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

301 KAR 5:100. Interstate Wildlife Violators Compact.

RELATES TO: KRS 150.236
STATUTORY AUTHORITY: KRS 150.025, 150.236, 150.238
NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department to establish administrative regulations necessary to carry out the purpose of KRS Chapter 150. KRS 150.236 authorizes the department to promulgate administrative regulations regarding the suspension of hunting or fishing privileges for persons whose hunting or fishing privileges have been suspended or revoked by other jurisdictions. KRS 150.238 authorizes the department to enter into reciprocal agreements with other states regarding fish and wildlife violations. This administrative regulation establishes the provisions of a reciprocal interstate Wildlife Violators Compact.

Section 1. Definitions.

(1) "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.

(2) "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.

(3) "Compliance" means the act of answering a citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(4) "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, administrative 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.

(5) "Home state" means the state of primary residence of a person.

(6) "Issuing state" means the party state which issues a wildlife citation to the violator.

(7) "License" means any license, wildlife permit, or other public document that 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.

(8) "Licensing authority" means 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.

(9) "Party state" means any state which enacts legislation to become a member of this wildlife compact.

(10) "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.

(11) "State" means any state, territory, or possession of the United States.

(12) "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.

(13) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(14) "Wildlife" means:

(a)

1. All species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans; and

2. Food, fish, and shellfish;

(b) Which are:

1. Defined as wildlife, food fish, or shell fish in that specific jurisdiction; and

2. Protected by or otherwise regulated by statute, administrative regulation, ordinance, or administrative rule in that specific jurisdiction.

(15) "Wildlife law" means any statute, law, administrative regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

(16) "Wildlife officer" means any individual authorized by a party state to issue a citation for a wildlife violation.

(17) "Wildlife violation" means any cited violation of a statute, law, administrative regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

Section 2. Procedures for the Issuing State.

(1) If 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 (2) of this section, if the officer receives the person's personal recognizance that the person shall comply with the terms of the citation.

(2) Personal recognizance is acceptable:

(a) If not prohibited by local law or the compact manual adopted by the Kentucky Department of Fish and Wildlife Resources; and

(b) If the violator provides adequate proof of the violator's identification to the wildlife officer.

(3) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate 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 Kentucky Department of Fish and Wildlife Resources as policy as minimum requirements for effective processing by the home state.

(4) Upon receipt of the report of conviction or noncompliance required by subdivision (3) of this administrative regulation, 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 Kentucky Department of Fish and Wildlife Resources as policy.

Section 3. Procedures for Home State.

(1) 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 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 rights

shall be provided to any person who is issued a citation pursuant to this administrative regulation.

(2) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter the conviction in its records and shall treat the conviction as if it occurred in the home state for the purposes of the suspension of license privileges.

(3) 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 department as policy.

Section 4. Reciprocal recognition of suspension. All party states shall recognize the suspension of license privileges or rights of any person by any 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 privileges or rights in their state.

Section 5. The commissioner shall designate a department representative who shall serve as the department's compact administrator.

Section 6. Appeals.

(1) A person who is convicted pursuant to this administrative regulation or who is found to have committed a violation in another state that warrants the department denying them a hunting license, fishing license, trapping license, or any wildlife permit, may appeal the decision and request in writing an administrative hearing within thirty (30) days of the denial.

(2) Upon receipt of a written request for an administrative hearing, the department shall set the date, time, and place of the hearing and shall forthwith notify the person by regular U.S. mail.

(3) An administrative hearing conducted pursuant to this section shall be held in accordance with KRS Chapter 13B.

Section 7. Effective Dates of Suspensions. Only violations that are committed on or after the effective date of this compact, and resulting suspensions, shall be subject to the provisions of the compact.

Section 8. Incorporation by Reference.

(1) "Compact Manual", 2/08, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RICH STORM, Commissioner
MIKE E. BERRY, Secretary

APPROVED BY AGENCY: July 15, 2021
FILED WITH LRC: August 5, 2021 at 9:22 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 27, 2021 at 9:00 a.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 October 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.