

HOUSE BILL No. 2006

By Representative Carmichael

1-5

1 AN ACT concerning the department of wildlife and parks; relating to
2 enforcement; unlawful methods of taking wildlife; restricting rule and
3 regulation authority; amending K.S.A. 32-1003 and 32-1032 and
4 repealing the existing sections.

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

7 Section 1. K.S.A. 32-1003 is hereby amended to read as follows: 32-
8 1003. (a) It is unlawful for any person, unless authorized by law or rules
9 and regulations of the secretary, to:

10 (1) Take any game animal or furbearing animal from a motorboat,
11 airplane, motor vehicle or other water, air or land vehicle unless such
12 person holds a valid handicapped hunting and fishing permit issued to such
13 person pursuant to K.S.A. 32-931, and amendments thereto;

14 (2) provide or receive information concerning the location of any
15 game animal or furbearing animal by radio or other mechanical device for
16 purposes of taking such bird or animal;

17 (3) use sodium fluoroacetate, commonly called formula 1080, except
18 as permitted by rules and regulations of the secretary;

19 (4) use poison, poisonous gas, smoke or ferrets, or any smoke gun or
20 other device for forcing smoke or any other asphyxiating or deadly gas or
21 liquid into the holes, dens, runways or houses of wildlife, except as
22 permitted by rules and regulations of the secretary;

23 (5) fish by placing in or upon any lake, pond, river, creek, stream or
24 any other water, bordering on or within the state of Kansas, any deleterious
25 substance or fishberries; *or*

26 (6) place or explode any dynamite, giant powder, lime, nitroglycerine
27 or any other explosive of any character or kind in any waters of the state of
28 Kansas with the intent to take or stun fish;

29 (b) *It is unlawful for any person to*

30 (7)—throw or cast the rays of a spotlight, headlight or other artificial
31 light on any highway, roadway, field, grassland, woodland or forest for the
32 purpose of spotting, locating or taking any wildlife while having in
33 possession or control, either singly or as one of a group of persons, any
34 rifle, pistol, shotgun, bow or other implement whereby wildlife could be
35 taken, except that nothing in this subsection shall be construed to prohibit
36 a person from carrying a weapon while using artificial light for conducting

1 surveillance, actively caring for agricultural equipment or livestock or
2 conducting activities described in ~~subsection (c)(2) of~~ K.S.A. 32-1002(c)
3 (2), and amendments thereto, when on land under the person's control, if
4 the person owns such land, is in lawful possession of such land or is
5 regularly employed for purposes of livestock or agricultural production or
6 management on such land. *Any rule or regulation promulgated to the*
7 *contrary is void.*

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

12 Sec. 2. K.S.A. 32-1032 is hereby amended to read as follows: 32-
13 1032. (a) Violation of any provision of the wildlife, parks and tourism laws
14 of this state or rules and regulations of the secretary relating to big game or
15 wild turkey permits and game tags, taking big game or wild turkey during
16 a closed season, taking big game or wild turkey in violation of ~~subsections~~
17 ~~(a)(1), (2) or (7) of~~ K.S.A. 32-1003(a)(1), (2) or (b), and amendments
18 thereto, or taking big game or wild turkey in violation of ~~subsection (a)(2)~~
19 ~~or (3) of~~ K.S.A. 32-1004(a)(2) or (3), and amendments thereto, or taking
20 big game or wild turkey in violation of K.S.A. 32-1013, and amendments
21 thereto, is a misdemeanor, subject to the provisions of subsection (b),
22 punishable by a fine or by imprisonment in the county jail, or by both.

23 (1) Upon a first or second conviction for a violation of the wildlife,
24 parks and tourism laws of this state or the rules and regulations of the
25 secretary relating to this section, the violator shall not be fined less than
26 \$500 nor more than \$1,000 or be imprisoned in the county jail for not
27 more than six months, or both.

28 (2) Upon a third conviction for a violation of the wildlife, parks and
29 tourism laws of this state or the rules and regulations of the secretary
30 relating to this section, the violator shall not be fined less than \$1,000 and
31 shall be imprisoned in the county jail for not less than 30 days. A third
32 conviction shall be a class B nonperson misdemeanor.

33 (3) Upon a fourth conviction for a violation of the wildlife, parks and
34 tourism laws of this state or the rules and regulations of the secretary
35 relating to this section, the violator shall not be fined less than \$1,000 and
36 shall be imprisoned in the county jail for not less than 60 days. A fourth
37 conviction shall be a class A nonperson misdemeanor.

