

FISH AND WILDLIFE MANAGEMENT AND PROTECTION ACT

Of the

KAW NATION ENVIRONMENTAL PROTECTION CODE

Section FWA-101 STATUTE TITLE

This statutory enactment of the Kaw Nation Oklahoma may be referred to as the "Fish and Wildlife Protection and Management Act of the Kaw Nation of Oklahoma" or by the Short Title "Fish and Wildlife Act" (FWA). This statute shall be codified in the Kaw Nation Environmental Protection Code as Title 14 Section FWA-101 et seq.

Resolution 17-117

Section FWA 102 (a) Definitions

For the purposes of this act the following terms will have the following definitions.

"Waters of the Kaw Nation" shall mean all of the natural ponds, natural lakes, streams, rivers, and mine pits which occur within the boundary of the lands of the Kaw Nation, or which form part of the boundary of any of the lands of the Kaw Nation, including such portions of the Arkansas River as now make up Kaw Lake;

"Lands of the Kaw Nation" shall mean all lands held by the Kaw Nation held in trust, or that otherwise meet the definition of "Indian country" as defined by Federal Law;

"Kaw Nation" means the Kaw Nation of Oklahoma;

"Chair of the Kaw Nation" means the Chair of the Kaw Nation as elected pursuant to the provisions listed in the Constitution of the Kaw Nation;

"Tribal Council" means the legislative body of the Kaw Nation as described in the Constitution of the Kaw Nation;

"Fish" means either vertebrate animals commonly found in bodies of water whose bodies feature gills and fins, such as bass and catfish, or the act of catching or trying to catch fish, typically using a net or hook and line;

"Sport fish" means a fish normally sought after by sportsmen, and includes largemouth bass, smallmouth bass, white bass, spotted bass, black crappie, white crappie, northern pike, trout, sauger, saugeye, striped bass, walleye, blue catfish and channel catfish;

"Sportsmen" means a person who engages in hunting or fishing;

"Trash Fish or Rough Fish" means a fish which is not sought after by sportsmen and can be invasive and destructive to the surrounding habitat. Trash fish include but are not limited to carp and alligator gar;

"Wildlife" means living things especially mammals, birds, fishes, reptiles, and amphibians that are

neither humans nor domesticated.

Resolution 17-117

**Section FWA-102 (b) ADMINISTRATION OF THE FISH AND WILDLIFE
PROTECTION AND MANAGEMENT of the act**

This act shall be administered by the Kaw Nation Environmental Protection Agency whose Director is hereby authorized to promulgate, with the consent of the Chair

such administrative regulations, including permitting procedures, as shall be deemed appropriate to implement the provisions of this statute.

Resolution 17-117

Section FWA-103 STATEMENT OF POLICY

It shall be the policy of the Kaw Nation of Oklahoma to protect the fish and wildlife resources of the Kaw Nation from depletion and abuse and their habitat from pollution, depletion, and degradation.

Resolution 17-117

Section FWA-104 REQUIRED LICENSE PROVISIONS

Any rental or lease contracts on Kaw land shall include such fish and wildlife protection measures as are necessary to protect and preserve existing populations of managed species, endangered species, and protected species as may be determined by the Kaw Nation Environmental Protection Agency. Such provisions shall have be effective only for future leases and for extensions of existing leases but shall have no retroactive application. Any licensed hunter hunting on the lands of the Kaw Nation, which have been rented or leased will be responsible for any injury to livestock caused by the hunter's negligence.

Resolution 17-117

Section FWA-105 HUNTING AND FISHING REGULATIONS

The Kaw Nation Environmental Protection Agency shall establish such

hunting and fishing regulations as it deems necessary to implement the policy set forth in Section FWA-102 of this act which regulations shall have force and effect on all lands owned or otherwise under the jurisdiction of the Kaw Nation of Oklahoma. This shall include the setting of hunting seasons, bag limits, and such other provisions as are necessary and appropriate. If no such regulations are established, then the hunting seasons and bag limits of the state of Oklahoma will be used until Kaw Nation regulations are passed.

