a concealed handgun in such building, as authorized by the personal and family protection act, such state agency or municipality shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(f) A state agency or municipality which does not provide adequate security measures in a state or municipal building and which allows the carrying of a concealed handgun as authorized by the personal and family protection act shall not be liable for any wrongful act or omission relating to actions of persons licensed to carry a concealed handgun concerning acts or omissions regarding such handguns.

(g) Nothing in this act shall limit the ability of a corrections facility, a jail facility or a law enforcement agency to prohibit the carrying of a handgun or other firearm concealed or unconcealed by any person into any secure area of a building located on such premises, except those areas of such building outside

of a secure area and readily accessible to the public shall be subject to the provisions of subsection (b).

(h) Nothing in this section shall limit the ability of the chief judge of each judicial district to prohibit the carrying of a concealed handgun by any person into courtrooms or ancillary courtrooms within the district provided that other means of security are employed such as armed law enforcement or armed security officers.

(i) The governing body or the chief administrative officer, if no governing body exists, of a state or municipal building, may exempt the building from this section until January 1, 2014, by notifying the Kansas attorney general and the law enforcement agency of the local jurisdiction by letter of such exemption. Thereafter, such governing body or chief administrative officer may exempt a state or municipal building for a period of only four years by adopting a resolution, or drafting a letter, listing the legal description of such building, listing the reasons for such exemption, and including the following statement: "A security plan has been developed for the building being exempted which supplies adequate security to the occupants of the building and merits the prohibition of the carrying of a concealed handgun as authorized by the personal and family protection act." A copy of the security plan for the building shall be maintained on file and shall be made available, upon request, to the Kansas attorney general and the law enforcement agency of local jurisdiction. Notice of this exemption, together with the resolution adopted or the letter drafted, shall be sent to the Kansas attorney general and to the law enforcement agency of local jurisdiction. The security plan shall not be subject to disclosure under the Kansas open records act.

(j) The governing body or the chief administrative officer, if no governing body exists, of any of the following institutions may exempt any building of such institution from this section for a period of four years only by stating the reasons for such exemption and sending notice of such exemption to the Kansas attorney general:

- (1) A state or municipal-owned medical care facility, as defined in K.S.A. 65-425, and amendments thereto;
- (2) a state or municipal-owned adult care home, as defined in K.S.A. 39-923, and amendments thereto;
- (3) a community mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto;
- (4) an indigent health care clinic, as defined by K.S.A. 2012 Supp65-7402, and amendments thereto; or
- (5) a postsecondary educational institution, as defined in K.S.A. 74-201b, and amendments thereto, including any buildings located on the grounds of such institution and any buildings leased by such institution.

(k) The provisions of this section shall not apply to any building located on the grounds of the Kansas state school for the deaf or the Kansas state school for the blind.

(l) For purposes of this section:

(1) "Adequate security measures" means the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public. Adequate security measures for storing and securing lawfully carried weapons, including, but not limited to, the use of gun lockers or other similar storage options may be provided at public entrances.

(2) The terms "municipality" and "municipal" are interchangeable and have the same meaning as the term "municipality" is defined in K.S.A. 75-6102, and amendments thereto, but does not include school districts.

(3) "Restricted access entrance" means an entrance that is restricted to the public and requires a key, keycard, code, or similar device to allow entry to authorized personnel.

(4) "State" means the same as the term is defined in K.S.A. 75-6102, and amendments thereto.

(5) (A) “State or municipal building” means a building owned or leased by such public entity. It does not include a building owned by the state or a municipality which is leased by a private entity whether for profit or not-for-profit or a building held in title by the state or a municipality solely for reasons of revenue bond financing.

(B) On and after July 1, 2014, provided that the provisions of section 3, and amendments thereto, are in full force and effect, the term “state and municipal building” shall not include the state capitol.

(6) “Weapon” means a weapon described in K.S.A. 2012 Supp. 21-6301, and amendments thereto.

(m) This section shall be a part of and supplemental to the personal and family protection act.

**History:** L. 2013, ch. 105, sec. 2; July 1.

## **PRISON-MADE GOODS**

**75-5275a. Same; home building program; limitations on production of manufactured or modular homes.** (a) Notwithstanding any provision of the prison-made goods act of Kansas to the contrary, the secretary shall not establish or maintain a home building program which manufacturers or produces housing units which would compete with the:

(1) (A) Manufactured homes or modular homes manufactured, assembled or sold by manufactured home manufacturers; or

(B) manufactured homes or modular homes sold by manufactured home dealers; or

(2) (A) modular homes manufactured, assembled or sold by modular home manufacturers; or

(B) modular homes sold by modular home dealers.

(b) As used in this section:

(1) “Manufactured home” has the meaning ascribed to such term by K.S.A. 58-4202, and amendments thereto;

(2) “manufactured home dealer” has the meaning ascribed to such term by K.S.A. 58-4202, and amendments thereto;

(3) “manufactured home manufacturer” has the meaning ascribed to such term by K.S.A. 58-4202, and amendments thereto;

(4) “modular home” has the meaning ascribed to such term by K.S.A. 58-4202, and amendments thereto; and

(5) “secretary” means the secretary of corrections.

(6) “Vocational building program” means the vocational building program operated by the secretary to provide individual, freestanding buildings, not to exceed 1,000 square feet in size, to state agencies for use by such agencies.

(c) The provisions of this section shall not apply to a vocational building program.

(d) This section shall be a part of and supplemental to the prison-made goods act of Kansas.

**History:** L. 2013, ch. 49, sec. 1; July 1.

## **KANSAS STATE UNIVERSITY**

**76-463. Wildlife damage control; cooperation with department of wildlife and parks.** In connection with its duties, the section shall cooperate with the Kansas department of wildlife, parks and tourism.

**History:** L. 1973, ch. 378, sec. 5; L. 1989, ch. 118, sec. 189; L. 2012, ch. 47, sec. 121; July 1.

## **RULES AND REGULATIONS**

**77-415. Definitions; citation of act; exclusions; effect of certain adjudications and orders; guidance documents.** (a) K.S.A. 77-415 through 77-438, and amendments thereto, shall be known and may be cited as the Kansas rules and regulations filing act.

(b) (1) Unless otherwise provided by statute or constitutional provision, each rule and regulation issued

or adopted by a state agency shall comply with the requirements of the Kansas rules and regulations filing act. Except as provided in this section, any standard, requirement or other policy of general application may be given binding legal effect only if it has complied with the requirements of the Kansas rules and regulations filing act.

(2) Notwithstanding the provisions of this section:

(A) An agency may bind parties, establish policies, and interpret statutes or regulations by order in an adjudication under the Kansas administrative procedure act or other procedures required by law, except that such order shall not be used as precedent in any subsequent adjudication against a person who was not a party to the original adjudication unless the order is:

(i) Designated by the agency as precedent;

(ii) not overruled by a court or later adjudication; and

(iii) disseminated to the public in one of the following ways:

(a) Inclusion in a publicly available index, maintained by the agency and published on its website, of all orders designated as precedent;

(b) publication by posting in full on an agency website in a format capable of being searched by key terms; or

(c) being made available to the public in such other manner as may be prescribed by the secretary of state.

(B) Any statement of agency policy may be treated as binding within the agency if such statement of policy is directed to:

(i) Agency personnel relating to the performance of their duties.

(ii) The internal management of or organization of the agency.

No such statement of agency policy listed in clauses (i) and (ii) of this subparagraph may be relied on to bind the general public.

(C) An agency may provide forms, the content or substantive requirements of which are prescribed by rule and regulation or statute, except that no such form may give rise to any legal right or duty or be treated as authority for any standard, requirement or policy reflected therein.

(D) An agency may provide guidance or information to the public, describing any agency policy or statutory or regulatory requirement except that no such guidance or information may give rise to any legal right or duty or be treated as authority for any standard, requirement or policy reflected therein.

(E) None of the following shall be subject to the Kansas rules and regulations filing act:

(i) Any policy relating to the curriculum of a public educational institution or to the administration, conduct, discipline, or graduation of students from such institution.

(ii) Any parking and traffic regulations of any state educational institution under the control and supervision of the state board of regents.

(iii) Any rule and regulation relating to the emergency or security procedures of a correctional institution, as defined in subsection (d) of K.S.A. 75-5202, and amendments thereto.

(iv) Any order issued by the secretary of corrections or any warden of a correctional institution under K.S.A. 75-5256, and amendments thereto.

(F) When a statute authorizing an agency to issue rules and regulations or take other action specifies the procedures for doing so, those procedures shall apply instead of the procedures in the Kansas rules and regulations filing act.

(c) As used in the Kansas rules and regulations filing act, and amendments thereto, unless the context clearly requires otherwise:

(1) “Board” means the state rules and regulations board established under the provisions of K.S.A. 77-423, and amendments thereto.

(2) “Environmental rule and regulation” means:

(A) A rule and regulation adopted by the secretary of agriculture, the secretary of health and environment or the state corporation commission, which has as a primary purpose the protection of the environment; or

(B) a rule and regulation adopted by the secretary of wildlife, parks and tourism concerning threatened or endangered species of wildlife as defined in K.S.A. 32-958, and amendments thereto.

(3) “Person” means an individual, firm, association, organization, partnership, business trust, corporation, company or any other legal or commercial entity.

(4) “Rule and regulation,” “rule,” and “regulation” means a standard, requirement or other policy of general application that has the force and effect of law, including amendments or revocations thereof, issued or adopted by a state agency to implement or interpret legislation.

(5) “Rulemaking” shall have the meaning ascribed to it in K.S.A. 77-602, and amendments thereto.

(6) “Small employer” means any person, firm, corporation, partnership or association that employs not more than 50 employees, the majority of whom are employed within this state.

(7) “State agency” means any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and legislative branches, which is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state.

**History:** L. 1965, ch. 506, sec. 1; L. 1977, ch. 321, sec. 1; L. 1978, ch. 120, sec. 24; L. 1978, ch. 386, sec/ 1; L. 1980, ch. 303, sec/ 1; L. 1981, ch. 364, sec. 1; L. 1981, ch. 157, sec. 3; L. 1981, ch. 365, sec. 1; L. 1982, ch. 385, sec. 2; L. 1982, ch. 386, sec. 1; L. 1982, ch. 142, sec. 26; L. 1983, ch. 307, sec. 1; L. 1989, ch. 282, sec. 1; L. 1991, ch. 276, sec/ 1; L. 1995, ch. 171, sec. 1; L. 1996, ch. 43, sec. 4; L. 1997, ch. 160, sec. 42; L. 2008, ch. 25, sec. 1; L. 2010, ch. 95, sec. 1; L. 2011, ch. 14, sec. 1; L. 2012, ch. 47, sec. 122; July 1.

**77-421. Notice and hearing; adaption procedure; new rulemaking, when required.** (a) (1) Except as provided by subsection (a)(2), subsection (a)(3) or subsection (a)(4), prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the secretary of administration and the attorney general, the adopting state agency shall give at least 60 days’ notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations established by K.S.A. 77-436, and amendments thereto. The notice shall be provided to the secretary of state and to the chairperson, vice chairperson, ranking minority member of the joint committee and

legislative research department and shall be published in the Kansas register. A complete copy of all proposed rules and regulations and the complete economic impact statement required by K.S.A. 77-416, and amendments thereto, shall accompany the notice sent to the secretary of state. The notice shall contain:

(A) A summary of the substance of the proposed rules and regulations;

(B) a summary of the economic impact statement indicating the estimated economic impact on governmental agencies or units, persons subject to the proposed rules and regulations and the general public;

(C) a summary of the environmental benefit statement, if applicable, indicating the need for the proposed rules and regulations;

(D) the address where a complete copy of the proposed rules and regulations, the complete economic impact statement, the environmental benefit statement, if applicable, required by K.S.A. 77-416, and amendments thereto, may be obtained;

(E) the time and place of the public hearing to be held; the manner in which interested parties may



present their views; and

(F) a specific statement that the period of 60 days' notice constitutes a public comment period for the purpose of receiving written public comments on the proposed rules and regulations and the address where such comments may be submitted to the state agency. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations.

(2) Prior to adopting any rule and regulation which establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife and after such rule and regulation has been approved by the secretary of administration and the attorney general, the secretary of wildlife, parks and tourism shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(3) Prior to adopting any rule and regulation which establishes any permanent prior authorization on a prescription-only drug pursuant to K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or reimbursement for pharmaceuticals under the pharmacy program of the state medicaid plan, and after such rule and regulation has been approved by the secretary of administration and the attorney general, the Kansas health policy authority shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(4) Prior to adopting any rule and regulation pursuant to subsection (c), the state agency shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of notice constitutes a public comment period on such rules and regulations.

(b) (1) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. At the time it adopts or amends a rule and regulation, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto, including:

(A) The agency's reasons for not accepting substantial arguments made in testimony and comments; and

(B) the reasons for any substantial change between the text of the proposed adopted or amended rule and regulation contained in the published notice of the proposed adoption or amendment of the rule and regulation and the text of the rule and regulation as finally adopted.

(2) Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving or revoking a rule and regulation, the state agency, in lieu of following the requirements or statutory procedure set out in such other law, may give notice and hold hearings on proposed rules and regulations in the manner prescribed by this section.

(3) Notwithstanding the other provisions of this section, the Kansas parole board and the secretary of corrections, may give notice or an opportunity to be heard to any inmate in the custody of the secretary of corrections with regard to the adoption of any rule and regulation, but the secretary shall not be required to give such notice or opportunity.

(c) (1) The agency shall initiate new rulemaking proceedings under this act, if a state agency proposes

to adopt a final rule and regulation that:

(A) Differs in subject matter or effect in any material respect from the rule and regulation as originally proposed; and

(B) is not a logical outgrowth of the rule and regulation as originally proposed.

(2) In accordance with subsection (a), the period for public comment required by K.S.A. 77-421, and amendments thereto, may be shortened to not less than 30 days.

(3) For the purposes of this provision, a rule and regulation is not the logical outgrowth of the rule and regulation as originally proposed if a person affected by the final rule and regulation was not put on notice that such person's interests were affected in the rulemaking.

(d) When, pursuant to this or any other statute, a state agency holds a hearing on the adoption of a proposed rule and regulation, the agency shall cause written minutes or other records, including a record maintained on sound recording tape or on any electronically accessed media or any combination of written or electronically accessed media records of the hearing to be made. If the proposed rule and regulation is adopted and becomes effective, the state agency shall maintain, for not less than three years after its effective date, such minutes or other records, together with any recording, transcript or other record made of the hearing and a list of all persons who appeared at the hearing and who they represented, any written testimony presented at the hearing and any written comments submitted during the public comment period.

(e) No rule and regulation shall be adopted by a board, commission, authority or other similar body except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted by a board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

**History:** L. 1965, ch. 506, sec. 7; L. 1967, ch. 485, sec. 1; L. 1972, ch. 354, sec. 2; L. 1976, ch. 415, sec. 2; L. 1977, ch. 321, sec. 7; L. 1978, ch. 120, sec. 25; L. 1980, ch. 304, sec. 4; L. 1981, ch. 324, sec. 33; L. 1982, ch. 386, sec. 4; L. 1983, ch. 307, sec. 4; L. 1987, ch. 362, sec. 1; L. 1988, ch. 366, sec. 34; L. 1995, ch. 171, sec. 4; L. 1998, ch. 82, sec. 1; L. 2002, ch. 180, sec. 9; L. 2010, ch. 95, sec. 9; L. 2012, ch. 47, sec. 123; July 1.

## **PROPERTY EXEMPT FROM TAXATION**

**79-201a. Property exempt from property and ad valorem taxes.** The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

*First.* All property belonging exclusively to the United States, except property which congress has expressly declared to be subject to state and local taxation.

*Second.* All property used exclusively by the state or any municipality or political subdivision of the state. All property owned, being acquired pursuant to a lease-purchase agreement or operated by the state or any municipality or political subdivision of the state, including property which is vacant or lying dormant, which is used or is to be used for any governmental or proprietary function and for which bonds may be issued or taxes levied to finance the same, shall be considered to be used exclusively by the state, municipality or political subdivision for the purposes of this section. The lease by a municipality or political subdivision of the state of any real property owned or being acquired pursuant to a lease-purchase agreement for the purpose of providing office space necessary for the performance of medical services by a person licensed to practice medicine and surgery or osteopathic medicine by the board of healing arts pursuant to K.S.A. 65-2801 *et seq.*, and amendments thereto, dentistry services by a person licensed by the Kansas dental board pursuant to K.S.A. 65-1401 *et seq.*, and amendments thereto, optometry services by a person licensed by the board of examiners in optometry pursuant to K.S.A. 65-1501 *et seq.*, and amendments thereto, or

