

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:015. Feeding of wildlife.

RELATES TO: KRS 150.015

STATUTORY AUTHORITY: 150.025

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.015 requires the department to protect and conserve the wildlife of this Commonwealth. KRS 150.025(l)(h) authorizes the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 150. This administrative regulation establishes restrictions on the feeding of wildlife that will serve to protect wildlife from disease and toxic substances that may cause harm to the wildlife population if left unregulated. EO 2008-516, effective June 16, 2008, reorganizes and renames the Commerce Cabinet as the Tourism, Arts and Heritage Cabinet.

Section 1. Definitions. (1) "Captivity" means confinement by fence or other structure or restraint intended to prevent escape.

(2) "Curtilage of the home" means the area encompassing the grounds immediately surrounding any home or group of homes used in the daily activities of domestic life, and may or may not be enclosed by a fence or other barrier, and includes areas occupied by captive cervids as established in~~[pursuant to]~~ 301 KAR 2:083 and wildlife held in captivity for rehabilitation purposes as established in~~[pursuant to]~~ 301 KAR 2:075 or held in captivity as established in~~[pursuant to]~~ 301 KAR 2:081 and 2:082.

(3) "Feeding" means willingly, wantonly, or knowingly depositing, distributing, or scattering of shelled, shucked, or unshucked corn, millet, milo, safflower seed, sunflower seed, thistle, wheat, or other grain, or any manufactured feed to be consumed by wildlife, but shall not include the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planting or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.

Section 2. Recreational Feeding of Wildlife. (1) Wildlife shall not be fed from March 1 through May 31 except as provided in subsections (2) and (3) of this section.

(2) Wildlife may only be fed year round:

(a) In~~[in]~~ public areas not open to legal hunting or trapping, unless otherwise prohibited by statute,~~[an]~~ administrative regulation, or municipal ordinance;~~[-]~~

(b) Within~~[(2) Wildlife may be fed year round within]~~ the curtilage of the home; and

(c) In~~[-]~~

~~(3) Wildlife shall not be fed from March 1 through May 31 except as provided in subsections (1) and (2) of this section.~~

~~(4) The prohibition established in subsection (3) of this section shall not apply to the feeding of:~~

~~(a) Fish; or~~

~~(b) Wildlife in] a zoo or other facility that lawfully keeps or exhibits wildlife for rehabilitation, rescue, or public viewing.~~

(3) Fish may be fed year round.

RICH STORM, Commissioner
MICHAEL E. BERRY, Secretary

APPROVED BY AGENCY: May 19, 2021

FILED WITH LRC: May 19, 2021 at 4:29 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 24, 2021 at 3:00 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through August 31, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Beth Frazee

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation establishes restrictions on the feeding of wildlife that will serve to protect wildlife from disease and toxic substances that may cause harm to the wildlife population if left unregulated.

(b) The necessity of the administrative regulation: This administrative regulation is necessary to effectively manage wildlife populations in Kentucky, while protecting them from disease concerns.

(c) How does this administrative regulation conform to the authorizing statute: KRS 150.015 requires the department to protect and conserve the wildlife of this Commonwealth. KRS 150.025(l)(h) authorizes the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 150.

(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing requirements for feeding of wildlife.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: This amendment cleans up and simplifies language in the existing regulation in regards to feeding of wildlife.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary as part of the agencies continued efforts to update and simplify our regulations,

(c) How does the amendment conform to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Anyone feeding fish or wildlife.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Not placing bait in areas or dates prohibited by this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not alter any costs for the entities in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Healthy wildlife populations

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the agency on a continuing basis.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Additional fees or funding for direct implementation of this regulation are not necessary as the regulation already exists.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: This administrative regulation does not establish any fees nor does it indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as all individuals feeding fish or wildlife are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Department of Fish and Wildlife Resources' Divisions of Wildlife and Law Enforcement will be impacted by this amendment.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 150.025

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for the state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated for state and local governments.

(c) How much will it cost to administer this program for the first year? There will be no additional costs for the first year.

(d) How much will it cost to administer this program for subsequent years?

There will be no additional costs incurred for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: