

## Article 7.-GENERAL PROVISIONS

**32-701. Definitions.** As used in the wildlife and parks 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 and parks commission created by K.S.A. 1992 Supp. 32-805 and amendments thereto.
- (c) "Department" means the Kansas department of wildlife and parks.
- (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 and parks.
- (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. 1; L. 1993, ch. 185, sec. 1; L. 1995, ch. 164, sec. 1; L. 2004, ch. 99, sec. 1; Jan. 1, 2005.

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 and parks, which shall be administrated under the direction and supervision of a secretary of wildlife and parks who shall be appointed by the governor, with the consent of the senate as provided in K.S.A. 75-4315b and amendments thereto.

(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 office of secretary of wildlife and parks and the Kansas department of wildlife and parks, and the office and department are 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; July 1.

Source or prior law: 75-3901.

**32-802. Assistant secretaries; employees; offices; wildtrust program.** (a) The secretary shall appoint an assistant secretary for administration and an assistant secretary for operations. The assistant secretary for administration shall be fully qualified by education, training and experience in administration. The assistant secretary for operations shall be fully qualified by education, training and experience in wildlife, parks or natural resources, or a related field. Both 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 K.S.A. 1989 Supp. 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 operations shall maintain an office in Pratt 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; 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 and parks 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. , sec. 2; July 1.

Source or prior law: 74-3301, 74-4504, 75-3905.

**32-806. Organization of department; policies governing administration; accounting for compensation from leases of real property.** The secretary of wildlife and parks may organize the Kansas department of wildlife and parks 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 department of wildlife and parks, 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 department of wildlife and parks.

**History:** L. 1987, ch. 417, sec. 6; L. 1998, ch. 40, sec. 1; 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. 1992 Supp. 32-805 and amendments thereto, such rules and regulations as necessary to implement, administer and enforce the provisions of the wildlife and parks 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 and parks 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 and parks 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 and parks 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 and parks 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 and parks 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:

(l) Establishing, by rules and regulations adopted in accordance with K.S.A. 1992 Supp. 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. 1992 Supp. 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. 1992 Supp. 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. 1992 Supp. 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. 1992 Supp. 32-805 and amendments thereto, the period of time that a license, permit, stamp or other issue of the department shall be 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 and park 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; 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:

(1) 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 and parks 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 department of wildlife and parks 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 and parks. 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 and parks.

**History:** L. 1998, ch. 40, sec. 2; 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 and parks 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 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 an 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; May 17.

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

(A) The secretary of wildlife and parks 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 and parks 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 and parks 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 640 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.

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

(b) (1) Notwithstanding the provisions of subsection (f) of K.S.A. 32-807, and amendments thereto, or any other provisions of law to the contrary, the secretary of wildlife and parks 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.

**History:** L. 2006, ch. 150, sec. 5; July 1.

**32-834 to 32-836. Reserved.**

## 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; and (24) Kaw River state park in Shawnee county.

(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. , 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.

**32-839. 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 and parks 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; April 9.

**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 and parks 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 area, fish hatcheries and other lands, waters and facilities provided for by K.S.A. 1989 Supp. 32-807.

(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; 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 and parks 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 department of wildlife and parks 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 department of wildlife and parks 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; July 1.

### **32-845 to 32-849. Reserved.**

**32-845. Contracts with federal agencies; legislative approval, when.** (a) Neither the department of wildlife and parks, 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; 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 legislature hereby approves the department of wildlife and parks' entering 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 department of wildlife and parks 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; April 15.

**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 of 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 department of wildlife and parks. 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 section 6 of article II of the constitution of the state of Kansas.

**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; April 16.

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 and parks 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; July 1.

Source or prior law: 74-4544.

**32-874. Lake resorts; feasibility study.** (a) The secretary of the Kansas department of commerce and housing and the secretary of wildlife and parks, 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; 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 and parks 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; July 1.

**32-874b. Same; negotiations with lake resort communities.** Once the state incentive packages are agreed upon, the secretary of wildlife and parks, 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; July 1.

**32-874c. Same; negotiations with federal agencies.** The secretary of wildlife and parks, 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; April 16.

**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 and parks 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 department of wildlife and parks 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 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 and parks 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 and parks 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 and parks, 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 and parks 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; July 1.

**32-874e. Same; joint report to legislature.** The secretary of wildlife and parks 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; 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:

(1) 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 and parks 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; July 1.

**32-887. Same; leases for improvements and development.** The secretary of the department of wildlife and parks 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 section 1 and amendments thereto.