K.S.A. 74-1501 *et seq.*, and amendments thereto, podiatry services by a person licensed by the board of healing arts pursuant to K.S.A. 65-2001 *et seq.*, and amendments thereto, or the practice of psychology by a person licensed by the behavioral sciences regulatory board pursuant to K.S.A. 74-5301 *et seq.*, and amendments thereto, shall be construed to be a governmental function, and such property actually and regularly used for such purpose shall be deemed to be used exclusively for the purposes of this paragraph. The lease by a municipality or political subdivision of the state of any real property, or portion thereof, owned or being acquired pursuant to a lease-purchase agreement to any entity for the exclusive use by it for an exempt purpose, including the purpose of displaying or exhibiting personal property by a museum or historical society, if no portion of the lease payments include compensation for return on the investment in such leased property shall be deemed to be used exclusively for the purposes of this paragraph. All property leased, other than motor vehicles leased for a period of at least one year and property being acquired pursuant to a lease-purchase agreement, to the state or any municipality or political subdivision of the state by any private entity shall not be considered to be used exclusively by the state or any municipality or political subdivision of the state for the purposes of this section except that the provisions of this sentence shall not apply to any such property subject to lease on the effective date of this act until the term of such lease expires but property taxes levied upon any such property prior to tax year 1989, shall not be abated or refunded. Any property constructed or purchased with the proceeds of industrial revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 12-1740 to 12-1749, and amendments thereto, or purchased with proceeds of improvement district bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, and amendments thereto, or with proceeds of bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-3815a and 19-3815b, and amendments thereto, or any property improved, purchased, constructed, reconstructed or repaired with the proceeds of revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 13-1238 to 13-1245, inclusive, and amendments thereto, or any property improved, reimproved, reconstructed or repaired with the proceeds of revenue bonds issued after July 1, 1963, under the authority of K.S.A. 13-1238 to 13-1245, inclusive, and amendments thereto, which had previously been improved, reconstructed or repaired with the proceeds of revenue bonds issued under such act on or before July 1, 1963, shall be exempt from taxation for so long as any of the revenue bonds issued to finance such construction, reconstruction, improvement, repair or purchase shall be outstanding and unpaid. Any property constructed or purchased with the proceeds of any revenue bonds authorized by K.S.A. 13-1238 to 13-1245, inclusive, and amendments thereto, 19-2776, 19-3815a and 19-3815b, and amendments thereto, issued on or after July 1, 1963, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Any property, all or any portion of which is constructed or purchased with the proceeds of revenue bonds authorized by K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, issued on or after July 1, 1963 and prior to July 1, 1981, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased wholly with the proceeds of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased in part with the proceeds of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation to the extent of the value of that portion of the property financed by the revenue bonds and only for a period of 10 calendar years after the calendar year in which the bonds were issued. The exemption of that portion of the property constructed or purchased with the proceeds of revenue bonds shall terminate upon the failure to pay all taxes levied on that portion of the property which is not exempt and the entire property shall be subject to sale in the manner

prescribed by K.S.A. 79-2301 *et seq.*, and amendments thereto. Property constructed or purchased in whole or in part with the proceeds of revenue bonds issued on or after January 1, 1995, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, and used in any retail enterprise identified under NAICS sectors 44 and 45, except facilities used exclusively to house the headquarters or back office operations of such retail enterprises identified thereunder, shall not be exempt from taxation. For the purposes of the preceding provision “NAICS” means the North American industry classification system, as developed under the authority of the office of management and budget of the office of the president of the United States. “Headquarters or back office operations” means a facility from which the enterprise is provided direction, management, administrative services, or distribution or warehousing functions in support of transactions made by the enterprise. Property purchased, constructed, reconstructed, equipped, maintained or repaired with the proceeds of industrial revenue bonds issued under the authority of K.S.A. 12-1740 *et seq.*, and amendments thereto, which is located in a redevelopment project area established under the authority of K.S.A. 12-1770 *et seq.*, and amendments thereto, shall not be exempt from taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for any poultry confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903, and amendments thereto, shall not be exempt from such taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903, and amendments thereto, shall not be exempt from such taxation.

*Third.* All works, machinery and fixtures used exclusively by any rural water district or township water district for conveying or production of potable water in such rural water district or township water district, and all works, machinery and fixtures used exclusively by any entity which performed the functions of a rural water district on and after January 1, 1990, and the works, machinery and equipment of which were exempted hereunder on March 13, 1995.

*Fourth.* All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safekeeping thereof, and for the meeting of fire companies, whether belonging to any rural fire district, township fire district, town, city or village, or to any fire company organized therein or therefor.

*Fifth.* All property, real and personal, owned by county fair associations organized and operating under the provisions of K.S.A. 2-125 *et seq.*, and amendments thereto.

*Sixth.* Property acquired and held by any municipality under the municipal housing law (K.S.A. 17-2337 *et seq.*), and amendments thereto, except that such exemption shall not apply to any portion of the project used by a nondwelling facility for profit making enterprise.

*Seventh.* All property of a municipality, acquired or held under and for the purposes of the urban renewal law (K.S.A. 17-4742 *et seq.*), and amendments thereto, except that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

*Eighth.* All property acquired and held by the Kansas armory board for armory purposes under the provisions of K.S.A. 48-317, and amendments thereto.

*Ninth.* All property acquired and used by the Kansas turnpike authority under the authority of K.S.A. 68-2001 *et seq.*, and amendments thereto, K.S.A. 68-2030 *et seq.*, and amendments thereto, K.S.A. 68-

2051 *et seq.*, and amendments thereto, and K.S.A. 68-2070 *et seq.*, and amendments thereto.

*Tenth.* All property acquired and used for state park purposes by the Kansas department of wildlife, parks and tourism.

*Eleventh.* The state office building constructed under authority of K.S.A. 75-3607 *et seq.*, and amendments thereto, and the site upon which such building is located.

*Twelfth.* All buildings erected under the authority of K.S.A. 76-6a01 *et seq.*, and amendments thereto, and all other student union buildings and student dormitories erected upon the campus of any institution mentioned in K.S.A. 76-6a01, and amendments thereto, by any other nonprofit corporation.

*Thirteenth.* All buildings, as the same is defined in subsection (c) of K.S.A. 76-6a13, and amendments thereto, which are erected, constructed or acquired under the authority of K.S.A. 76-6a13 *et seq.*, and amendments thereto, and building sites acquired therefor.

*Fourteenth.* All that portion of the waterworks plant and system of the city of Kansas City, Missouri, now or hereafter located within the territory of the state of Kansas pursuant to the compact and agreement adopted by K.S.A. 79-205, and amendments thereto.

*Fifteenth.* All property, real and personal, owned by a groundwater management district organized and operating pursuant to K.S.A. 82a-1020, and amendments thereto.

*Sixteenth.* All property, real and personal, owned by the joint water district organized and operating pursuant to K.S.A. 80-1616 *et seq.*, and amendments thereto.

*Seventeenth.* All property, including interests less than fee ownership, acquired for the state of Kansas by the secretary of transportation or a predecessor in interest which is used in the administration, construction, maintenance or operation of the state system of highways, regardless of how or when acquired.

*Eighteenth.* Any building used primarily as an industrial training center for academic or vocational education programs designed for and operated under contract with private industry, and located upon a site owned, leased or being acquired by or for an area vocational school, an area vocational-technical school, a technical college, or a community college, as defined by K.S.A. 72-4412, and amendments thereto, and the site upon which any such building is located.

*Nineteenth.* For all taxable years commencing after December 31, 1997, all buildings of an area vocational school, an area vocational-technical school, a technical college or a community college, as defined by K.S.A. 72-4412, and amendments thereto, which are owned and operated by any such school or college as a student union or dormitory and the site upon which any such building is located.

*Twentieth.* For all taxable years commencing after December 31, 1997, all personal property which is contained within a dormitory that is exempt from property taxation and which is necessary for the accommodation of the students residing therein.

*Twenty-First.* All real property from and after the date of its transfer by the city of Olathe, Kansas, to the Kansas state university foundation, all buildings and improvements thereafter erected and located on such property, and all tangible personal property, which is held, used or operated for educational and research purposes at the Kansas state university Olathe innovation campus located in the city of Olathe, Kansas.

*Twenty-Second.* All real property, and all tangible personal property, owned by postsecondary educational institutions, as that term is defined in K.S.A. 74-3201b, and amendments thereto, or by the board of regents on behalf of the postsecondary educational institutions, which is leased by a for profit company and is actually and regularly used exclusively for research and development purposes so long as any rental income received by such postsecondary educational institution or the board of regents from such a company is used exclusively for educational or scientific purposes. Any such lease or occupancy described in this section shall be for a term of no more than five years.

Except as otherwise specifically provided, the provisions of this section shall apply to all taxable years commencing after December 31, 2009.

