ENROLLED SENATE
BILL NO. 714 BY: SHURDEN of the SENATE

and

SMITH (Bill) of the HOUSE

AN ACT RELATING TO WILDLIFE; AMENDING 29 O.S. 1991, SECTIONS 2-114, 5-101, 5-206, 5-301, 5-401, 5-404, 5-409, 5-412, 5-502, 6-501, 7-205, 7-304, 7-502 AND 7-602, WHICH RELATE TO POSSESSION AND CONTROL OF WILDLIFE AND FISH; MODIFYING DEFINITION OF GAME BIRD; MODIFYING RESTRICTIONS ON COMMERCIAL HUNTING AREAS; MODIFYING PENALTIES; CLARIFYING LANGUAGE; REQUIRING LICENSE FOR CERTAIN TRANSACTIONS WITH FALCONS; MODIFYING RESTRICTIONS ON USE OF CONTROL DEVICES; AUTHORIZING DEPREDATION PERMITS; MODIFYING DEFINITIONS; PROVIDING EXCEPTIONS FOR SHIPPING RABBITS; PROVIDING EXCEPTION FOR TRAPPING DEVICE USE; MODIFYING AND ESTABLISHING MINIMUM PENALTY; PROHIBITING POSSESSION OF BOW ON CERTAIN REFUGES; PROHIBITING POSSESSION OF CERTAIN BEARS AND CATS; MODIFYING PROHIBITIONS ON SELLING FISH AND WILDLIFE; REQUIRING APPROPRIATE CERTIFICATES FOR POSSESSION OF DEAD WILDLIFE; AND DECLARING AN EMERGENCY.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 29 O.S. 1991, Section 2-114, is amended to read as follows:

Section 2-114. "Game bird" is a bird species normally sought after by sportsmen, and includes only all species of brant, cranes, doves, ducks, gallinules, geese, grouse, partridge, pheasant, ~~pigeons,~~ quail, prairie chickens, rails, snipes, swans, tinamous, wild turkeys, woodcock, and any part thereof.

SECTION 2. AMENDATORY 29 O.S. 1991, Section 5-101, is amended to read as follows:

Section 5-101. A. ~~Subject to neither season nor bag limit, any commercial propagator, or any person such propagator may permit under such conditions that he may impose, may, within the confines of the commercial hunting area, hunt with or without dogs, shoot, shoot at, kill, use, sell, give away, transport or ship by public or private conveyance any dead or live propagated wildlife or domesticated animals hunted for sport, provided that such person engaged in such activity has a regular hunting license or has a ten-day temporary hunting permit to hunt~~ Except as otherwise provided for in this title, commercial hunting areas are subject to neither seasons or bag limit. Holders of commercial hunting area licenses may permit properly licensed persons to hunt, use, give away, sell, transport, trap or kill, within the confines of the

commercial hunting area, any propagated wildlife or domesticated animals hunted for sport.

B. ~~If propagated wildlife or domesticated animals hunted for sport are shipped or transported from the confines of the enterprise or game farms, a propagator or his lawfully appointed agent or employee shall sign a written invoice which shall accompany such birds, such invoice listing~~ If said wildlife or domesticated animals or parts thereof are shipped or transported from the confines of the commercial hunting area, the commercial hunting area license holder or his lawfully appointed agent shall sign a written invoice which shall accompany such wildlife or domesticated animal to its final destination. Such invoice shall list:

1. The propagator's permit number;

2. The kind and number of each species killed, sold, given away, transported or shipped;

3. The name and address of the recipient; and

4. The date received from licensee;

and ~~stating~~ shall state that he has fully complied with the provisions of this section.

C. These invoices shall be evidence of rightful possession and ownership ~~for a period of twenty (20) days from the date of said invoice~~ of lawfully taken wildlife.

D. A copy of such invoices must be permanently kept for at least ~~one (1) year~~ three (3) years from date of expiration of license by the commercial propagator and must also include whether the ~~birds were~~ wildlife was shipped alive or dead.

E. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

SECTION 3. AMENDATORY 29 O.S. 1991, Section 5-206, is amended to read as follows:

Section 5-206. A. Falconry is a legal method for hunting and taking resident Oklahoma game, pursuant to the following provisions of this section.

