

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

301 KAR 2:090. Means by which migratory game birds may be taken.

RELATES TO: KRS 150.010, 150.025(1), 150.305(3), (4), 150.330, 150.360(2)

STATUTORY AUTHORITY: 150.025(1), 150.305(3), (4), 150.360(2), 150.600, 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.305(3) and (4) authorize the department to regulate the possession of harvested migratory birds and facilitates the inspection of commercial preservation facilities. KRS 150.360(2) authorizes the department to restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within the frameworks established by 50 C.F.R. Parts 20 and 21.

Section 1. Definitions.

(1) "Baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly, placed, exposed, deposited, distributed, or scattered, and such area shall remain a baited area for ten (10) days following complete removal of all such corn, wheat or other grain, salt, or other feed.

(2) "Baiting" means the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on or over any areas where hunters are attempting to take them.

Section 2. Prohibited Hunting Methods.

(1) Migratory birds on which open seasons are prescribed may be taken by any method except those prohibited in this section.

(2) Migratory game birds and migratory waterfowl shall not be taken:

(a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than ten (10) gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance;

(b) With a shotgun of any description capable of holding more than three (3) shells, unless it is plugged with a one (1) piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three (3) shells, except that this restriction does not apply during the light geese conservation order season;

(c) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;

(d) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind;

(e) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off or the sails furled, and its progress therefrom has ceased, except that a craft under power may be used to retrieve dead or crippled birds but crippled birds shall not be shot from such craft under power;

(f) By the use or aid of live birds as decoys;

(g) On an area where tame or captive live ducks or geese are present, unless such birds are and have been for a period of ten (10) consecutive days prior to such taking,

confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl;

(h) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds, except that this restriction does not apply during the light geese conservation order season;

(i) By the means or aid of any motor-driven land, water, or air conveyance or any sailboat used for the purpose of or resulting in the concentration, driving, rallying, or stirring up of any migratory bird; or

(j) By the aid of baiting, or on or over any baited area, except that nothing in this paragraph shall prohibit:

1. The taking of all migratory game birds, including waterfowl, on or over standing crops, flooded standing crops, including aquatics, flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

2. The taking of all migratory game birds, except waterfowl, on or over any lands where baiting has occurred as the result of:

a. Bona fide agricultural operations or procedures; or

b. Manipulation of a crop or other feed on the land where grown for wildlife management purposes, provided that manipulation for wildlife management purposes does not include the distribution or scattering of grain or other feed once it has been removed from or stored on the field where grown.

Section 3. Transporting, Importing and Exporting.

(1) Migratory game birds lawfully killed and possessed in accordance with the hunting laws and regulations of any foreign country or any state in the United States or subdivision thereof, must be imported, exported, or transported in accordance with the provisions specified in Title 50, Chapter 1, Subchapter B, Part 20 of the Code of Federal Regulations.

(2) No person shall transport within the United States any migratory game birds, except doves, unless the head or one (1) fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a commercial preservation facility.

Section 4. Tagging and Recordkeeping Requirements.

(1) No person shall put or leave any migratory game birds at any place, other than at his personal abode, or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage, including temporary storage, or for the purpose of having taxidermy services performed, unless such birds have a tag attached, signed by the hunter, stating his:

(a) Address;

(b) The total number and species of birds; and

(c) The date such birds were killed.

(2) Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

(3) No person shall receive, or have in custody, any migratory game birds belonging to another person unless such birds are tagged as required under subsection (1) of this section.

(4) No person shall transport migratory game birds belonging to another person unless such birds are tagged as required under subsection (1) of this section.

Section 5. Commercial Preservation Facilities.

(1) No commercial preservation facility shall receive or have in custody any migratory game birds unless such birds are tagged as required in Section 4(1) of this administrative

regulation.

(2) No commercial preservation facilities shall:

(a) Receive or have in custody any migratory game birds unless accurate records are maintained showing:

1. The number of each species;
2. The date such birds were received;
3. The name and address of the person from whom such birds were received;
4. The date such birds were disposed of; and
5. The name and address of the person to whom such birds were delivered.

(b) Destroy any records required to be maintained under this section for a period of one (1) year following the last entry on the record.

(c) Prevent any person authorized to enforce this administrative regulation from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried on.

Section 6. Wanton Waste Law. No person shall kill or cripple any migratory game bird pursuant to this administrative regulation without making a reasonable effort to retrieve the bird and include it in his daily bag limit.

RICH STORM, Commissioner

APPROVED BY AGENCY: June 15, 2022

FILED WITH LRC: June 15, 2022 at 10:30 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 24, 2022, at 10:00 am, at KDFWR Administration Building, 1 Sportsman's Lane, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. 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 be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jenny Gilbert, Legislative Affairs, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.