**History:** L. 1975, ch. 495, sec. 2; L. 1977, ch. 323, sec. 1; L. 1978, ch. 390, sec. 1; L. 1979, ch. 307, sec. 1; L. 1980, ch. 68, sec. 5; L. 1981, ch. 370, sec. 1; L. 1982, ch. 389, sec. 1; L. 1987, ch. 395, sec. 1; L. 1987, ch. 368, sec. 4; L. 1989, ch. 118, sec. 190; L. 1989, ch. 288, sec. 2; L. 1989, ch. 274, sec. 6; L. 1992, ch. 287, sec. 1; L. 1994, ch. 193, sec. 1; L. 1994, ch. 357, sec. 1; L. 1995, ch. 254, sec. 3; L. 1997, ch. 126, sec. 36; L. 1997, ch. 187, sec. 2; L. 1998, ch. 146, sec. 1; L. 1999, ch. 154, sec. 73; L. 2001, ch. 214, sec. 1, L. 2005, ch. 152, sec. 42; L. 2005, ch. 199, sec. 5; L. 2007, ch. 152, sec. 6; L. 2008, ch. 182, sec. 14; L. 2009, ch. 69, sec. 2; L. 2010, ch. 97, sec. 3; L. 2012, ch. 47, sec. 124; July 1.

## VALUATION OF VESSELS

**79-306e. Valuation of vessels, proration.** (a) The value for property tax purposes of any watercraft, as defined by section 10, and amendments thereto, which is acquired or sold after January 1 and prior to September 1 of any taxable year shall be equal to the value determined therefor pursuant to section 10, and amendments thereto, multiplied by: (1) In the case of a sale, a fraction the numerator of which is the number of months, or major portion thereof, such watercraft was owned by the record owner thereof during the taxable year in which such watercraft was sold, and the denominator of which is 12; and (2) in the case of an acquisition, a fraction the numerator of which is the number of months, or major portion thereof, remaining in the taxable year after the date of acquisition by the record owner thereof, and the denominator of which is 12.

b) On or after July 1, 2007, notice of the acquisition or sale of any such watercraft shall be provided by the record owner thereof to the appropriate county appraiser on or before December 20 of the year of such acquisition or sale. Upon receipt of such notice, and after computation of the value of any such watercraft in accordance with the provision of subsection (a), a notification or revised notification of value shall be mailed to the taxpayer.

(c) Watercraft acquired after September 1 of a taxable year shall not be subject to assessment and taxation for such year, except as provided by paragraph (1) of subsection (a).

(d) The provisions of this section shall apply to all taxable years commencing after December 31, 2013.

**History:** L. 2002, ch. 185, sec. 33; L. 2007, ch. 152, sec. 9; L. 2013, ch. 87, sec. 12; April 25.

## INCOME TAX

**79-3221e. Disposition of moneys received pursuant to 79-3221d; limitation on expenditures.** (a) The director of taxation of the department of revenue shall determine annually the total amount designated for use in the Kansas nongame wildlife improvement program pursuant to K.S.A. 79-3221d, and amendments thereto, and shall report such amount to the state treasurer who shall credit the entire amount thereof to the nongame wildlife improvement fund which fund is hereby established in the state treasury. In the case where donations are made pursuant to K.S.A. 79-3221d, and amendments thereto, the director shall remit the entire amount thereof to the state treasurer who shall credit the same to such fund. All moneys deposited in such fund shall be used solely for the purpose of preserving, protecting, perpetuating and enhancing nongame wildlife in this state. All expenditures from such fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, parks and tourism or the secretary's designee.

(b) As used in K.S.A. 79-3221d, and amendments thereto, and this section, "nongame wildlife" means any species of wildlife not legally classified as a game species or furbearer by statute or by rules and regulations adopted pursuant to statute.

**History:** L. 1980, ch. 305, sec. 2; L. 1989, ch. 118, sec. 191; L. 2012, ch. 47, sec. 125; July 1.

**79-3221h. Nongame wildlife improvement fund, use of federal moneys.** (a) All federal moneys received pursuant to federal assistance, federal-aid funds and federal-aid grant reimbursements related to the nongame wildlife improvement fund under the control, authorities and duties of the Kansas department of wildlife, parks and tourism, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the nongame wildlife improvement fund federal, which is hereby created. The nongame wildlife improvement fund federal is hereby redesignated as the plant and animal disease and pest control fund.

(b) No moneys derived from sources described in subsection (a) shall be used for any purpose other than the administration of matters which relate to purposes authorized under K.S.A. 79-3221e, and amendments thereto, and which are under the control, authorities and duties of the secretary of wildlife, parks and tourism and the Kansas department of wildlife, parks and tourism as provided by law.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the plant and animal disease and pest control fund, interest earnings based on:

- (1) The average daily balance of moneys in the plant and animal disease and pest control fund; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the plant and animal disease and pest control fund, shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of wildlife, parks and tourism.

**History:** L. 2005, ch. 181, sec. 4; L. 2012, ch. 47, sec. 126; July 1.

**79-3234. Tax information; preservation; limits on dissemination and use; penalty for violations.**

(a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may: (1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or economic incentive program administered by the secretary of commerce; (B) the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 2011 Supp. 74-50,212, and amendments thereto; (C) information received from businesses completing the form required by K.S.A. 2011 Supp. 74-50,217, and amendments thereto; and (D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 2011 Supp. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the Kansas department of wildlife, parks and tourism to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of social and rehabilitation services for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV- D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of

the federal social security act (42 U.S.C. § 651 *et seq.*) and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax

laws, as the secretary may consider proper, but such information shall not be used for any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;



(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act, K.S.A. 74-4901 *et seq.*, and amendments thereto; and

(13) (i) provide taxpayer information of persons suspected of violating K.S.A. 2011 Supp. 44-766, and amendments thereto, to the secretary of labor or such secretary's designee for the purpose of determining compliance by any person with the provisions of subsection (i)(3)(D) of K.S.A. 44-703 and K.S.A. 2011 Supp. 44-766, and amendments thereto. The information to be provided shall include all relevant information in the possession of the department of revenue necessary for the secretary of labor to make a proper determination of compliance with the provisions of subsection (i)(3)(D) of K.S.A. 44-703 and K.S.A. 2011 Supp. 44-766, and amendments thereto, and to calculate any unemployment contribution taxes due. Such information to be provided by the department of revenue shall include, but not be limited to, withholding tax and payroll information, the identity of any person that has been or is currently

being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 *et seq.*, and amendments thereto, and the results or status of such audit or investigation.

(ii) Any person receiving tax information under the provisions of this paragraph shall be subject to the same duty of confidentiality imposed by law upon the personnel of the department of revenue and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality.

(iii) Each of the secretary of labor and the secretary of revenue may adopt rules and regulations necessary to effect the provisions of this paragraph.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

**History:** L. 1933, ch. 320, sec/ 34; L. 1935, ch. 312, sec. 13; L. 1943, ch. 307, sec. 2; L. 1972, ch. 342, sec. 97, L. 1977, ch. 186, sec. 9; L. 1978, ch. 406, sec. 1; L. 1979, ch. 319, sec. 1; L. 1983, ch. 289, sec. 13; L. 1984, ch. 192, sec. 3; L. 1987, ch. 292, sec. 30; L. 1987, ch. 112, sec. 40; L. 1989, ch. 297, sec. 3, L. 1992, ch. 202, sec/ 14; L. 1993, ch. 192, sec. 2; L. 1994, ch. 188, sec. 3; L. 1997, ch. 126, sec. 46; L. 1998, ch. 188, sec. 6; L. 2000, ch. 184, sec/ 27, L. 2005, ch. 110, sec. 4, L. 2006, ch. 118, sec. 3; L. 2009, ch. 104, sec. 8; L. 2010, ch. 144, sec. 8; L. 2011, ch. 81, sec. 5; L. 2012, ch. 47, sec. 127; July 1.

**79-3234b. Tax information; preservation; limits on dissemination and use; penalty for violations.** (a) All reports and returns required by this act shall be preserved for three years and thereafter until the director orders them to be destroyed.

(b) Except in accordance with proper judicial order, or as provided in subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106, K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer, employee or former employee of the department of revenue or any other state officer or employee or former state officer or employee to divulge, or to make known in any way, the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information required under this act; and it shall be unlawful for the secretary, the director, any deputy, agent, clerk or other officer or employee engaged in the administration of this act to engage in the business or

profession of tax accounting or to accept employment, with or without consideration, from any person, firm or corporation for the purpose, directly or indirectly, of preparing tax returns or reports required by the laws of the state of Kansas, by any other state or by the United States government, or to accept any employment for the purpose of advising, preparing material or data, or the auditing of books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the state of Kansas, any other state or by the United States government.