B. Any exotic species of hawk, falcon, owl or eagle and any native species of hawk, falcon, owl or eagle as provided in Section 5-410 of this Code, may be used for such sport. Hawks, falcons, owls and eagles~~, except those~~ which are bred in captivity~~,~~ in accordance with federal regulations may ~~not~~ be sold, possessed, traded or bartered, by persons licensed as required under Section 4-107 of this title, and may be possessed, trained and used only by persons licensed under Section 4-108 of this Code.

C. Hawks, falcons, owls and eagles may be transported into and out of the state, only as provided by Sections 7-602 and 7-801 of this Code. However, persons possessing a valid Oklahoma falconer's license and in compliance with federal law may transport raptors into and out of the state without notifying the director.

D. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00).

SECTION 4. AMENDATORY 29 O.S. 1991, Section 5-301, is amended to read as follows:

Section 5-301. A. No person may set or use at any time any poison, cyanide coyote getter, or other similar device, using cyanide gas or other poisonous gas as the lethal agent, for the purpose of killing predators, except in accordance with the following conditions and procedures:

1. Signs of a size and character and with wording to be determined by the State Department of Agriculture, indicating the presence of cyanide coyote getters or other similar device using cyanide gas or other poisonous gas as the lethal agent, shall be posted on all properties where said coyote getters are set to the right and left of all entrances from public roads and highways and from adjacent lands and at corners of perimeter fences.

2. Such devices shall not be set from April 1 to September 30 of each calendar year.

3. All signs as required by this article shall be in place twenty-four (24) hours before said devices are set and shall be properly maintained in place during the permission period herein provided.

4. A game warden may issue a permit for the setting of such devices and such permit must be obtained prior to the setting of such devices. Each permit shall be made in triplicate, the original to be retained by the landowner concerned, one copy retained by the game warden and the other copy mailed immediately to the Department for its permanent record.

5. In applying for a permit, the landowner shall state the number of devices to be set and the approximate location to the nearest forty (40) acres.

6. Written permission permits required by this section shall cover a period not exceeding six (6) months; provided, however, that said permits shall be subject to renewal for a like period of time.

7. All signs required by this section shall be removed at the end of the permission period, unless said permit is renewed prior to the expiration date thereof.

8. No predator control devices shall be on any property without the written permission of the record owner or lessee thereof.

B. Predatory control conducted by the State Department of Agriculture or the Oklahoma Department of Wildlife shall be exempt from provisions of paragraphs 4, 5 and 6 of subsection A of this section.

C. The Director may issue depredation permits to landowners for control of any nuisance wildlife.

D. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than Fifty Dollars ($50.00) ~~nor more than One Hundred Dollars ($100.00)~~, or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 5. AMENDATORY 29 O.S. 1991, Section 5-401, is amended to read as follows:

Section 5-401. A. The Commission is authorized to declare an open season on ~~game mammals and birds~~ wildlife in any counties or parts of counties of this state where, in the judgment of said Commission, such ~~game~~ wildlife exists in sufficient quantity to warrant such open season, and such open season shall be declared by Commission resolution not less than ten (10) days before the season is opened.

B. The Commission is further authorized to prescribe rules and regulations necessary to the proper conduct and policing of such open season, the amount and kind of ~~game~~ wildlife that may be taken, and the dates and time limits of such season.

C. The quail season shall be from November 20 to February 15, both dates inclusive, of the succeeding year with hunting allowed on each day of the week.

D. The Commission is further authorized to require any person participating in said open season or hunting in open areas during open season to procure therefrom, under rules and regulations

prescribed by it, a special permit or license to participate in such season or hunt in such areas during open season and to charge residents not to exceed Ten Dollars ($10.00), nonresidents not to exceed Fifty Dollars ($50.00) and further providing that Five Dollars ($5.00) of this fee shall be set aside for compensation to Oklahoma surface holders participating in the Acres for Wildlife Program at a rate to be determined by the Wildlife Commission. No exemptions shall be permitted.

E. Open seasons, closed seasons, bag limits, catch limits, possession limits and territorial limitations set forth in the statutes of this state, pertaining to wildlife of every sort, are hereby declared to be based on the existence of a normal population of such species of wildlife, compatible with and not damaging to the proper agricultural use of the lands of the state.

F. Such seasons, catch limits, bag limits, possession limits and territorial limitations as set by statute shall prevail and be in full force and effect for each and every species of wildlife to which they pertain so long as the population or numbers of such wildlife species remain normal or are not damaging or endangering crops or proper agricultural use of the lands of the state.

