

HOUSE BILL No. 2709

By Committee on Appropriations

2-9

1 AN ACT concerning wildlife; relating to big game hunting violations; civil
2 penalties; amending K.S.A. 2011 Supp. 32-1032 and repealing the
3 existing section.
4

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

6 Section 1. K.S.A. 2011 Supp. 32-1032 is hereby amended to read as
7 follows: 32-1032. (a) Violation of any provision of the wildlife and parks
8 laws of this state or rules and regulations of the secretary relating to big
9 game or wild turkey permits and game tags, taking big game or wild
10 turkey during a closed season, taking big game or wild turkey in violation
11 of subsections (a)(1), (2) or (7) of K.S.A. 32-1003, and amendments
12 thereto, or taking big game or wild turkey in violation of subsection (a)(2)
13 or (3) of K.S.A. 32-1004, and amendments thereto, or taking big game or
14 wild turkey in violation of K.S.A. 32-1013, and amendments thereto, is a
15 misdemeanor, subject to the provisions of subsection (b), punishable by a
16 fine or by imprisonment in the county jail, or by both.

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

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

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

32 (4) Upon the fifth or subsequent convictions for a violation of the
33 wildlife and parks laws of the state or the rules and regulations of the
34 secretary relating to this section, the violator shall not be fined less than
35 \$1,000 and shall be imprisoned in the county jail for not less than 90 days.
36 A fifth or subsequent conviction shall be a class A nonperson

1 misdemeanor.

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

4 (b) (1) *As used in this subsection:*

5 (A) *"Gross score" means the number derived by calculating the*
6 *measurements of the antlers of a whitetail deer in accordance with this*
7 *subsection.*

8 (B) *"Point" means a projection on the antler of a whitetail deer that*
9 *is at least one inch long as measured from its tip to the nearest edge of the*
10 *antler beam and the length of which exceeds the length of its base. "Point"*
11 *does not include an antler beam tip.*

12 (C) *"Abnormal point" means a point that is nontypical in shape or*
13 *location.*

14 (D) *"Normal point" means a point that projects from the main antler*
15 *beam in a typical shape or location.*

16 (E) *"Inside spread of main antler beams" means the measurement at*
17 *right angles to the center line of the skull of a whitetail deer at the widest*
18 *point between main antler beams.*

19 (F) *"Length of main antler beam" means the measurement from the*
20 *lowest outside edge of the antler burr of a whitetail deer over the outer*
21 *curve to the most distant point of what is or appears to be the main antler*
22 *beam beginning at the place on the antler burr where the center line along*
23 *the outer curve of the beam intersects the antler burr.*

24 (G) *"Antler burr" means the elevated bony rim around the antler*
25 *base of a whitetail deer that is just above the skin of the pedicle.*

26 (+) (2) In addition to any other penalty prescribed by law, the
27 unlawful intentional taking of a trophy big game animal shall be
28 punishable by a fine of \$5,000.

29 (±) (3) A trophy big game animal shall include any animal meeting
30 the following criteria:

31 (A) An antlered whitetail deer having an inside spread measurement
32 of at least 17 inches;

33 (B) an antlered mule deer having an inside spread measurement of at
34 least 22 inches;

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

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

38 (⊕) (4) *In addition to any other penalty prescribed by law, the*
39 *secretary shall bring a civil action to recover the restitution value of an*
40 *antlered whitetail deer taken in violation of K.S.A. 32-1001, 32-1002, 32-*
41 *1003, 32-1004, 32-1005 or 32-1013, and amendments thereto, with a*
42 *gross score of more than 125 inches. Such additional restitution value*
43 *shall equal: (gross score - 100)² x \$2. The gross score of an antlered*

1 whitetail deer shall be determined by taking and adding together all of the
2 following measurements, which shall be made to the nearest $\frac{1}{8}$ of an inch
3 using a $\frac{1}{4}$ inch wide flexible steel tape:

4 (A) Inside spread of the main antler beams, not to exceed the length
5 of the longest main antler beam;

6 (B) length of the right main antler beam;

7 (C) length of the left main antler beam;

8 (D) total length of all abnormal points;

9 (E) total length of all normal points as measured from the nearest
10 edge of the main antler beam over the outer curve to the tip. To determine
11 the baseline for normal point measurement, the tape shall be laid along
12 the outer curve of the antler beam so that the top edge of the tape
13 coincides with the top edge of the antler beam on both sides of the point;

14 (F) circumference taken at the narrowest place between the antler
15 burr and the first normal point on the right main antler beam. If the first
16 normal point is missing, the circumference shall be taken at the narrowest
17 place between the antler burr and the second normal point;

18 (G) circumference taken at the narrowest place between the first
19 normal point and the second normal point on the right main antler beam.
20 If the first normal point is missing, the circumference shall be taken at the
21 narrowest place between the antler burr and the second normal point;

22 (H) circumference taken at the narrowest place between the second
23 normal point and the third normal point on the right main antler beam;

24 (I) circumference taken at the narrowest place between the third
25 normal point and the fourth normal point on the right main antler beam. If
26 the fourth normal point is missing, the circumference shall be taken
27 halfway between the third normal point and the tip of the main antler
28 beam;

29 (J) circumference taken at the narrowest place between the antler
30 burr and the first normal point on the left main antler beam. If the first
31 normal point is missing, the circumference shall be taken at the narrowest
32 place between the antler burr and the second normal point;

33 (K) circumference taken at the narrowest place between the first
34 normal point and the second normal point on the left main antler beam. If
35 the first normal point is missing, the circumference shall be taken at the
36 narrowest place between the antler burr and the second normal point;

37 (L) circumference taken at the narrowest place between the second
38 normal point and the third normal point on the left main antler beam; and

39 (M) circumference taken at the narrowest place between the third
40 normal point and the fourth normal point on the left main antler beam. If
41 the fourth normal point is missing, the circumference shall be taken
42 halfway between the third normal point and the tip of the main antler
43 beam.

1 (5) *Antlers may be measured pursuant to the manner described in*
2 *subsection (b)(5) at any time; no drying time is required.*

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

6 (c) In addition to any other penalty imposed by the convicting court,
7 if a person is convicted of a violation of K.S.A. 32-1001, 32-1002, 32-
8 1003, 32-1004 or 32-1013, and amendments thereto, that involves taking
9 of a big game animal or wild turkey, or if a person is convicted of a
10 violation of K.S.A. 32-1005, and amendments thereto, that involves
11 commercialization of a big game animal or wild turkey:

12 (1) Upon the first such conviction, the court may order forfeiture of
13 the person's hunting privileges for one year from the date of conviction
14 and: (A) Revocation of the person's hunting license, unless such license is
15 a lifetime hunting license; or (B) if the person possesses a lifetime hunting
16 license, suspension of such license for one year from the date of
17 conviction.

18 (2) Upon the second such conviction, the court shall order forfeiture
19 of the person's hunting privileges for three years from the date of
20 conviction and: (A) Revocation of the person's hunting license, unless
21 such license is a lifetime hunting license; or (B) if the person possesses a
22 lifetime hunting license, suspension of such license for three years from
23 the date of conviction.

24 (3) Upon the third or a subsequent such conviction, the court shall
25 order forfeiture of the person's hunting privileges for five years from the
26 date of conviction and: (A) Revocation of the person's hunting license,
27 unless such license is a lifetime hunting license; or (B) if the person
28 possesses a lifetime hunting license, suspension of such license for five
29 years from the date of conviction.

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

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

39 Sec. 2. K.S.A. 2011 Supp. 32-1032 is hereby repealed.

40 Sec. 3. This act shall take effect and be in force from and after its
41 publication in the statute book.