(c) The secretary or the secretary's designee may: (1) Publish statistics, so classified as to prevent the identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or other legal representatives of the state;

(3) provide the post auditor access to all income tax reports or returns in accordance with and subject to the provisions of subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

(4) disclose taxpayer information from income tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) disclose to the secretary of commerce the following: (A) Specific taxpayer information related to financial information previously submitted by the taxpayer to the secretary of commerce concerning or relevant to any income tax credits, for purposes of verification of such information or evaluating the effectiveness of any tax credit or economic incentive program administered by the secretary of commerce; (B) the amount of payroll withholding taxes an employer is retaining pursuant to K.S.A. 2011 Supp. 74-50,212, and amendments thereto; (C) information received from businesses completing the form required by K.S.A. 2011 Supp. 74-50,217, and amendments thereto; and (D) findings related to a compliance audit conducted by the department of revenue upon the request of the secretary of commerce pursuant to K.S.A. 2011 Supp. 74-50,215, and amendments thereto;

(6) disclose income tax returns to the state gaming agency to be used solely for the purpose of determining qualifications of licensees of and applicants for licensure in tribal gaming. Any information received by the state gaming agency shall be confidential and shall not be disclosed except to the executive director, employees of the state gaming agency and members and employees of the tribal gaming commission;

(7) disclose the taxpayer's name, last known address and residency status to the Kansas department of wildlife, parks and tourism to be used solely in its license fraud investigations;

(8) disclose the name, residence address, employer or Kansas adjusted gross income of a taxpayer who may have a duty of support in a title IV-D case to the secretary of the Kansas department of social and rehabilitation services for use solely in administrative or judicial proceedings to establish, modify or enforce such support obligation in a title IV- D case. In addition to any other limits on use, such use shall be allowed only where subject to a protective order which prohibits disclosure outside of the title IV-D proceeding. As used in this section, "title IV-D case" means a case being administered pursuant to part D of title IV of the federal social security act (42 U.S.C. § 651 *et seq.*), and amendments thereto. Any person receiving any information under the provisions of this subsection shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e);

(9) permit the commissioner of internal revenue of the United States, or the proper official of any state imposing an income tax, or the authorized representative of either, to inspect the income tax returns made under this act and the secretary of revenue may make available or furnish to the taxing officials of any other state or the commissioner of internal revenue of the United States or other taxing officials of the federal government, or their authorized representatives, information contained in income tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the income tax laws, as the secretary may consider proper, but such information shall not be used for

any other purpose than that of the administration of tax laws of such state, the state of Kansas or of the United States;

(10) communicate to the executive director of the Kansas lottery information as to whether a person, partnership or corporation is current in the filing of all applicable tax returns and in the payment of all taxes, interest and penalties to the state of Kansas, excluding items under formal appeal, for the purpose of determining whether such person, partnership or corporation is eligible to be selected as a lottery retailer;

(11) communicate to the executive director of the Kansas racing commission as to whether a person, partnership or corporation has failed to meet any tax obligation to the state of Kansas for the purpose of determining whether such person, partnership or corporation is eligible for a facility owner license or facility manager license pursuant to the Kansas parimutuel racing act;

(12) provide such information to the executive director of the Kansas public employees retirement system for the purpose of determining that certain individuals' reported compensation is in compliance with the Kansas public employees retirement act at K.S.A. 74-4901 *et seq.*, and amendments thereto;

(13) provide taxpayer information of persons suspected of violating K.S.A. 2011 Supp. 44-766, and amendments thereto, to the staff attorneys of the department of labor for the purpose of determining compliance by any person with the provisions of K.S.A. 2011 Supp. 44-766, and amendments thereto, which information shall be limited to withholding tax and payroll information, the identity of any person that has been or is currently being audited or investigated in connection with the administration and enforcement of the withholding and declaration of estimated tax act, K.S.A. 79-3294 *et seq.*, and amendments thereto, and the results or status of such audit or investigation; and

(14) provide such information to the state treasurer for the sole purpose of carrying out the provisions of K.S.A. 58-3934, and amendments thereto. Such information shall be limited to current and prior addresses of taxpayers or associated persons who may have knowledge as to the location of an owner of unclaimed property. For the purposes of this paragraph, "associated persons" includes spouses or dependents listed on income tax returns.

(d) Any person receiving information under the provisions of subsection (c) shall be subject to the confidentiality provisions of subsection (b) and to the penalty provisions of subsection (e).

(e) Any violation of subsection (b) or (c) is a class A nonperson misdemeanor and, if the offender is an officer or employee of the state, such officer or employee shall be dismissed from office.

(f) Nothing in this section shall be construed to allow disclosure of the amount of income or any particulars set forth or disclosed in any report, return, federal return or federal return information, where such disclosure is prohibited by the federal internal revenue code as in effect on September 1, 1996, and amendments thereto, related federal internal revenue rules or regulations, or other federal law.

**History:** L. 1933, ch. 320, sec. 34; l. 1935, ch. 312, sec. 13; L. 1943, ch. 307, sec. 2; L. 1972, ch. 342, sec. 97; L. 1977, ch. 186, sec. 9; L. 1978, ch. 406, sec. 1; L. 1979, ch. 319, sec. 1; L. 1983, ch. 289, sec. 13, L. 1984, ch. 192, sec. 3, L. 1987, ch. 292, sec. 30; L. 1987, ch. 112, sec. 40; L. 1989, ch. 297, sec. 3, L. 1992, ch. 202, sec. 14; L. 1993, ch. 192, sec. 2; L. 1994, ch. 188, sec. 3; L. 1997, ch. 126, sec. 46; L. 1998, ch. 188, sec. 6; L. 2000, ch. 184, sec. 27; L. 2005, ch. 110, sec. 4; L. 2006, ch. 118, sec. 3; L. 2009, ch. 104, sec. 8; L. 2010, ch. 144, sec. 8; L. 2011, ch. 99, sec. 2; L. 2012, ch. 47, sec. 128; July 1.

**79-32,203. Tax credits for expenditures related to nongame and endangered species.** (a) There shall be allowed two types of credits against the tax liability of a taxpayer imposed under the Kansas income tax act related to real property that is both:

(1) Designated by the secretary of wildlife, parks and tourism pursuant to the nongame and endangered species conservation act as critical habitat for a threatened or endangered species or certified by the secretary of wildlife, parks and tourism as land known to support populations of species in need of

conservation; and

(2) included in management activities as part of a recovery plan, or an agreement identified in subsection (b) of K.S.A. 32-962, and amendments thereto, as approved by the secretary of wildlife, parks and tourism for a species listed as threatened, endangered or in need of conservation pursuant to the nongame and endangered species conservation act.

(b) There shall be allowed as an annual credit against the tax liability of a taxpayer imposed an amount equal to the total amount paid by the taxpayer during the taxable year for ad valorem taxes and assessments that are imposed by the state or by any political or taxing subdivision of the state or related to real property described in subsection (a) for each year that the management activities specified in the recovery plan or agreement described in subsection (a)(2) remain in effect and apply to such real property. The credit allowed by this subsection shall not exceed the amount of tax imposed under the Kansas income tax act reduced by the sum of any other credits allowable pursuant to law.

(c) There shall be allowed as a credit against the tax liability of a taxpayer imposed under the Kansas income tax act an amount equal to costs incurred by the taxpayer for habitat management or construction and maintenance of improvements on real property described in subsection (a). Such costs shall be for management or improvements in accordance with management activities as a part of a recovery plan or conservation agreement identified in subsection (b) of K.S.A. 32-962, and amendments thereto, as approved by the secretary of wildlife, parks and tourism, for a species listed as threatened, endangered or in need of conservation pursuant to the nongame and endangered species conservation act. The tax credit allowed by this subsection shall be deducted from the taxpayer's income tax liability for the taxable year in which the expenditures are made by the taxpayer. If the amount of such tax credit exceeds the taxpayer's income tax liability for such taxable year, the taxpayer may elect, at the time of filing the initial return upon which the credit is claimed, to: (1) Carry over the amount thereof that exceeds such tax liability for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability; or (2) receive reimbursement of the amount thereof that exceeds such tax liability, to be paid from amounts appropriated to the secretary of revenue for that purpose upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person or persons designated by the secretary.

(d) The provisions of this section shall be applicable to all taxable years commencing after December 31, 1997, but before January 1, 2003.