38 (4) Upon the fifth or subsequent convictions for a violation of the
39 wildlife, parks and tourism laws of the state or the rules and regulations of
40 the secretary relating to this section, the violator shall not be fined less
41 than \$1,000 and shall be imprisoned in the county jail for not less than 90
42 days. A fifth or subsequent conviction shall be a class A nonperson
43 misdemeanor.

1 Any conviction for a wildlife violation that occurs before July 1, 2005,
2 shall not be considered for purposes of this subsection.

3 (b) (1) In addition to any other penalty prescribed by law, the
4 unlawful intentional taking of a trophy big game animal shall be
5 punishable by a fine of not less than \$5,000.

6 (2) A trophy big game animal shall include any animal meeting the
7 following criteria:

8 (A) An antlered whitetail deer having an inside spread measurement
9 of at least 16 inches;

10 (B) an antlered mule deer having an inside spread measurement of at
11 least 20 inches;

12 (C) an antlered elk having at least six points on one antler; or

13 (D) an antelope having at least one horn greater than 14 inches in
14 length.

15 (3) In addition to any other penalty prescribed by law, the defendant
16 shall pay the restitution value of any deer, elk or antelope taken in
17 violation of K.S.A. 32-1001, 32-1002, 32-1003, 32-1004, 32-1005 or 32-
18 1013, and amendments thereto, with a gross score of more than 125 inches
19 for deer, 250 inches for elk and 75 inches for antelope. Such restitution
20 value shall be in an amount not less than the value prescribed for such
21 animal in K.S.A. 32-1005, and amendments thereto. The restitution value
22 for deer shall equal: $(\text{gross score} - 100)^2 \times \2 . The restitution value for elk
23 shall equal: $(\text{gross score} - 200)^2 \times \2 . The restitution value for antelope
24 shall equal: $(\text{gross score} - 40)^2 \times \2 . The gross score shall be determined
25 by taking measurements as provided by rules and regulations of the
26 secretary, which shall be made to the nearest $\frac{1}{8}$ of an inch using a $\frac{1}{4}$ inch
27 wide flexible steel tape. All restitution collected pursuant to this
28 subparagraph shall be paid into the state treasury and shall be credited to
29 the wildlife fee fund created by K.S.A. 32-990, and amendments thereto.

30 (4) Antlers or horns may be measured pursuant to the manner
31 described in subsection (b)(3) at any time; no drying time is required.

32 (5) The secretary may adopt, in accordance with K.S.A. 32-805, and
33 amendments thereto, such rules and regulations that the secretary deems
34 necessary to implement and define the terms of this section.

35 (c) In addition to any other penalty imposed by the convicting court,
36 if a person is convicted of a violation of K.S.A. 32-1001, 32-1002, 32-
37 1003, 32-1004 or 32-1013, and amendments thereto, that involves taking
38 of a big game animal or wild turkey, or if a person is convicted of a
39 violation of K.S.A. 32-1005, and amendments thereto, that involves
40 commercialization of a big game animal or wild turkey:

41 (1) Upon the first such conviction, the court may order forfeiture of
42 the person's hunting privileges for one year from the date of conviction
43 and: (A) Revocation of the person's hunting license, unless such license is

1 a lifetime hunting license; or (B) if the person possesses a lifetime hunting
2 license, suspension of such license for one year from the date of
3 conviction.

4 (2) Upon the second such conviction, the court shall order forfeiture
5 of the person's hunting privileges for three years from the date of
6 conviction and: (A) Revocation of the person's hunting license, unless such
7 license is a lifetime hunting license; or (B) if the person possesses a
8 lifetime hunting license, suspension of such license for three years from
9 the date of conviction.

10 (3) Upon the third or a subsequent such conviction, the court shall
11 order forfeiture of the person's hunting privileges for five years from the
12 date of conviction and: (A) Revocation of the person's hunting license,
13 unless such license is a lifetime hunting license; or (B) if the person
14 possesses a lifetime hunting license, suspension of such license for five
15 years from the date of conviction.

16 (d) If a person convicted of a violation described in subsection (c) has
17 been issued a combination hunting and fishing license or a combination
18 lifetime license, only the hunting portion of such license shall be revoked
19 or suspended pursuant to subsection (c).

20 (e) Nothing in this section shall be construed to prevent a convicting
21 court from suspending a person's hunting privileges or ordering the
22 forfeiture or suspension of the person's license, permit, stamp or other
23 issue of the department for a period longer than provided in this section, if
24 such forfeiture or suspension is otherwise provided for by law.

25 Sec. 3. K.S.A. 32-1003 and 32-1032 are hereby repealed.

26 Sec. 4. This act shall take effect and be in force from and after its
27 publication in the statute book.