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

**32-888. Same; proposals for bids; advertising thereof; negotiations.** The department of wildlife and parks shall advertise for proposal plans with bids for development of sites selected under section 1 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; 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**

### **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 temporary park and recreation motor vehicle permits.

(2) The annual permit shall be issued to certificate of titleholders 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. An additional vehicle permit may be issued to the owner of an original annual

permit. The fee for an annual permit and the fee for an additional vehicle permit shall be fixed by the secretary by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto. The fee for an annual permit for a motor vehicle of any Kansas resident certificate of title holder 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 ½ the fee fixed by the secretary for other annual park and recreation motor vehicle permits, except a nonresident regardless of age shall pay the full fee. 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 temporary permit shall be issued for a day, shall be issued for a specific vehicle and shall not be transferable. The fee for such a temporary permit shall be fixed by the secretary by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto. The fee for a temporary permit for a motor vehicle of any Kansas resident certificate of title holder 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 ½ the fee fixed by the secretary for other temporary park and recreation motor vehicle permits, except a nonresident regardless of age shall pay the full fee.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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; Jan. 1, 2001.

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 resident of this state who is less than 16 years of age or who is 65 or more years of age;

(3) a nonresident who is less than 16 years of age;

(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) an inmate in an honor camp operated by the secretary of corrections, pursuant to an agreement between the secretary of corrections and the secretary of wildlife and parks;

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

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

(9) 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. 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 and parks 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 and parks 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 and parks 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.

**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; July 1.

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.** (a) Upon request of the secretary of social and rehabilitation services, the secretary of wildlife and parks shall not allow any license, permit, stamp, tag or other issue of the department of wildlife and parks 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 and parks, on a quarterly basis, a listing of names and other information sufficient to allow the secretary of wildlife and parks 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 department of wildlife and parks is not allowed to complete a purchase pursuant to this section, the vendor of the license, permit, stamp, tag or other issue of the department of wildlife and parks 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 and parks may allow the applicant to purchase any license, permit, stamp, tag or other issue of the department of wildlife and parks. 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 and parks may allow any individual not included in the new listing to purchase any license, permit, stamp, tag or other issue of the department of wildlife and parks, 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 and parks 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 department of wildlife and parks 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 and parks 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 and parks 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 department of wildlife and parks informing such individual of the provisions of this section.

**History:** L. 2006, ch. 208, sec. 9; L. 2007, ch. , sec. 4; 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 or who is 65 or more years of age;

(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. 32-805 and amendments thereto;

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

(5) a person hunting only 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.

**History:** L. 1989, ch. 118, sec. 60; L. 2000, ch. 165, sec. 3; Jan. 1, 2001.

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 a one-time deferral of completion of hunter education that is valid until the end of the current license year. 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. , 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 of 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 and parks 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 and parks 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 and parks 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 and parks 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 and parks 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 and parks provides to the applicant.

(f) "Title IV-D" means part D of title IV of the federal social security act (42 U.S.C. sec. 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. , sec. 5; 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 and parks 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; 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 permitholder shall accompany into the field and be in close proximity to the person designated by the permitholder. The person designated by the permitholder shall not be a person whose fishing, hunting or furharvesting 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 permitholder 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 bone 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.

(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, a valid big game permit and game tags 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) A big game 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.

(e) Unless otherwise provided by law or rules and regulations of the secretary, a big game

permit and game tags 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 and game tags. The secretary is hereby authorized to issue big game permits and game tags pertaining to the taking of big game. Separate big game permits and game tags may be issued for each species of big game. No big game 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 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, landowner or tenant hunt-on-your-own-land big game permits. 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) The secretary may authorize, by rule and regulation adopted in accordance with K.S.A. 32-805 and amendments thereto, special landowner or tenant hunt-on-your-own-land deer permits. Such special permits shall not be issued to landowners or tenants in possession of a hunt-on-your-own-land deer permit as authorized in subsection (g). The special permits shall be transferable to any immediate family member of the landowner or tenant, whether or not a Kansas resident, or the permit may be retained for use by the landowner or tenant. The special permits shall be transferable through the secretary at the request of the landowner or tenant and by paying the required fee for a general deer permit. The special 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. For the purposes of this subsection, "member of the immediate family" means lineal or collateral ascendants or descendants, and their spouses.

(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) Members of the immediate family who are domiciled with a landowner or tenant may apply for a resident big game permit as a landowner or as a tenant, but the total number of landowner or tenant hunt-on-your-own-land or special hunt-on-your-own-land permits issued to a landowner or tenant and a landowner's or tenant's immediate family for each big game species shall not exceed one permit for each 80 acres owned by such landowner or operated by such tenant. The secretary may require proof of ownership or tenancy from individuals applying for a big game permit as a landowner or as a tenant.