**History:** L. 1997, ch. 113, sec. 6; L. 2012, ch. 47, sec. 129; July 1.

## **INFORMATION ON SEIZED FIREARMS**

**79-5212. Same; warrants for collection of tax, issuance, execution and returns; seizure and sale of property; tax liens.** (a) Whenever a taxpayer liable to pay any tax, penalty or interest assessed pursuant to K.S.A. 79-5205, and amendments thereto, refuses or neglects to immediately pay the amount due, the director of taxation may issue one or more warrants for the immediate collection of the amount due, directed to the sheriff of any county of the state commanding the sheriff to seize and sell the real and personal property of the taxpayer, or to seize, appraise and dispose of the firearms of the taxpayer, found within the sheriff's county to satisfy the amount specified on the warrant and the cost of executing the warrant. The director of taxation may also issue one or more warrants directed to any employee of the department of revenue commanding the employee to seize and sell the real and personal property of the taxpayer, or to seize, appraise and dispose of the firearms of the taxpayer, found anywhere within the state of Kansas to satisfy the amount specified on the warrant and the cost of executing the warrant. A copy of the warrant shall also be mailed to the taxpayer at the taxpayer's last known address or served upon the taxpayer in person.

(b) The sheriff or department of revenue employee shall proceed to execute upon the warrant in the

same manner as provided for attachment orders by K.S.A. 60-706, 60-707 and 60-710, and amendments thereto, except as otherwise provided herein. In the execution of a warrant issued to a department of revenue employee, the employee shall have all of the powers conferred by law upon sheriffs. Any law enforcement officer may assist in the execution of a warrant if requested to do so by a department of revenue employee.

(c) No law exempting any goods and chattels, land and tenements from forced sale under execution shall apply to a seizure and sale, or in the case of firearms, sale or disposal, under any warrant.

(d) A third party holding funds or other personal property of the taxpayer shall immediately, or as soon thereafter as possible, after service of the warrant on such third party, deliver such funds or other personal property to the sheriff or department of revenue employee, who shall then deliver such to the director of taxation or the director's designee for deposit toward the balance due on the taxpayer's assessment.

(e) The sheriff or department of revenue employee shall make return of such warrant to the director of taxation within 60 days from the date of the warrant. If property is seized, then the sheriff or department of revenue employee shall also make return of such warrant to the clerk of the district court in the county where the property was seized.

(f) (1) If the taxpayer fails to appeal the assessment as provided by subsection (b) of K.S.A. 79-5205, and amendments thereto, or if the taxpayer requests a hearing and a final order has been entered by the director of taxation as to the correctness of the assessment, then the sheriff or department of revenue employee shall sell the seized property at public auction, except that firearms may be sold at public auction or disposed of as provided in subsection (2). The provisions of K.S.A. 60-2406, and amendments thereto, shall apply to liens against the property being sold. Notice of the sale of personal property shall be given in accordance with K.S.A. 60-2409, and amendments thereto. Notice of the sale of real property shall be given in accordance with K.S.A. 60-2410, and amendments thereto. The taxpayer shall have the right to redeem real property within a period of six months from the date of the sale.

(2) In the case of seized firearms not sold, the director of taxation shall obtain an appraisal value performed by a federally licensed firearms dealer or an employee thereof. Such value shall be credited against the taxpayer's outstanding liability. Subsequent to such appraisal and credit against the taxpayer's outstanding liability, the director shall transfer such firearm or firearms as follows:

(A) If the firearm or firearms have historical significance, the director may transfer the firearm or firearms to the Kansas state historical society;

(B) the director may transfer the firearm or firearms to the secretary of wildlife, parks and tourism;

(C) the director may transfer the firearm or firearms to the director of the Kansas bureau of investigation; or

(D) the director may transfer the firearm or firearms to such city or county law enforcement agency where the firearm was seized. At least 30 days prior to the transfer of such firearm or firearms, pursuant to this subsection, the director shall give written notice by mail to the taxpayer at the taxpayer's last known address of the appraised value of such firearm or firearms and the date that the director intends to transfer such firearm or firearms. The taxpayer may appeal the appraised value of any such firearm or firearms by filing a written request for a hearing before the district court in which the tax warrant used to seize such firearm or firearms was filed. Such request must be filed with the district court within 15 days after such notice to the taxpayer was mailed by the director. If no appeal is filed with the district court within 15 days, or if upon appeal the district court rules against the taxpayer, the director shall transfer such firearm or firearms.

(g) The director of taxation may also direct the sheriff or department of revenue employee to file any warrant issued pursuant to subsection (a) with the clerk of the district court of any county in Kansas, and thereupon the clerk shall enter in the appearance docket the name of the taxpayer mentioned in the

warrant, the amount of the tax or portion of it, interest and penalties for which the warrant is issued and the date such copy is filed and note the taxpayer's name in the general index. No fee shall be charged for such entry. The amount of such warrant shall thereupon become a lien upon the title to, and interest in, the real property of the taxpayer located within such county. Thereupon, the director of taxation shall have the same remedies to collect the amount of the tax, penalty and interest, as if the state of Kansas had recovered judgment against the taxpayer, including immediately garnishing the wages or other property

of the taxpayer pursuant to K.S.A. 60-716 *et seq.*, and amendments thereto. Such remedies shall be in addition to the other collection remedies provided herein.

(h) The director of taxation shall have the right at any time to issue alias warrants until the full amount of the tax, penalty and interest is collected.

**History:** L. 1994, ch. 259, sec. 3; L. 2005, ch. 141, sec. 9; L. 2012, ch. 47, sec. 130; July 1.

## **TAXATION OF WATERCRAFT**

**79-5501. Taxation of watercraft.** (a) On and after July 1, 2013, watercraft shall be appraised at fair market value determined therefor pursuant to K.S.A. 79-03a, and amendments thereto, and assessed at the percentage of value as follows: (1) 11.5% in tax year 2014; and (2) 5% in tax year 2015 and all tax years thereafter. On and after January 1, 2014, the levy used to calculate the tax on watercraft shall be the county average tax rate. In no case shall the assessed value of any watercraft, as determined under the provisions of this section, cause the tax upon such watercraft to be less than \$12.

(b) As used in this section, the term "watercraft" means any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water which, if not for the provisions of this section, would be properly classified under subclass 5 or 6 of class 2 of section 1 of article 11 of the Kansas constitution. This section shall not be construed as taxing any watercraft which otherwise would be exempt from property taxation under the laws of the state of Kansas. Each watercraft may include one trailer which is designed to launch, retrieve, transport and store such watercraft and any nonelectric motor or motors which are necessary to operate such watercraft on the water.

(c) Any watercraft which is designed to be propelled through the water through human power alone shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas.

(d) the "county average tax rate" means the total amount of general property taxes levied within the county by the state, county and all other taxing subdivisions divided by the total assessed valuation of all taxable property within the county as of November 1 of the year prior to the year of valuation as certified by the secretary of revenue.

**History:** L. 2013, ch. 87, sec. 10; L. 2014, ch. 23, sec. 1; April 10.

## **NAVIGABLE WATERS**

**82a-209. Sale of land in abandoned channel of stream; survey; duties of secretary of state; appraisal.** Whenever the channel, or any part thereof, of any navigable stream in or bordering upon the state of Kansas has previously been, or shall hereafter be, changed or altered by such stream establishing a new channel by flood or avulsion, so that any land situated between the banks of such stream at high-water mark shall be abandoned or no longer used as a channel for such stream and the title to such channel is not controlled by K.S.A. 24-454, and amendments thereto, or the provisions of article 2 of chapter 82a of the Kansas Statutes Annotated are not applicable, the Kansas secretary of state shall cause such land to be surveyed by a surveyor selected by the secretary of state, and may thereafter sell and convey the same, or any part thereof, by grant or patent, as hereinafter provided. Any such survey and appropriate field notes, maps, records or other papers relating to such survey shall be filed with the register of the state land office. A certified copy of

such survey may be filed in the office of the register of deeds of the county within which the land is located. Such land, or any part thereof, may be conveyed to the Kansas department of wildlife, parks and tourism or may be sold at the best price obtainable to be agreed upon between the secretary of state, acting for and in behalf of the state of Kansas, and any person desiring to buy the same. In any case where any such land has been a part of the bed or channel of any navigable stream bordering on the state of Kansas and the survey establishes parts of such land lying between the Kansas bank of such stream at the high-water mark and the center of the main channel of such stream to be the property of this state which prior to the survey has been occupied and claimed by any person under any patent, conveyance or grant issued or made after April, 1952, to such person from a bordering state or a political subdivision thereof, the secretary of state first shall offer such parts of such lands to such persons occupying and claiming the same as aforesaid at a price represented by the proportionate cost of such survey determined by applying the total cost of the survey to the total acreage of lands covered by said survey. Upon satisfactory proof made thereof, the secretary of state shall allow as a credit to such purchase price the actual cash paid for any such patent, conveyance or grant and the actual costs of any permanent improvements made to any such lands or parts thereof by the person occupying and claiming the same. Upon the refusal of any such offer to such person, the land may be sold by the secretary of state as herein provided.