Resolution 17-117

Section FWA-106 MANAGED SPECIES

The following species and their habitat are intended to be managed under the provision of this act:

1. Bobwhite Quail
2. Squirrels
3. Doves
4. Prairie Chicken
5. Deer
6. Rabbits
7. Wild Turkeys
8. Ring-necked pheasants
9. Beaver

All sport fish species except trash, bait and nuisance species and such others as may from time to time be added by enactment of the Tribal Council of the Kaw Nation of Oklahoma or by administrative regulation promulgated by the Kaw Environmental Protection Agency.

It is not the intention of this statute that the taking of Endangered Species or Migratory Species as defined under Federal law as stated in the Endangered Species Act, and all other applicable federal laws and regulations be allowed under any section of this statute.

Resolution 17-117

Section FWA-201 ENDANGERED AND THREATENED SPECIES

The Kaw Nation of Oklahoma supports the Federal Endangered Species

Act and shall fully cooperate with Federal authorities in protecting those endangered or threatened species and their habitat which would be affected by land use activities or hunting and fishing activities on

lands or in waters of the Kaw Nation. The taking of any endangered or threatened species by any person on lands or in waters of the Kaw Nation shall constitute a crime under this statute. Prosecution may be either in Federal Courts or in Courts of the Kaw Nation. Prosecution in one shall not be a bar to prosecution in the other unless a court of competent jurisdiction shall determine that such prosecution violates the right of the accused not to be placed in double jeopardy for the same crime. Any available evidence of criminal taking of endangered or threatened species by any person on Kaw land or in Kaw waters shall be made available to Federal prosecutors at their request or at the direction of the Kaw Nation Environmental Protection Agency.

Resolution 17-117

Section FWA-202 MIGRATORY SPECIES

The Kaw Nation of Oklahoma supports the Federal Migratory Species protective laws and programs. The taking of any migratory species by any person on lands or in the Kaw Nation other than in accordance with the laws of the United States shall constitute a crime of poaching under this statute. Prosecution may be either in Federal Courts or in the Courts of the Kaw Nation. Prosecution in one shall not be a bar to prosecution in the other unless a court of competent jurisdiction shall determine that such prosecution violates the right of the accused not to be placed in double jeopardy for the same crime. Any available evidence of criminal taking of migratory species by any person on Kaw land or in Kaw waters shall be made available to Federal prosecutors at their request or at the direction of the Kaw Environmental Protection Agency.

Resolution 17-117

Section FWA-203 PROTECTED SPECIES

Songbirds, hummingbirds, and other species which are not specifically listed as "managed species" or as "endangered species" shall not be taken at any time on Kaw Lands or in Kaw Waters except that "Vermin" and "Nuisance Species" may be taken by persons who have a right to be upon Kaw land and "bait species" may be taken as provided in Section FWA-204 (c) of this act.

Resolution 17-117

Section FWA-204 VERMIN AND NUISANCE SPECIES

"Vermin" and "Nuisance" species shall include only those species which are so identified in this statute or which may be identified by administrative regulation properly promulgated by the Kaw Environmental Protection Agency.

Section 204 (a) "Vermin" defined

Vermin shall be defined as those species which are commonly harmful and/or difficult to control such as rats or starlings, or those that are predatory or parasitic on more desirable species. A license is not required to remove vermin

Section 204 (b) "Nuisance species" defined

Nuisance species shall be defined as those species which are generally regarded with dislike or fear such as snakes, or which are destructive of property such as armadillos, or which are or may be predators on domestic livestock or poultry such as coyotes. Exotic "rough fish" species are also defined as nuisance species. A license is not necessary to remove nuisance species

Section 204 (c) "Bait Species" defined

Bait species are those species of crustaceans, invertebrates, or small fishes which are commonly used for fishing bait such as crayfish, frogs, shad, fathead minnows, bluegill, green sunfish, grasshoppers, crickets and earthworms or which may be used to bait traps for vermin or nuisance species or managed species which those manages species are taken according to applicable regulations.

"Bait species" may be taken by Citizens of the Kaw Nation and other persons . Provided that the purpose of such taking is to use them as bait. A fishing license is not required to take bait species.