(k) The secretary may issue permits for deer to non-resident 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 firearm permits of each type specified by rules and regulations that may be issued for a deer season in a management unit and which may be used to take antlered deer shall for the year 2004, not be less than 7% nor more than 14%; for the year 2005, not be less than 8% nor more than 16%; for the year 2006, not be less than 9% nor more

than 18%; and for any year thereafter, not be less than 10% nor more than 20%, of the total number of resident deer firearm permits of such type authorized for such season in such management unit; and

(2) the total number of nonresident deer archery permits of each type specified by rules and regulations that may be issued for a deer season in a management unit and which may be used to take antlered deer shall for the year 2004, not be less than 9.5% nor more than 19%; for the year 2005, not be less than 10.5% nor more than 21%; for the year 2006, not be less than 11.5% nor more than 23%; and for any year thereafter, not be less than 12.5% nor more than 25%, of the total number of resident deer archery permits of such type authorized for such season in such management unit.

Nonresident deer permits may be restricted to a particular deer species without regard to resident deer permit species restrictions, or lack thereof.

If an unlimited number of resident deer permits that may be used to take antlered deer is authorized for a deer season or management unit, the percentage limitations of subsections (1)(1) and (1)(2) shall be based upon the total number of resident firearm permits that may be used to take antlered deer and the total number of archery permits that may be used to take antlered deer, respectively, issued in the management unit during the most recent preceding similar season. If in a management unit there are an unlimited number of resident permits that may be used to take only antlerless deer, the secretary, in the secretary's discretion and in accordance with rules and regulations, may authorize the issuance of an unlimited number of nonresident permits that may be used to take only antlerless deer.

(m) Any nonresident deer hunting permits authorized under subsection (1) that remain unissued due to an insufficient number of nonresident applications as of a deadline determined by the secretary, shall be made available to residents.

(n) The secretary shall issue nonresident deer permits pursuant to subsection (1) to landowners and tenants applying for such permits, except that the total number of nonresident deer permits of each type specified by rules and regulations that may be issued to landowners and tenants for a deer season in a management unit shall not exceed 50% of the total number of nonresident deer permits of such a type authorized for such season in such management unit. A nonresident deer permit obtained by a landowner or tenant shall retain the permit's nonresident and species designation, except that such permit shall only be valid within a designated county and one additional county where the qualifying landowner's or tenant's lands are located. The permit shall be transferable, with or without consideration, to any resident or nonresident through the secretary at the request of the landowner or tenant. A landowner or tenant purchasing a nonresident deer permit pursuant to this subsection shall pay the established fee for a nonresident deer permit.

The provisions of this subsection shall expire on June 30, 2007.

(o) On or before January 31, 2005:

(1) The secretary, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, shall establish not less than nine archery management units for deer. To the extent possible, boundaries of firearm management units for deer. To the extent possible, boundaries of firearm management units for deer shall be used in establishing the boundaries of such archery management units.

(2) The secretary shall submit to the house standing committee on tourism and parks and the senate standing committee on natural resources a report regarding the archery management units established pursuant to subsection (o)(1).

(p) 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 furnish an informational card with any big game permit and, at the conclusion of the open season, each permittee receiving such card shall return

the card to the department, giving such information as is called for on the card.

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

(r) 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; Jan. 1, 2005.

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

**32-938. Same; refund of fees to certain military personnel.** The department of wildlife and parks may reissue big game or 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.

**History:** L. 1991, ch. 105, sec. 1; L. 2004, ch. 99, sec. 6; 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 3% 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; 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. 1989 Supp. 32-937, the secretary may issue to the licensee of a private membership licensed controlled shooting area special permits and game tags 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. 1989 Supp. 32-988. No permit or game tag 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 or game tag.

(b) The provisions of K.S.A. 1989 Supp. 32-937, 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. 1989 Supp. 32-937.

(c) 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. 1988, ch. 129, sec. 1; L. 1989, ch. 118, sec. 78; July 1.

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. 1992 Supp. 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. 1992 Supp. 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. 1992 Supp. 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. 1992 Supp. 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. , 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) 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) Any person who desires to engage in 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. 1989 Supp. 32-988 shall accompany the application. Upon receipt of the application and fee, the secretary may issue the requested permit to the applicant.

(c) 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.

