

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(1)(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 301 KAR 2:083 and wildlife held in captivity for rehabilitation purposes as established in 301 KAR 2:075 or held in captivity as established in 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, salt, mineral, or other attractants, thistle, wheat, or other grain, or any manufactured feed or food product 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 practices 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 July~~[May]~~ 31 except as provided in subsections (2) and (3) of this section.
- (2) Wildlife may only be fed year-~~[f]~~round:
 - (a) In public areas that is not open to legal hunting or trapping, unless otherwise prohibited by statute, administrative regulation, or municipal ordinance;
 - (b) Within the curtilage of the home; and
 - (c) In a zoo or other facility that lawfully keeps or exhibits wildlife for rehabilitation, rescue, or public viewing.
- (3) Fish may be fed year-~~[f]~~round.

Section 3. Chronic Wasting Disease. In a department-designated Chronic Wasting Disease Surveillance Zone or Management Zone county, specified on the department's Web site at fw.ky.gov, persons shall not bait or feed using grain, salt, mineral, or other ingested attractants, except that the following shall be exempted:

- (1) Normal agricultural practices;
- (2) Wildlife food plots or plantings;

- (3) Bird feeders within the curtilage of the home; and
(4) Furbearer trapping, except that trappers shall not use grain, salt, or mineral.
(33 Ky.R. 1215; Am. 1523; eff. 12-7-2006; 34 Ky.R. 2220; eff. 6-6-2008; 35 Ky.R. 999; eff. 1-5-2009; 48 Ky.R. 133, 1730; eff. 3-1-2022; 49 Ky.R. 1144; eff. 2-2-2023.)

RICH STORM, Commissioner

APPROVED BY AGENCY: October 14, 2022

FILED WITH LRC: October 14, 2022 at 11:13 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 29, 2022, at 10:00 a.m. 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 December 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: CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, Frankfort, Kentucky (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jenny Gilbert

(1) Provide a brief summary of:

(a) What this 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 this administrative regulation:

This administrative regulation is necessary to effectively manage wildlife populations in Kentucky while protecting them from disease concerns.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

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 this administrative regulation currently assists or will 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 this existing administrative regulation:

This amendment changes applicable dates in the existing regulation in regards to feeding of wildlife.

(b) The necessity of the amendment to this administrative regulation:

The amendment is necessary to extend the applicable range of dates in the existing regulation in regards to feeding of wildlife.

(c) How the amendment conforms to the content of 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 affected by this administrative regulation:

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 during the range of 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):

Healthier wildlife populations.

(5) Provide an estimate of how much it will cost the administrative body 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 the funding to be used for the implementation and enforcement of this administrative regulation:

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 because the regulation already exists.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish nor increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied because all individuals feeding fish or wildlife are treated the same.

FISCAL NOTE

(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.

KRS 150.025 authorizes the Department of Fish and Wildlife to make regulations as to game and fish.

(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.

n/a

(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?

n/a

(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?

(c) How much will it cost to administer this program for the first year?

No cost will be incurred for the first year.

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

No cost will be 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 (+/-):n/a

Expenditures (+/-):n/a

Other Explanation:

n/a

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

n/a

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

n/a

(c) How much will it cost the regulated entities for the first year?

n/a

(d) How much will it cost the regulated entities for subsequent years?

n/a

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

Cost Savings (+/-):n/a

Expenditures (+/-):n/a

Other Explanation:

n/a

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]