



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

August 28, 1979

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 79- 195

Fred Warders
Assistant Director
Kansas Fish and Game Commission
Box 54A, Rural Route 2
Pratt, Kansas 67124

Re: Forestry, Fish and Game--Fish and Game Commission--
Rules and Regulations

Synopsis: Prohibiting the use of steel traps in the taking of fur-bearing animals is an unauthorized exercise of the Commission's authority because such prohibition conflicts with the provisions of K.S.A. 1978 Supp. 32-158. However, pursuant to K.S.A. 1978 Supp. 32-158, 32-164 and 32-215, the Kansas Fish and Game Commission may regulate and prohibit the use of steel traps in certain locations.

* * *

Dear Mr. Warders:

You request our reconsideration of Attorney General Opinion No. 78-282, wherein it was concluded that the Kansas Fish and Game Commission did not have authority to prohibit the use of snares in the taking of badgers and raccoons. Specifically, you request our opinion as to whether the Commission may prohibit the use of steel traps, and whether there is any authority to prohibit the use of steel traps in certain locations in order to protect non-target species, including domestic animals.

Fred Warders
Page Two
August 28, 1979

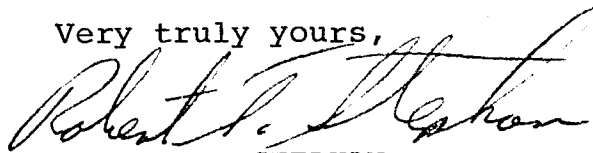
For the reasons enumerated in the previous opinion, it is our judgment that the Commission does not have the authority to generally prohibit the use of steel traps in the State of Kansas. However, the Commission possesses broad regulatory authority pursuant to the provisions of K.S.A. 1978 Supp. 32-158, 32-164 and 32-215. In our opinion, the combined provisions of these statutes clearly authorize regulations which would prohibit the use of steel traps in certain locations, in order to protect non-target species, including domestic animals. K.S.A. 1978 Supp. 32-158 provides, in part, as follows:

"It shall be unlawful for any person in the state of Kansas, at any time, unless and except as permitted by regulations adopted as provided in this act, to pursue, injure, trap . . . any of the following fur-bearing animals"

Further, by virtue of K.S.A. 1978 Supp. 32-164, the Commission is vested with wide discretion in adopting regulations establishing open seasons. Finally, K.S.A. 1978 Supp. 32-215(a) provides, in part, that the Commission is authorized "to establish open or closed seasons on any species of . . . fur-bearing animals . . . ; and to fix . . . conditions governing the taking of . . . fur-bearing animals"

In summary, it is our opinion that there is clear statutory authorization which would allow the Kansas Fish and Game Commission to regulate the locations where steel traps may be placed in the State of Kansas.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:BJS:TRH:jm