Section FWA-301 POACHING AND OTHER CRIMES

Section FWA-301 (a) Managed Species

The possession of any fish managed by this act, or the taking or attempted taking of any other managed species in any manner or at any time which is contrary to the provisions of this act or to the administrative regulations which shall have been properly promulgated by the Kaw Nation Environmental Agency in accordance with this act shall constitute the crime of poaching which crime shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) and the forfeiture of all instrumentalities (guns, fishing equipment, vehicles, dogs, etc.) used in the commission of the crime or incarceration in the facility normally used by the Kaw Nation

Section FWA-301 (b) Endangered Species

The taking of any endangered species on Kaw Nation lands or in Kaw Nation water at any time shall constitute the crime of poaching which crime shall be punishable by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) plus the forfeiture of all instrumentalities used in commission of the crime or incarceration in the facility normally used by the Kaw Nation for incarceration of prisoners for not more than six (6) months or both. Prosecution may be either in Federal Courts or in Courts of the Kaw Nation. Prosecution in one shall not be a bar to prosecution in the other unless a court of competent jurisdiction shall determine that such prosecution violates the right of the accused not to be placed in double jeopardy for the same crime. ,

Section FWA-301 (c) Migratory Species

The taking of any migratory species on Kaw Nation lands or in Kaw Nation waters at any time in any manner which is inconsistent with Federal law shall constitute the crime of poaching which crime shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) plus the forfeiture of all instrumentalities used in commission of the crime or incarceration in the facility normally used by the Kaw Nation for incarceration of prisoners for not more than six (6) months or both. Prosecution may be either in Federal Courts or in Courts of the Kaw Nation. Prosecution in one shall not be a bar to prosecution in the other unless a court of competent jurisdiction shall determine that such prosecution violates the right of the accused not to be placed in double jeopardy for the same

crime.

Section FWA-301 (d) Evidence

Available evidence of the taking of any endangered or threatened species or the unlawful taking of any migratory species by any person at any time on lands or in waters owned by the Kaw Nation of Oklahoma shall be made available to United States Government authorities for their use in prosecuting this crime. Such unlawful taking will also constitute the crime of poaching and shall be punishable under the provisions of this act.

Section FWA 301 (e) Motor Vehicle Use Prohibited

Hunting any animal, whether managed, nuisance, or bait, while using a motor vehicle of any kind shall constitute the crime of poaching. For purposes of this statute motor vehicle includes all cars, ATVs, dirtbikes, and any other vehicles. Hunting while using a motor vehicle includes shooting an animal while driving, the use of headlights or spotlights while hunting, shooting an animal with a bow or firearm from the bed, cabin, or seat of a motor vehicle. This crime carries all of the penalties of poaching listed above.

Section FWA 301 (f) Night Hunting Prohibited

Hunting at night with a bow or firearm is unlawful. Violating this provision may be punished by a fine of up to Five Hundred Dollars (\$500.00).

Section FWA 301 (g) Use of Elevated Stand Without a Harness

When using an elevated stand, all hunters shall wear a safety harness. Failing to wear a safety harness while using an elevated stand is a crime punishable by a fine of up to Five Hundred Dollars (\$500.00).

Section FWA 301 (h) Labeling Personal Deer Feeders and Game Cameras

Any personal deer feeders or game cameras used on the lands of the Kaw Nation, must be labeled with the owner's name and telephone number. If a game camera or deer feeder is found unlabeled it may result in the forfeiture of these items to the Kaw Nation.

Resolution 17-117

Section FWA 302 Destruction of Habitat

The willful and unpermitted destruction of critical wildlife or fishery habitat on Kaw Nation lands or in waters of the Kaw Nation for any threatened or endangered

species shall constitute a crime punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or the forfeiture of all instrumentalities (bulldozers, trucks, backhoes, etc.) used in the commission of the crime or both.

Critical Wildlife Habitat is a concept which is species dependent. It can only be determined in light of the requirements of the species being considered.

Critical Wildlife Habitat is defined as: One or more specific geographical areas within the range of a species on which are found those physical or biological features which are essential for the survival of that species; its reproduction; as a food or water source; or as nesting or resting cover.