(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. The secretary may adopt, in accordance with K.S.A. 1989 Supp. 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. (e) 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; 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 I080. 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, by 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.

**History:** L. 1997, ch. 113, sec. 3; 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. 1989 Supp. 32-960, the secretary shall adopt such rules and regulations pursuant to K.S.A. 1989 Supp. 32-963 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. 1989 Supp. 32-963 the secretary may prohibit with respect to any threatened species included in a list adopted pursuant to K.S.A. 1989 Supp. 32-960 any act which is prohibited under subsection (b) with respect to any endangered species included in a list adopted pursuant to K.S.A. 1989 Supp. 32-960.

(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. 1989 Supp. 32-960;

(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. 1989 Supp. 32-957 through 32-963 and 32-1009 through 32-1012, which pertains to such endangered species or to any threatened species of wildlife included in a list adopted pursuant to K.S.A. 1989 Supp. 32-960.

(c) Subsection (b) does not apply to any endangered species listed pursuant to K.S.A. 1989 Supp. 32-960 and any species of wildlife determined to be an endangered species pursuant to Pub. L. 93-205 (December 28, 1973), the endangered species 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.

(d) 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. 1989 Supp. 32-988. The secretary shall maintain a list of permit 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.

(e) Threatened or endangered species included in a list adopted pursuant to K.S.A. 1989 Supp. 32-960 may be captured or destroyed without a permit by any person in an emergency situation involving an immediate and demonstrable threat to human life.

**History:** L. 1975, ch. 221, sec. 5; L. 1989, ch. 118, sec. 92; 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 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.

(f) The secretary shall establish a toll-free telephone number for landowners and tenants to report property damage caused by big game, request information regarding big game control permits and obtain information regarding any other programs that assist in reduction of high local big game populations, including, but not limited to, programs that refer landowners and tenants to hunters willing to hunt on a landowner's or tenant's land and programs that provide for departmental lease of lands for public hunting.

The provisions of this subsection shall expire on June 30, 2004.

(g) The secretary shall cause to be published quarterly, in newspapers having general circulation in areas experiencing high deer populations, information regarding big game control permits and programs that assist in reduction of high local deer populations, including, but not limited to, programs that refer landowners and tenants to hunters willing to hunt on a landowner's or tenant's land and programs that provide for departmental lease of lands for public hunting. Such information shall be published in a manner calculated to give actual notice to the public and shall be placed in a section other than the classified advertising section of the newspaper.

The provisions of this subsection shall expire on June 30, 2004.

**History:** L. 1999, ch. 98, sec. 3; L. 2000, ch. 104, sec. 2; April 27.

**32-966. Deer management plan, reduction of motor vehicle accidents.** The secretary of wildlife and parks 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. The management plan shall be completed on or before January 1, 2001, and the joint report of the secretary of wildlife and parks and the secretary of transportation shall be submitted to the senate standing committee on energy and natural resources, the house standing committee on environment and the governor on or before February 1, 2001.

**History:** L. 2000, ch. 104, sec. 3; April 27.

**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.** (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) The secretary may issue wild turkey hunting permits to nonresidents in wild turkey managements units with unlimited wild turkey hunting permits available.

(g) Persons under 12 years of age may be issued a wild turkey permit. Such permits shall be valid only while the person is hunting under the immediate supervision of an adult 18 or more years of age.

(h) A wild turkey permit shall state the number and sex of wild turkeys which may be killed by the permittee. The secretary may furnish an informational card with any wild turkey permit and, at the conclusion of the open season, each permittee receiving such card shall return the card to the department, giving such information as is called for on the card.

(i) The permittee shall permanently affix the game tag to the carcass of any wild turkey immediately after killing and thereafter, if required by rules and regulations, the permittee shall immediately take such killed game to a check station as required in the rules and regulations, where a check station tag shall be affixed to the game carcass if the kill is legal. The tags shall remain affixed until the carcass is consumed or processed for storage.

(j) 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.

(k) Members of the immediate family who are domiciled with a landowner or tenant may apply for a resident wild turkey permit as a landowner 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 tenants immediate family shall not exceed one permit for each 80 acres owned by such landowner or operated by such tenant. The secretary may require proof of ownership or tenancy from individuals applying for a wild turkey permit as a landowner or as a tenant.

(l) 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 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.

(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; Jan. 1, 2005.

**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 farmers and hunters feeding the hungry, 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. , sec. 1; July 1.

**32-971 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 and parks 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; July 1.

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

#### APPLICATIONS, FEES AND ISSUANCE

**32-980. Form, content; resident, nonresident; armed forces personnel; students.** (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 Farmers and Hunters Feeding the Hungry.