If it is not possible for such prospective purchaser and the secretary of state to agree on a price, then the land shall be sold by the secretary of state as one tract, or in different tracts, as the secretary of state may determine, under an appraisalment made by three disinterested persons residing in the county or counties where such abandoned channel sought to be sold is situated, which appraisers shall be appointed by the secretary of state. Such sale shall be for not less than three-fourths of the appraised value. In no case shall such land be sold for less than the cost of surveying, appraising and selling the same.

**History:** L. 1978, ch. 430, sec. 1; L. 1980, ch. 330, sec. 3; L. 1989, 308, sec. 2; L. 2012, ch. 47, sec. 131; July 1.

**82a-220. Grant of streambank easements by director of Kansas water office; definitions; authority; notice; filing; rules and regulations.** (a) As used in this act:

(1) “Conservation project” means any project or activity that the director of the Kansas water office determines will assist in restoring, protecting, rehabilitating, improving, sustaining or maintaining the banks of the Arkansas, Kansas or Missouri rivers from the effects of erosion;

(2) “director” means the director of the Kansas water office; and (3) “state property” means real property currently owned in full or in part by the state in the Arkansas, Kansas or Missouri rivers in Kansas, in and along the bed of the river to the ordinary high water mark on the banks of such rivers.

(b) (1) The director is hereby authorized to negotiate and grant easements on state property for construction and maintenance of conservation projects with cooperating landowners in such projects for the expected life of the project and with such terms and conditions as the director, after consultation with the Kansas department of agriculture, the Kansas department of health and environment, the Kansas department of wildlife, parks and tourism and the state conservation commission, may deem appropriate.

(2) Notice of the easement shall be given to the county or counties in which the easement is proposed and to any municipality or other governmental entity that, in the opinion of the director, holds a riparian interest in the river and may have an interest in the project or results thereof. Those persons or entities receiving notice shall have a period, not to exceed 30 days, to provide comment on the proposed easement to the director.

(3) In the event such an easement is proposed to be granted on state property owned or managed by

any other agency of the state, the director shall give notice of the proposed easement and project to that agency and shall jointly negotiate any easement so granted.

(4) A copy of all easements so entered shall be filed by the director with the office of the secretary of state and the office of the register of deeds for the county or counties in which the easement is located.

(c) The director shall adopt rules and regulations necessary to carry out the provisions of this act.

**History:** L. 2011, ch. 29, sec. 1; L. 2012, ch. 47, sec. 132; July 1.

## **OBSTRUCTIONS IN STREAMS**

**82a-326. Water projects environmental coordination act; definitions.** When used in this act:

(a) “Water development project” means any project or plan which may be allowed or permitted pursuant to K.S.A. 24-126, 24-1213, 82a-301 *et seq.*, and amendments thereto, or the multipurpose small lakes program act, and amendments thereto;

(b) “environmental review agencies” means the:

- (1) Kansas department of wildlife, parks and tourism;
- (2) Kansas forest service;
- (3) state biological survey;
- (4) Kansas department of health and environment;
- (5) state historical society;
- (6) state conservation commission; and
- (7) state corporation commission.

**History:** L. 1987, ch. 400, sec. 2; L. 2989, ch. 118, sec. 192; L. 1991, ch. 290, sec. 10; L. 1997, ch. 49, sec. 5; L. 2012, ch. 47, sec. 133; July 1.

## **STATE WATER RESOURCE PLANNING**

**82a-903. Same; formulation of state water plan; cooperation of state water agencies; advice of general public.** In accordance with the policies and long-range goals and objectives established by the legislature, the office shall formulate on a continuing basis a comprehensive state water plan for the management, conservation and development of the water resources of the state. Such state water plan shall include sections corresponding with water planning areas as determined by the office. The Kansas water office and the Kansas water authority shall seek advice from the general public and from committees consisting of individuals with knowledge of and interest in water issues in the water planning areas. The plan shall set forth the recommendations of the office for the management, conservation and development of the water resources of the state, including the general location, character, and extent of such existing and proposed projects, programs, and facilities as are necessary or desirable in the judgment of the office to accomplish such policies, goals and objectives. The plan shall specify standards for operation and management of such projects, programs, and facilities as are necessary or desirable. The plan shall be formulated and used for the general purpose of accomplishing the coordinated management, conservation and development of the water resources of the state. The division of water resources of the Kansas department of agriculture, state geological survey, the division of environment of the department of health and environment, Kansas department of wildlife, parks and tourism, state conservation commission and all other interested state agencies shall cooperate with the office in formulation of such plan.

**History:** L. 1963, ch. 514, sec. 3; L. 1975, ch. 462, sec. 129; L. 1981, ch. 398, sec. 3; L. 1984, ch. 379, sec. 2; L. 1985, ch. 340, sec. 1; L. 1989, ch. 118, sec. 193; L. 2004, ch. 101, sec. 146; L. 2012, ch. 47, sec. 134; July 1.

## **WATER TRANSFERS**

**82a-1501. Water transfer act; definitions.** As used in the water transfer act:



(a) (1) “Water transfer” means the diversion and transportation of water in a quantity of 2,000 acre feet or more per year for beneficial use at a point of use outside a 35-mile radius from the point of diversion of such water. In determining the amount of water transferred in the case of a water transfer supplying water to multiple public water supply systems or other water users, the amount of water transferred shall be considered to be the aggregate amount of water which will be supplied by the transfer to all public water supply systems and other water users whose points of use are located outside a 35-mile radius from the point of diversion of such water.

(2) Water transfer does not include a release of water from a reservoir to the water’s natural watercourse for use within the natural watercourse or watershed, made under the authority of the state water plan storage act (K.S.A. 82a-1301 *et seq.*, and amendments thereto) or the water assurance program act (K.S.A. 82a-1330 *et seq.*, and amendments thereto).

(b) “Point of diversion” means:

(1) The point where the longitudinal axis of the dam crosses the center line of the stream in the case of a reservoir;

(2) the location of the headgate or intake in the case of a direct diversion from a river, stream or other watercourse;

(3) the location of a well in the case of groundwater diversion; or

(4) the geographical center of the points of diversion in the case of multiple diversion points.

(c) “Point of use” means the geographical center of each water user’s proposed or authorized place of use where any water authorized by the proposed transfer will be used.

(d) “Chief engineer” means the chief engineer of the division of water resources of the Kansas department of agriculture.

(e) “Secretary” means the secretary of the department of health and environment, or the director of the division of environment of the department of health and environment if designated by the secretary.

(f) “Director” means the director of the Kansas water office.

(g) “Panel” means the water transfer hearing panel.

(h) “Party” means: (1) The applicant; or (2) any person who successfully intervenes pursuant to K.S.A. 82a-1503, and amendments thereto, and actively participates in the hearing. “Party” does not mean a person who makes a limited appearance for the purpose of presenting a statement for or against the water transfer.

(i) “Commenting agencies” means groundwater management districts and state natural resource and environmental agencies, including but not limited to the Kansas department of health and environment, the Kansas water office, the Kansas water authority, the Kansas department of wildlife, parks and tourism and the division of water resources of the Kansas department of agriculture.

(j) “Public water supply system” means any water supply system, whether publicly or privately owned, for which a permit is required pursuant to K.S.A. 65-163, and amendments thereto.

**History:** L. 1983, ch. 341, sec. 1; L. 1993, ch. 219, sec. 1; L. 2004, ch. 101, sec. 152, L. 2012, ch. 47, sec. 135; July 1.

## **CLASSIFIED STREAM SEGMENTS**

**82a-2001. Classified stream segments defined; other definitions.** As used in this act: (a) (1) “Classified stream segments” shall include all stream segments that are waters of the state as defined in subsection (a) of K.S.A. 65-161, and amendments thereto, and waters described in subsection (d) of K.S.A. 65-171d, and amendments thereto, that:

(A) Are indicated on the federal environmental protection agency’s reach file 1 (RF1) (1982) and have the most recent 10-year median flow of equal to or in excess of one cubic foot per second based on data collected and evaluated by the United States geological survey or in the absence of stream segment flow data, calculations of flow conducted by extrapolation methods provided

by the United States geological survey;

(B) have the most recent 10-year median flow of equal to or in excess of one cubic foot per second based on data collected and evaluated by the United States geological survey or in the absence of stream segment flow data, calculations of flow conducted by extrapolation methods provided by the United States geological survey;

(C) are actually inhabited by threatened or endangered aquatic species listed in rules and regulations promulgated by the Kansas department of wildlife, parks and tourism or the United States fish and wildlife service;

(D) (i) scientific studies conducted by the department show that during periods of flow less than one cubic foot per second stream segments provide important refuges for aquatic life and permit biological recolonization of intermittently flowing segments; and

(ii) a cost-benefit analysis conducted by the department and taking into account the economic and social impact of classifying the stream segment indicates that the benefits of classifying the stream segment outweigh the costs of classifying the stream segment, as consistent with the federal clean water act and federal regulations; or

(E) are at the point of discharge on the stream segment and downstream from such point where the department has issued a national pollutant discharge elimination system permit other than a permit for a confined feeding facility, as defined in K.S.A. 65-171d, and amendments thereto.

