

**Testimony on HB 2191 relating to KDWP Licenses, Permits, Stamps and Other Issues
To
The Senate Committee on Agriculture and Natural Resources**

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HB 2191 seeks to amend K.S.A. 32-1001 and K.S.A. 32-1041 relating to electronic licensing and K.S.A. 32-1049 relating to citations. **The Department requested introduction of the bill.** The provisions of the bill would be effective upon publication in the statute book.

The overall impetus of the first section is a movement towards electronic licensing by the Department. Therefore, the first proposed change deals with possession of licenses, permits, stamps and other issues of the department when regarding a violation. Given the fact that hunting and fishing licenses and permits are available online, an alleged violator could purchase a license or permit in between being contacted and being written a citation or in the case of being charged by a county attorney, in between the time contacted by an officer and when subsequently charged with a violation. Further, the term arrest probably does not adequately describe modern day practices.

The next proposed change deals with electronic licensing as well. The Department, and all of society for that matter, is moving towards more mobile platforms for licensing. The Department is proposing clarifying that only physical copies of licenses would be forfeited rather than electronic ones. One could only imagine great surprise when a judge would order, upon conviction of a violation, forfeiture of a smartphone or tablet because it contains the electronic version of the license or permit.

Quite simply, the next portion of the bill changes requirements related to issuance of a citation from *shall* to *may* and strikes a subsection related to official misconduct in office. While the Department believes that county and district attorneys have the inherent authority to charge an individual with a KDWP violation, at least one court has ruled otherwise and dismissed charges against an individual that was not issued a citation but was charged by the county attorney. There is a parallel traffic statute, K.S.A. 8-2106, that makes the issuance of a citation permissive.

The second change requested is to strike (f), which also has a parallel subsection in K.S.A. 8-2106. It seems a bit egregious to declare an officer guilty of misconduct and removal from office for a potential mistake and if the officer's actions were intentional, they could be terminated under the civil service act and potentially charged with a crime. The Department would also encourage changing the parallel traffic citation statute.

The Department appreciates the opportunity to address the Committee and requests favorable passage of the bill.