G. The Commission in session (and after having given ten (10) days' public notice of such meeting being called and the purpose of such meeting, the species of wildlife to be considered and the reasons therefor) shall have the right to determine if there does or does not exist a normal population of the wildlife species under consideration, which does or does not endanger the crops of the state or of any certain areas, or the agricultural use of the lands therein. In the event the consideration is other than statewide, the Commission shall meet at the most convenient place to the people of the area in the area being considered. All meetings shall be open to the public and proper records of those appearing and testifying shall be made. If the Commission, after hearing and after investigation, finds that the populations of the wildlife species under hearing are not normal or that they are not compatible to the agricultural use of the lands or are damaging or endangering the farm crops of the area, they shall, by administrative order, make the necessary changes by either extending, shortening, opening or closing such seasons, and change such bag limits, catch limits and possession limits, and regulate methods or devices for taking, killing or capturing of the wildlife species affected in any area or areas covered by the notice of meeting and hearing, except as otherwise set by the Legislature.

H. Such administrative order shall take effect after publication in at least one newspaper of general state circulation, or in a newspaper having circulation in the territory affected. A copy of all such orders shall, before publication, be filed with the Secretary of State, and such order shall not be construed as authorizing the Commission to change any penalty for violating any game law or regulation or change the amount of any license established by the Legislature.

SECTION 6. AMENDATORY 29 O.S. 1991, Section 5-404, is amended to read as follows:

Section 5-404. ~~No~~ Except as otherwise provided by law, no person may ship either a live or dead cottontail or swamp rabbit from this state.

SECTION 7. AMENDATORY 29 O.S. 1991, Section 5-409, is amended to read as follows:

Section 5-409. A. ~~No~~ Except as otherwise provided by law, no person may capture or kill squirrels except between May 15 to January 1, both dates inclusive, nor shall such person bag or

possess more than two (2) day's limit after the second day's hunt. Bag limits shall be set by the Commission.

B. No person may cut down or remove a tree being used as a den or nest by squirrels unless specific permission for such cutting or removal has been given by the owner or lessee of the land.

SECTION 8. AMENDATORY 29 O.S. 1991, Section 5-412, is amended to read as follows:

Section 5-412. A. ~~No~~ Except as otherwise provided by law, no person may possess, hunt, chase, harass, capture, shoot at, wound or kill, take or attempt to take, trap or attempt to trap any endangered or threatened species or subspecies without specific written permission of the Director. In no event, however, may that permission conflict with federal law.

B. Any person convicted of violating any of the provisions of this section shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.

SECTION 9. AMENDATORY 29 O.S. 1991, Section 5-502, is amended to read as follows:

Section 5-502. A. ~~No~~ Except as otherwise provided by law, no person may use, set, construct, possess or tend any trap, snare, deadfall or other device for the purpose of catching any wildlife, except fish and frogs, in this state, except that he use:

1. Box traps;

2. Smooth-jawed single spring or smooth-jawed double spring offset, leg-hold steel traps with a jaw spread of:

a. no more than eight (8) inches for land sets,

b. no more than eight (8) inches for water sets.

B. No trap so used may be set "in the open," or in paths, roads, or runways commonly used by persons, domestic animals or dogs.

C. Any trap set for the purpose of catching any wildlife shall be tended once during each twenty-four (24) hours. All traps must bear the owner's name or identification attached thereto, except for any person trapping on his own property. Any person violating this subsection shall, in addition to any criminal penalty, be civilly liable for all damages caused by such violation.

D. On any lands where smooth-jawed double-spring offset traps are used, the posting of signs shall be required to the right and left of all entrances from public roads and highways and from adjacent lands and at corners of perimeter fences, provided that this requirement shall not apply to any person trapping on his own property. Size, character and wording of these signs are to be determined by the State Wildlife Conservation Commission.

E. Any person convicted of violating any of the provisions of this section shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00).

SECTION 10. AMENDATORY 29 O.S. 1991, Section 6-501, is amended to read as follows:

Section 6-501. A. No person may place or cause to be placed in any creek, river, or stream in Oklahoma any stationary dam, net, trap, or obstacle of any nature for the purpose of blocking or partially blocking any minnow or fish movement up, down, into, or out of any creek, river, or stream. Commercial minnow harvest shall be prohibited for a distance of one-half (1/2) mile below any structure that diverts, partially diverts, blocks, or partially blocks normal fish movement. This section shall not be construed as to prohibit persons licensed to commercially seine minnows as

provided for in the Oklahoma Wildlife Conservation Code from using seines no longer than forty (40) feet in length and no more than one-fourth-inch mesh of nonmetallic material as a temporary block in waters open to the harvest of minnows nor prohibit those legally licensed to dip shad from harvesting shad in the tailwaters of this state. "Temporary block" shall mean no more than four (4) hours at any one location in any twenty-four-hour period.

