



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 29, 1978

ATTORNEY GENERAL OPINION NO. 78-277

Mr. Jerry M. Conley
Director
Kansas Fish and Game Commission
Box 54A - Rural Route 2
Pratt, Kansas 67124

Re: Forestry, Fish and Game--Fish and Game--Field Trial
Permits and Nonresident Coyote Hunters

Synopsis: The Kansas legislature has not authorized the Fish and Game Commission to alter or eliminate through administrative regulation Kansas hunting license requirements for nonresident hunters participating in "coyote field trials."

* * *

Dear Mr. Conley:

You request the opinion of this office whether the Kansas Fish and Game Commission is authorized to issue field trial permits for "coyote field trials" thereby permitting nonresident hunters to participate in such field trials in this state without securing a Kansas hunting license.

K.S.A. 32-104, as amended by Chapter 152, Laws of 1978, permits the nonresident hunter to participate in certain field trial events in Kansas without a Kansas hunting license. But the field trial must be recognized pursuant to and in compliance with rules or regulations of the Commission. The real issues here presented are what types of field trials has the legislature authorized the Commission to so recognize, and whether the coyote falls within the wildlife categories for which field trial permits may be issued.

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K.S.A. 32-173 provides thus:

"It shall be unlawful for any person in the state of Kansas to hunt, shoot, pursue or use *game birds, game animals or fur-bearing animals*, pen raised or wild, in field trials or for training dogs, at any time or in any manner, unless and except as hereinafter provided or as may be permitted by regulations adopted by the forestry, fish and game commission." [Emphasis added.]

Further, pertinent provisions of K.S.A. 32-174 should be noted:

"The forestry, fish and game commission is hereby authorized to adopt such regulations as the commission deems advisable; providing for the use of *game birds, wild or pen raised, and game animals and fur-bearing animals* in field trials" [Emphasis added.]

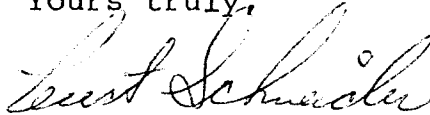
Clearly, three categories of wildlife are identified by the legislature for which field trial permits may be issued: (1) game birds; (2) game animals; and (3) fur-bearing animals. Obviously the coyote does not qualify as a game bird, so the question is whether the coyote falls within the definition of game animals or fur-bearing animals. Deer and antelope are declared game animals at K.S.A. 32-110a, wild rabbits and hares are declared game animals at K.S.A. 32-168, and tree squirrels (fox, gray or black) are declared wild game animals at K.S.A. 32-157. Coyotes are not defined by statute to be game animals. Fur-bearing animals are defined at K.S.A. 32-158 as "beaver, otter, muskrat, skunk, mink, raccoon, opossum, civit cat, badger, bobcat, lynx, marten, weasel, black-footed ferret, red or grey fox, [and] swift or prairie fox." The coyote is not defined as a fur-bearer either.

Premised upon the clear language of the above noted statutes, I can not but conclude that the legislature has not empowered the Commission to provide for coyote field trials. Accordingly, it is the opinion of this office that nonresident hunters can

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not avail themselves of the field trial exemption from the regular nonresident hunting license requirements.

Yours truly,

A handwritten signature in cursive script, appearing to read "Curt T. Schneider".

CURT T. SCHNEIDER
Attorney General

CTS:JPS:kj