

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

301 KAR 4:110. Administration of drugs to wildlife.

RELATES TO: KRS 150.015, 150.025, 150.061, 150.105, 150.275, 150.280

STATUTORY AUTHORITY: KRS 150.025(1)(h), 150.061(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to regulate any method of taking wildlife and any other regulation reasonably necessary to implement or carry out the purposes of KRS Chapter 150. This administrative regulation prohibits the administration of drugs to wildlife and creates the necessary exceptions.

Section 1. Definitions.

(1) "Captive wildlife":

- (a) Means wildlife kept in confinement, for any time period, by cage, enclosure, fence or other structure or restraint intended to prevent escape; and
- (b) Does not mean fish.

(2) "Drug" means any chemical substance, other than food or mineral supplements, that affects the health, structure or normal biological functions of any wildlife.

(3) "Noncaptive wildlife":

- (a) Means wildlife living unrestrained in the wild and not kept in confinement, for any time period, by cage, enclosure, fence or other structure or restraint intended to prevent escape; and
- (b) Does not mean fish.

Section 2. Commissioner Authorization for Administration of Drugs to noncaptive wildlife.

(1) A person shall not administer drugs to noncaptive wildlife without written authorization from the commissioner pursuant to this section of this administrative regulation.

(2) A party shall petition the commissioner in writing for authorization to administer drugs to noncaptive wildlife. Written petitions shall include:

- (a) A biological or sociological justification for the need to administer a drug to noncaptive wildlife;
- (b) A literature review of the known and potential effects of the drug on individual animals, the wildlife population, and potential consumers of wildlife; and
- (c) A detailed plan and timeline for administration of the drugs including anesthetic monitoring plans and withdrawal time data for species and potential human consumption risk.

(3) The commissioner may issue a waiver for the petition requirement for authorization to administer drugs to noncaptive wildlife for specific situations involving:

- (a) Public safety; or
- (b) Wildlife disease outbreaks, or biological or chemical emergencies or events.

(4) This section shall not apply to state or federal wildlife agencies' personnel in the performance of their official duties.

Section 3. Administration of Drugs to Captive Wildlife. This administrative regulation allows the administration of drugs for:

(1) Legally possessed captive wildlife under the direction of a licensed Kentucky veterinarian in which a veterinarian-client-patient relationship is established pursuant to KRS 321.185; or

(2) The treatment of sick or injured captive wildlife by either:

- (a) A licensed veterinarian treating non-commercial captive cervids as identified in 301 KAR 2:083, or critically ill or injured wildlife pursuant to 301 KAR 2:075;
- (b) A holder of a valid wildlife rehabilitation permit in a wildlife rehabilitation facility under the direction of a licensed Kentucky veterinarian in which a veterinarian-client-patient relationship is established pursuant to KRS 321.185 and 301 KAR 2:075;
- (3) A holder of a valid commercial nuisance wildlife control operator permit using dispatch methods established in 301 KAR 3:120; or
- (4) Employees of federal or state government in the performance of their official duties related to public health, wildlife management, or wildlife removal.

Section 4. Disposition of Wildlife. An officer of the department may take possession or dispose of any noncaptive wildlife if the officer has probable cause to believe the noncaptive wildlife have been administered drugs in violation of this administrative regulation.

RICH STORM, Commissioner

APPROVED BY AGENCY: February 14, 2023

FILED WITH LRC: February 15, 2023 at 10:455 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 28, 2023, at 10 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 April 30, 2023. 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 Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.