**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; July 1.

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

Resident big game tag: maximum \$20

Nonresident big game tag: maximum \$30 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 non-firearm 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 ½ the fee for a general resident big game or wild turkey hunting permit.

(c) The fee for a furharvester license for a resident under 16 years of age shall be an amount equal to ½ the fee for a resident furharvester license.

(d) 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).

**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. 119, 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; Jan. 1, 2005.

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 KFHFH; 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 Farmers and Hunters Feeding the Hungry to support its programs.

(c) On or before the 10<sup>th</sup> 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 Farmers and Hunters Feeding the Hungry.

**History:** L. 2004, ch. 76, sec. 3; 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 department of wildlife and parks shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. 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.

(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 and parks and the department of wildlife and parks 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 fee fund - federal interest earnings based on:

(1) The average daily balance of moneys in the wildlife fund-federal, 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 fund-federal, 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 and parks.

**History:** L. 2005, ch. 181, sec. 3; 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 department under the wildlife and parks 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 and parks 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 and parks laws of this state or under rules and regulations of the secretary, upon demand by any officer or employee of the department or any officer authorized to enforce the laws of this state or rules and regulations of the secretary;

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

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

(b) No person charged with violating subsection (a)(1) for failure to obtain a vehicle or camping permit for use of any state park, or any portion thereof or facility therein, or any other

area or facility for which a vehicle or camping permit is required pursuant to rules and regulations of the secretary shall be convicted thereof unless such person refuses to purchase such permit after receiving a permit violation notice, which notice shall require the procurement of: (1) the proper daily permit or permits and payment, within 24 hours, of a late payment fee of \$15; or (2) an annual vehicle or camping permit, as the case may be, if such permit has been established by rule and regulation and adopted by the secretary.

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

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

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

(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; 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 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; or

(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 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.

(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; 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. Possession of wildlife or certain devices.** (a) It is unlawful for any person to:

(1) Possess a carcass of a big game animal or wild turkey, taken within this state, unless a game tag issued by the secretary is attached to it, and a check station tag is attached to it if required by the secretary, or refuse to make such carcass available for inspection by any officer authorized to enforce the laws of this state or rules and regulations of the secretary;

(2) possess any wildlife unlawfully killed or otherwise unlawfully taken outside this state;

(3) cause to be shipped within, from or into this state any illegally taken or possessed wildlife;

(4) 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;

(5) 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

(6) 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 and parks laws of this state or rules and regulations of the secretary.

(b) The provisions of subsection (a) 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; 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, \$1000;

(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

(12) 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 \$1000 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 \$1000 or more, as specified in subsection (b), is a severity level 10, nonperson felony. Commercialization of wildlife having an aggregate value of less than \$1000, 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 10 years all licenses and permits issued to the convicted person by the Kansas department of wildlife and parks; and

(2) order restitution to be paid to the Kansas department of wildlife and parks 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. , sec. 2; July 1.

**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 or elk in this state in an area where a firearms season for the taking of deer or 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; 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 and parks 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 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; 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 and parks 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 and parks 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 and parks 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 and parks 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 and parks 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 \$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 17 inches;

(B) an antlered mule deer having an inside spread measurement of at least 22 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) 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. , sec. 1; July 1.

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 and parks laws of this state or rules and regulations adopted thereunder may impose any fine authorized by law for the offense, but no child under 18 years of age shall be incarcerated in a jail for more than 10 days for such an offense. If the child is incarcerated in a jail, the child shall be in quarters separate from adult prisoners. In lieu of incarceration in a city or county jail, the court may order that a child be placed in a juvenile detention facility if the operator of the facility is willing to accept the child.

**History:** L. 1983, ch. 140, sec. 2; L. 1989, ch. 118, sec. 131; 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 and parks 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 and parks 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 and parks 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 and parks 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. 132; July 1.

Source or prior law: 32-130a, 32-195.

**32-1042 to 32-1046. Reserved.**

**PROCEDURES**

**32-1047. Seizure of wildlife, devices and equipment; disposition.** 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 and directed to:

(a) 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. 21-4206, 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; or

(b) retain the seized item for educational, scientific or department operational purposes.

**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; Jan. 1, 2004.

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 and parks 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. 1989 Supp. 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; 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 and park 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; Jan. 1, 2005.