(2) Classified stream segments other than those described in subsection (a)(1)(E) shall not include ephemeral streams; grass, vegetative or other waterways; culverts; or ditches.

(3) Any definition of classified stream or “classified stream segment” in rules and regulations or law that is inconsistent with this definition is hereby declared null and void.

(b) “Department” means the department of health and environment.

(c) “Designated uses of classified stream segments” shall be defined as follows:

(1) “Agricultural water supply use” means the use of a classified stream segment for agricultural purposes, including the following:

(A) “Irrigation” means the withdrawal of water from a classified stream segment for application onto land; or

(B) “livestock watering” means the provision of water from a classified stream segment to livestock for consumption.

(2) “Aquatic life support use” means the use of a classified stream segment for the maintenance of the ecological integrity of streams, lakes and wetlands, including the sustained growth and propagation of native aquatic life; naturalized, important, recreational aquatic life; and indigenous or migratory semiaquatic or terrestrial wildlife directly or indirectly dependent on surface water for survival.

Categories of aquatic life support use include:

(A) “Special aquatic life use waters” means classified stream segments that contain combinations of habitat types and indigenous biota not found commonly in the state, or classified stream segments that contain representative populations of threatened or endangered species, that are listed in rules and regulations promulgated by the Kansas department of wildlife, parks and tourism or the United States fish and wildlife service.

(B) “Expected aquatic life use waters” means classified stream segments containing habitat types and indigenous biota commonly found or expected in the state.

(C) “Restricted aquatic life use waters” means classified stream segments containing indigenous biota limited in abundance or diversity by the physical quality or availability of habitat, due to natural deficiencies or artificial modifications, compared to more suitable habitats in adjacent waters.

(3) “Domestic water supply” means the use of a classified stream segment, after appropriate treatment, for the production of potable water.

(4) “Food procurement use” means the use of a classified stream segment for the obtaining of edible forms of aquatic or semiaquatic life for human consumption.

(5) “Groundwater recharge use” means the use of a classified stream segment for the replenishing of fresh or usable groundwater resources. This use may involve the infiltration and percolation of surface water through sediments and soils or the direct injection of surface water into underground aquifers.

(6) “Industrial water supply use” means the use of a classified stream segment for nonpotable purposes by industry, including withdrawals for cooling or process water.

(7) (A) “Recreational use” means:

(i) Primary contact recreational use is use of a classified stream segment for recreation during the period from April 1 through October 31 of each year, provided such classified stream segment is capable of supporting the recreational activities of swimming, skin diving, water skiing, wind surfing, kayaking or mussel harvesting where the body is intended to be immersed in surface water to the extent that some inadvertent ingestion of water is probable.

(a) Primary contact recreational use-Class A: Use of a classified stream segment for recreation during the period from April 1 through October 31 of each year, and the classified stream segment is a designated public swimming area. Water quality criterion for bacterial indicator organisms applied to Class A waters shall be set at an illness rate of eight or more per 1000 swimmers. The classified stream segment Class A if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion. The water quality criterion for primary contact recreational use-Class A waters during the period November 1 through March 31 of each year shall be equal to the criterion applied to secondary contact recreational use-Class A waters.

(b) Primary contact recreational use-Class B: Use of a classified stream segment for recreation, where moderate full body contact recreation is expected, during the period from April 1 through October 31 of each year, and the classified stream segment is by law or written permission of the landowner open to and accessible by the public. Water quality criterion for bacterial indicator organisms applied to Class B waters shall be set at an illness rate of 10 or more per 1000 swimmers. The classified stream segment shall only be considered impaired for primary contact recreational use-Class B if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion. The water quality criterion for primary contact recreational use-Class B waters during the period November 1 through March 31 of each year shall be equal to the criterion applied to secondary contact recreational use-Class A waters.

(c) Primary contact recreational use-Class C: Use of a classified stream segment for recreation, where full body contact recreation is infrequent during the period from April 1 through October 31 of each year, and is not open to and accessible by the public under Kansas law and is capable of supporting the recreational activities of swimming, skin diving, water-skiing, wind surfing, boating, mussel harvesting, wading or fishing. Water quality criterion for bacterial indicator organisms applied to Class C waters shall be set at an illness rate of 12 or more per 1000 swimmers. The classified stream segment shall only be considered impaired for primary contact recreational use-Class C if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion. The water quality criterion for primary contact recreational use-Class C waters during the period November 1 through March 31 of each year shall be equal to the criterion applied to secondary contact recreational use-Class B waters.

(ii) Secondary contact recreational use is use of a classified stream segment for recreation, provided such classified stream segment is capable of supporting the recreational activities of wading, fishing, canoeing, motor boating, rafting or other types of boating where the body is not intended to be immersed and where ingestion of surface water is not probable.

(a) Secondary contact recreational use-Class A: Use of a classified stream segment for recreation capable of supporting the recreational activities of wading or fishing and the classified stream segment is by law or written permission of the landowner open to and accessible by the public. Water quality criterion for bacterial indicator organisms applied to secondary contact recreational use-Class A waters shall be nine times the criterion applied to primary contact recreational use-Class B waters. The classified stream segment shall only be considered impaired for secondary contact recreational use-Class A if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion.

(b) Secondary contact recreational use-Class B: Use of a classified stream segment for recreation capable of supporting the recreational activities of wading or fishing and the classified stream segment is not open to and accessible by the public under Kansas law. Water quality criterion for bacterial indicator organisms applied to secondary contact recreational use-Class B waters shall be nine times the criterion applied to primary contact recreational-Class C use waters. The classified stream segment shall only be considered impaired for secondary contact recreational use-Class B if the calculated geometric mean of at least five samples collected in separate 24-hour periods within a 30-day period exceeds the corresponding water quality criterion.

(B) If opposite sides of a classified stream segment would have different designated recreational uses due to differences in public access, the designated use of the entire classified stream segment may be the higher attainable use, notwithstanding that such designation does not grant the public access to both sides of such segment.

(C) Recreational use designations shall not apply to stream segments where the natural, ephemeral, intermittent or low flow conditions or water levels prevent recreational activities.

(d) “Ephemeral stream” means streams that flow only in response to precipitation and whose channel is at all times above the water table.

(e) “Secretary” means the secretary of health and environment.

**History:** L. 2001, ch. 100, sec. 1; L. 2003, ch. 105, sec. 1; L. 2012, ch. 47, sec. 136; July 1.

**82a-2204. Same; governing body; membership; terms; powers and duties.** (a) The governing board of the horsethief reservoir benefit district shall consist of eight members, as follows:

(1) Four members to be appointed one each by the board of county commissioners of the four counties in the district;

(2) one member to be appointed one each by the governing body of the cities of Dodge City and Garden City;

(3) one member appointed by the Pawnee watershed district; and

(4) the secretary of wildlife, parks and tourism or the secretary’s designee.

(b) The member appointed by the Pawnee watershed district shall serve as chairperson of the governing board.

(c) The board shall meet upon call of the chairperson as necessary to carry out its duties under this act.

(d) The initial appointment for the members appointed by Finney and Gray counties and Dodge City shall be for a term of one year. The initial appointment for the members appointed by Ford and Hodgeman counties, Garden City and the Pawnee watershed district shall be for a term of two years. For each subsequent appointment, each appointed member of the board shall be appointed for a term of two years. Each member shall continue in such position until a successor is appointed and qualified. Members shall be eligible for reappointment. Whenever a vacancy occurs in the membership of the board, a successor shall be selected to fill such vacancy in the same manner as and for the unexpired term of the member such person is succeeding.

(e) The governing body shall have the following powers and duties:

- (1) Authority to impose a district wide sales tax pursuant to the provisions of this act;
  - (2) authority to issue bonds pursuant to the provisions of this act; and
  - (3) authority to manage recreational facilities within the district.
- (f) The governing body shall provide that any fee schedule imposed for users of recreational facilities within the district may be set at a reduced rate or schedule for residents of any county which is a part of the district.

**History:** L. 2004, ch. 65, sec. 4; L. 2012, ch. 47, sec. 137; July 1.