The placement of permanent tree stands on the lands of the Kaw Nation shall be considered destruction of habitat, and is an act which is punishable under this section. For purposes of this section, a permanent tree stand is one which is not capable of being collapsed or removed without damaging the tree, or which is in place for more than forty eight (48) hours.

Resolution 17-117

Section FWA-401 HUNTING AND FISHING LICENSE

Unless otherwise specified in this act, hunting and/or fishing of sport fish or a regulated species by any person on lands of the Kaw Nation of Oklahoma shall require a license be issued by the Enrollment Department of the Kaw Nation. These licenses will be issued pursuant to regulations promulgated by the Kaw Environmental Protection Agency.

Section FWA 401 (a) Licenses-Exemptions

The following members of the Kaw Nation and non-members of the Kaw Nation will be exempt from the fishing license requirement listed above.

1. Members of the Kaw Nation who engage in bank fishing from a bank located in the lands of the Kaw Nation in the waters of the Kaw Nation using any bait other than any commercial or artificial bait, blood bait, stink bait, cut fish and shrimp; and
2. Members of the Kaw Nation bank fishing in the waters of the Kaw Nation who are under the age of sixteen (16).

The following members of the Kaw Nation will be exempt from the hunting license requirement listed above.

1. Members of the Kaw Nation hunting on lands of the Kaw Nation who are under the age of sixteen (16) and accompanied by a licensed hunter over the age of eighteen (18).
2. Members of the Kaw Nation hunting on lands of the Kaw Nation who are over the age of sixty two (62).

Section FWA 401 (b) Bag Limits

The Environmental Protection Agency of the Kaw Nation will be responsible for promulgating rules relating to the bag limits for animals taken under this act which are not nuisance, vermin, or bait species. At no time shall these bag limits be less than those articulated under the state laws of Oklahoma.

Resolution 17-117

Section FWA -402 Trapping

Trapping of Kaw Nation of fur bearing animals on lands of the Kaw Nation of Oklahoma shall be by license except in the case of vermin, as defined above, fish trapping is only allowed in the case of bait species, as defined above.

Resolution 17-117

Section FWA-403 OKLAHOMA LICENSE

An Oklahoma Hunting and/or fishing and/or trapping license shall not be required by Kaw Members to hunt or fish or trap on lands owned by the Kaw Nation.

Resolution 17-117

Section FWA-404 LICENSE FEES

Fees for hunting, fishing and trapping licenses shall be established by administrative regulation promulgated by the Kaw Nation Environmental Protection Agency and the license shall be issued pursuant to this act. License fees charged to citizens of the Kaw Nation shall not exceed the administrative costs of issuing them. Fees charged to persons who are not citizens of the Kaw Nation shall approximate the fees charged by the State of Oklahoma for resident hunting, fishing, and/or trapping licenses respectively.

Section FWA 404 (a) Lifetime License Fees

A lifetime hunting and fishing license may be issued to Kaw members

over the age of sixteen (16) who have completed the required hunter safety course as specified in § 405. The cost of a lifetime license will be established by regulations promulgated by the Environmental Protection Agency. If no such regulations are promulgated, then the cost of a lifetime license will be one hundred dollars (\$100.00).

Resolution 17-117

Section FWA-405 Hunter Safety Course

A hunter safety course curriculum will be developed and approved by the Kaw Nation Chief of Police. This course will be taught yearly on facilities owned by the Kaw Nation. In order for a Kaw member to be issued a hunting license, they must complete this course unless said Kaw member is under the age of fourteen (14) or was born before 1965. Additionally, non-kaw members shall not be issued a Kaw Nation hunting license unless they can provide proof that they have complied with the hunter safety course requirements of their state.

Resolution 17-117

Section FWA-406 Limit on Licenses to Non-members

The number of licenses issued to non-members of the Kaw Nation shall not exceed one hundred (100) in a calendar year.

Resolution 17-117

Section FWA-407 Repeal

All previously promulgated regulations of the Environmental Protection Commission are hereby repealed as of the date this act is enacted. The Environmental Protection Commission is hereby abolished.

Resolution 17-117

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