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 and parks 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 and parks 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; 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 and parks 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; 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 and parks 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; 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 and parks laws of this state or rules and regulations of the secretary is commenced or goes on appeal, within 20 days after disposition thereof, to report in writing to the department the result thereof and the amount of fine collected, 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; 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 and parks 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; 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 and parks 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 and parks 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; 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 and parks. The secretary of the Kansas department of wildlife and parks 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; 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 and parks 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; July 1.

## **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 and parks.

(h) "Secretary" means the secretary of wildlife and parks.

(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; Jan. 1, 2007.

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 (l) 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  $\frac{1}{2}$  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 and parks 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; Jan. 1, 2005.

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. Muffler system requirements; violation of noise level restrictions.** (a) The exhaust of every internal combustion engine used on any motorboat on the waters of the state shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust.

The muffler system shall be in good working order and in constant operation and effectively installed to prevent any excessive or unusual noise.

(b) Muffler means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.

(c) A motorboat operating on the waters of the state shall have an exhaust water manifold or a factory-type muffler installed on the engine.

(d) A person shall not operate or give permission for the operation of any motorboat in or upon the waters of this state if the motorboat is equipped with an altered muffler, muffler cutout, muffler bypass or any other device designed or installed so that it can be used continually or intermittently to bypass any muffler or muffler system installed on the motorboat, or to reduce or eliminate the effectiveness of such a muffler or muffler system.

(e) A motorboat shall not be operated on the waters of this state under any condition or in any manner whereby the motorboat emits a sound level in excess of 86 decibels on the "A" weighted scale, when measured from a distance of 50 feet or more from the motorboat, as prescribed in society of automotive engineers standards, SAE J34 and SAE J2005.

(f) No person shall remove, alter or otherwise modify in any manner a muffler or muffler system installed on a motorboat to prevent the muffler or muffler system from being operated in accordance with this statute.

(g) The provisions of subsections (c) through (e) 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.

(h) A law enforcement officer who has reason to believe a motorboat is being operated in violation of the noise levels established in this section may direct the operator of the motorboat to submit to an on-site test to measure noise level. An operator of a motorboat who receives a request from a law enforcement officer pursuant to this section shall allow the motorboat to be tested. If, based on a test to determine the noise level of a motorboat, the noise level of the motorboat exceeds the decibel levels established in this section, the law enforcement officer shall direct the operator of the motorboat to take immediate and reasonable measures to correct the violation, including, but not limited to, terminating the voyage of the motorboat until the motorboat no longer operates in violation of this section.

**History:** L. 2006, ch. 85, sec. 7; Jan. 1, 2007.

**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 flotation 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:

(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 two 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 supplies 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; 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 the state while:

(1) The alcohol concentration in the person's blood or breath, at the time or within two hours after the person operated or attempted to operate the vessel, is .08 or more;

(2) the alcohol concentration in the person's blood or breath, at the time or within two 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;

(3) under the influence of alcohol;

(4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating a vessel; or

(5) 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) No person shall operate or attempt to operate any vessel within this state if the person is a habitual user of any narcotic, hypnotic, somnifacient or stimulating drug.

(c) 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.

(d) 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.

(e) Except as provided by subsection (f), 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 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.

(f) Subsection (e) 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.

(g) 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; 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 reply 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 operating 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.

(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; 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 and parks 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.

**History:** L. 2005, ch. 181, sec. 1; 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 and parks 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 and parks. 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 and parks 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; 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 and parks. 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; 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 and parks, 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; 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 the Kansas department of wildlife and parks 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 and parks, 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 and parks 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 and parks 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; 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.

## 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 and parks 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 department of wildlife and parks 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 and parks 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 and parks in furthering the purposes of this act.

**History:** L. 2004, ch. 96, sec. 2; July 1.

## INFORMATION ON KANSAS NATURAL RESOURCE LEGACY ALLIANCE

**2-1921. Kansas natural resource legacy alliance.** (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 and housing or the secretary of commerce and housing'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, May 2.

**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 PERMITTING DANGEROUS ANIMALS TO BE AT LARGE

**21-3418. Permitting dangerous animal to be at large.** Permitting a dangerous animal to be at large is the act or omission of the owner or custodian of an animal of dangerous or vicious propensities who, knowing of such propensities, permits or suffers such animal to go at large or keeps such animal without taking ordinary care to restrain it.

Permitting a dangerous animal to be at large is a class B misdemeanor.

**History:** L. 1969, ch. 180, § 21-2418; July 1, 1970.

Source or prior law: 21-415.

