



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 28, 1977

ATTORNEY GENERAL OPINION NO. 77- 34

Honorable Patrick B. Augustine
State Representative
3rd Floor - State Capitol Building
Topeka, Kansas 66612

RE: Firearms -- Hunting -- Public Roads

SYNOPSIS: Kansas statutes do not prohibit the hunting of coyotes with firearms from vehicles moving upon public roads except as provided in K.S.A. 21-3728.

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Dear Representative Augustine:

You recently inquired whether Kansas law prohibited the discharge of firearms from a moving vehicle on a public road for the purpose of shooting a coyote. You further ask whether K.S.A. 21-3728 is applicable to the question presented.

K.S.A. 21-3728 provides:

"Unlawful hunting is fishing, or shooting, hunting or pursuing any bird or animal upon any land of another or from any traveled public road or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises.


Unlawful hunting is a class C misdemeanor."
[Emphasis supplied.]

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Under this provision, it is unlawful under any circumstances to shoot any animal located upon any land of another without the prior permission of the owner or person in possession thereof. For reasons not entirely clear, the legislature chose to add an additional prohibition, which seems largely unnecessary in light of the first. The statute also prohibits shooting of any animal from any traveled public road or railroad right-of-way which adjoins occupied or improved premises, again without the prior consent of the owner or person in possession thereof. In light of the prohibition against the shooting of any animal upon any land of another without permission, it is not clear why the additional proscription was added, dealing specifically with shooting from public roads or railroad rights-of-way. However, we think the employment of the preposition "from" demonstrates the legislature's desire to prohibit the use of public roads to hunt upon the property of individuals lying adjacent to the public roads. Moreover, what constitutes "occupied" or "improved" premises is nowhere defined.

To respond to your specific question, it is not unlawful to discharge a firearm from a moving vehicle on a public road for the purpose of shooting a coyote on land adjacent thereto, if the consent of the owner or person in possession of such property is first obtained. Obviously, the discharge of firearms from moving vehicles on public roads under any circumstances may pose a serious threat to public safety which is to nowise diminished by a property owner's consent. I suggest that the legislature give consideration to more restrictive rules governing the discharge of firearms from moving vehicles.

Yours very truly,


CURT T. SCHNEIDER
Attorney General

CTS:JPS:en