## INFORMATION ON CRIMINAL TRESPASS

**21-3721. Criminal trespass.** (a) Criminal trespass is:

(1) Entering or remaining upon or in any land, nonnavigable body of water, structure, vehicle, aircraft or watercraft other than railroad property as defined in K.S.A. 2005 Supp. 21-3761 and amendments thereto 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; or

(B) such premises or property are posted in a 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. 60-31a05, 60-31a06, K.S.A. 60-1607, 60-3105, 60-3106 or 60-3107 or K.S.A. 38-1542, 38-1543 or 38-1563, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or

(2) entering or remaining upon or in any 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) As used in this section:

(1) "Health care facility" means any licensed medical care facility, certified 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.

(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.

(c)(1) Criminal trespass is a class B nonperson misdemeanor.

(2) 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 must be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

(d) This section shall not apply to 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.

**History:** L. 1969, ch. 180, § 21-3721; L. 1979, ch. 92, § 13; L. 1980, ch. 99, § 1; L. 1986, ch. 161, § 3; L. 1992, ch. 183, § 6; L. 1993, ch. 291, § 79; L. 1996, ch. 30, § 2; L. 1996, ch. 211, § 2; L. 2002, ch. 141, sec. 11; L. 2003, ch. 128, sec. 17; L. 2004, ch. 129, sec. 2; July 1.

## **INFORMATION ON CRIMINAL HUNTING**

**21-3728. Criminal hunting.** Criminal hunting is hunting, shooting, fur harvesting, 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; or

(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.

Criminal hunting is a class C misdemeanor. Upon the first conviction thereof after the effective date of this act, and 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 any subsequent conviction thereof, and 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 fur harvesting, 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.

The court shall notify the department of wildlife and parks of any conviction or diversion for criminal hunting.

(b) Intentional criminal hunting is hunting, shooting, fur harvesting, pursuing any bird or animal or fishing 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:

(1) Such person remains therein and continues to hunt, shoot, fur harvest, 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

(2) such premises or property are posted in a manner consistent with K.S.A. 32-1013, and amendments thereto.

Intentional criminal hunting is a class B misdemeanor. Upon the first conviction or a diversion agreement for intentional criminal hunting after the effective date of this act, and 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 intentional criminal hunting and 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 intentional criminal hunting and 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.

The court shall notify the department of wildlife and parks of any conviction or diversion for

intentional criminal hunting.

**History:** L. 1969, ch. 180, § 21-3728; L. 1977, ch. 113, § 1; L. 1992, ch. 298, § 48; L. 2004, ch. 135, sec. 1; July 1.

## INFORMATION ON CONFISCATION AND DISPOSITION OF WEAPONS

**21-4206. Confiscation and disposition of weapons.** (1) Upon conviction of a violation or upon adjudication as a juvenile offender for a violation of K.S.A. 21-4201, 21-4202 or 21-4204, 21-4204a or 21-4219, and amendments thereto, any weapon seized in connection therewith shall remain in the custody of the trial court.

(2) 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: (a) destroyed; (b) 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 (c) forfeited to the Kansas bureau of investigation for law enforcement, testing, comparison or destruction by the Kansas bureau of investigation forensic laboratory.

(3) If weapons are sold as authorized by subsection (2), 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, sec. 2; July 1.

## **INFORMATION ON CRIMINAL DISCHARGE OF A FIREARM**

**21-4217. Criminal discharge of a firearm.** (a) Criminal discharge of a firearm is the discharge of any firearm:

(1) 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

(2) Upon or from any public road, public road right-of-way or railroad right-of-way that adjoins land of another without having first obtained permission of the owner or person in possession of such land.

(b) This section 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; or

(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.

(c) Criminal discharge of a firearm is a class C misdemeanor.

**History:** L. 1986, ch. 126, sec. 2; L.1992, ch. 298, sec. 73; July 1, 1993.

## **INFORMATION ON GAME WARDEN DOGS**

**21-4318. Harming or killing certain dogs.** (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 intentionally, 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) 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. 2003 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 department of wildlife and parks for the purpose of aiding in the 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.

(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.

(c) Inflicting harm, disability or death to a police dog, arson dog, assistance dog, game warden dog or search and rescue dog is a class A nonperson misdemeanor.

(d) This section shall be part of and supplemental to the Kansas criminal code.

**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; July 1.

**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.)

## 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 engage in the business of raising domesticated deer unless such person has obtained from the livestock 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 \$100 as established by the commissioner in rules and regulations.

(c) The livestock commissioner shall adopt any rules and regulations necessary to enforce this section.

(d) Any person who fails to obtain a permit as prescribed in section (a) shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$100. 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 adding to such person's herd by poaching or illegally obtaining deer;

(5) willful disregard to 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 act for judicial review and civil enforcement of agency actions.

(g) Domesticated deer shall be identified through implantation of microchips, ear tags, ear tattoos, ear notches or any other permanent identification on such deer as to identify such deer as domesticated deer. Any person who receives a permit issued pursuant to subsection (a) shall keep records of the deer herd pursuant to rules and regulations.

(h) The livestock commissioner shall inspect any premises where a domesticated deer herd has been issued a permit upon receipt of a written, signed complaint that such premises is not being operated, managed or maintained in accordance with rules and regulations.

(i) The livestock commissioner, on a quarterly basis, shall transmit to the secretary of wildlife and parks a current list of persons issued a permit pursuant to this section.

(j) All moneys received under this section shall be remitted to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to 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 breeding stock; for any carcass, skin or part of such animal; for exhibition; or for companionship.

**History:** L. 1993, ch. 143, 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; prohibition of such swine in state; duties of livestock commissioner; penalties; appeals.** (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 act for judicial review and civil enforcement of agency actions.

(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, July 1.

## INFORMATION ON PROPERTY RELATING TO RECREATIONAL TRAILS

**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; July 1.

**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; July 1.

## INFORMATION ON SPORT SHOOTING RANGES

**58-3221. Sport Shooting Ranges; definitions.** (a) “Generally accepted operation practice” means those safety practices adopted, pursuant to rules and regulations, by the Kansas department of wildlife and parks 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; 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 and parks 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. 8; July 1.

**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 law enforcement training 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 and the chairperson of the commission 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 special 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; July 1.

**INFORMATION ON MONEYS CREDITED TO THE BOATING FEE FUND**

**74-7336. Crime victims compensation fund; crime victims assistance fund; county money**

**to aid witnesses and victims of crime.** (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit 11.99% to the crime victims compensation fund, 2.45% to the crime victims assistance fund, 2.01% to the community alcoholism and intoxication programs fund, 2.01% to the department of corrections alcohol and drug abuse treatment fund and 0.17% to the boating fee fund. The remainder of the remittances shall be credited 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; Jan. 1, 2007.

### **INFORMATION ON MONEYS RELATING TO NONGAME WILDLIFE IMPROVEMENT FUND**

**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 department of wildlife and parks, 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.

(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 and parks and the department of wildlife and parks as provided by law.

(c) All expenditures from the nongame wildlife improvement fund-federal, 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 and parks.

**History:** L. 2005, ch. 181, sec. 4; July 1.

### **INFORMATION CONCERNING CHILD SUPPORT AND ISSUANCE OF LICENSES**

**79-32,225. 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 and parks shall not allow any license, permit, stamp, tag or other issue of the department of wildlife and parks 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 and parks, on a quarterly basis, a listing of names and other information sufficient to allow the secretary of wildlife and parks 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.

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

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

(4) the applicant has complied with the warrant or subpoena or the warrant or 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 and parks may allow any individual not included in the new listing to purchase any license, permit, stamp, tag or other issue of the department of wildlife and parks, 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 and parks to determine any issue related to the title IV-D case, including questions of mistaken identity or the adequacy of any notice provided pursuant to this section. 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 department of wildlife and parks 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.

(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 and parks may each adopt rules and regulations necessary to carry out the provisions of this section.

**History:** L. 2006, ch. 208, sec. 9; 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 and parks;

(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; July 1.

New Sec. 3. (a) The commission may authorize youth hunt of a lifetime deer permits to take deer. Such 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.

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

(1) A total of not more than 10 youth hunt of a lifetime permits shall be available in one calendar year;

(2) Youth hunt of a lifetime permits shall not be included in nor reduce any limited quota permit allotments set by other rules and regulations of the secretary.

(c) Application requests by qualified organizations shall be submitted to any member of the commission and shall be provided to the commission as a whole.

(d) The commission shall conduct a random drawing from the pool of eligible qualified organizations to award youth hunt of a lifetime permits, subject to the approval of the secretary.

- (e) Organizations awarded youth hunt of a lifetime permits shall pay to the department the price established by rules and regulations for the highest value for the type of permit awarded.
- (f) Youth hunt of a lifetime permits shall only be issued in the name of the final recipient. Once a youth hunt of a lifetime permit is issued in the name of the final recipient, it shall not be transferred to any other individual.
- (g) Youth hunt of a lifetime permits shall be subject to the restrictions of the season, sex, equipment type or hunt units as issued on the permit by the department.
- (h) 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.
- (i) 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. , sec. 3; July 1.