B. Any dam, net, trap or other obstacle used and operated or intended for use in violation of the provisions of this section shall be removed and is subject to immediate seizure by any person authorized to enforce the provisions of the Oklahoma Wildlife Conservation Code if such person determines the object can be seized. A seized obstacle shall be held as evidence by order of the district attorney in the county where such item was seized until a forfeiture has been declared or a release ordered. Upon competent evidence at a hearing, held for such purpose, that the obstacle was used and operated or intended for use in violation of this section, the court shall order said obstacle forfeited to the state. Upon forfeiture, such items shall be sold at public auction and the proceeds from the sale shall be apportioned one-fourth (1/4) to the Department of Wildlife Conservation and three-fourths (3/4) to the district court in which such proceeding was brought. Any item unable to be seized or sold for any reason may be destroyed under the supervision of the Oklahoma Department of Wildlife Conservation Director.

C. Any person convicted of violating the provisions of this section shall be punished by a fine not ~~to exceed~~ less than Two Hundred Dollars ($200.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for not less than ten (10) days nor more than one (1) year, or by both such fine and imprisonment.

SECTION 11. AMENDATORY 29 O.S. 1991, Section 7-205, is amended to read as follows:

Section 7-205. A. No person may capture, kill, mutilate or destroy any wildlife protected by law and remove the head, claws, teeth, hide, antlers, horns or any or all of such parts from the body with the intent to abandon the body.

B. No person may capture or mutilate any living wildlife protected by law by removing the claws, teeth, hide, antlers, horns or any or all of such parts from the body.

C. No person may kill any wildlife protected by law and abandon the body without disposing of the body in the most appropriate manner.

D. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than ~~Five Hundred Dollars ($500.00)~~ One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for not ~~less than six (6) months nor~~ more than one (1) year, or by both fine and imprisonment.

SECTION 12. AMENDATORY 29 O.S. 1991, Section 7-304, is amended to read as follows:

Section 7-304. A. Except as otherwise provided by law, no person may enter upon any state or federal wildlife~~,~~ refuge or Wildlife Management Area with dog ~~or~~, gun or bow.

B. Exceptions to the above provisions are when the Commission and/or the Tourism and Recreation Commission may by resolution permit:

1. The holding of field trials by duly authorized sportsmen's clubs; or

2. Such hunting, killing or trapping of wildlife from such refuge or Wildlife Management Area; provided, however, that Lake Murray State Park shall not be utilized for killing or trapping of natural wildlife and shall remain a wildlife preserve.

C. Any person convicted of violating provisions of this section shall be punished by a fine of not less than Twenty-five Dollars ($25.00) nor more than One Hundred Dollars ($100.00), or by imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment.

SECTION 13. AMENDATORY 29 O.S. 1991, Section 7-502, is amended to read as follows:

Section 7-502. A. Except as otherwise provided by law, no person may possess:

1. Any wildlife or parts thereof during the closed season for that particular wildlife species; ~~or~~

2. Any endangered or rare species or parts thereof at any time; or

3. Any bear or cat that will grow to reach the weight of fifty (50) pounds or more.

B. Persons exempt from provisions of paragraph 1 of subsection A are:

1. Persons storing lawfully taken wildlife in any home freezer or cold storage locker;

2. Persons possessing items including but not limited to hides, heads or horns as specimens or trophies;

3. Persons possessing wild waterfowl taken in compliance with and under provisions of federal laws pertaining thereto; or

4. Persons possessing legally obtained wildlife as pets or for the purpose of training hunting dogs.

C. The applicable commercial or noncommercial wildlife breeders license shall be obtained if any wildlife is being propagated.

D. Possession of game during the closed season, except as above provided, shall be prima facie evidence that such was taken in a closed season.

E. Any person convicted of violating any provision of this section shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment.

SECTION 14. AMENDATORY 29 O.S. 1991, Section 7-602, is amended to read as follows:

Section 7-602. A. Except as otherwise provided by law, no person may ship into or out of, transport into or out of, have in possession with the intent to so transport, or cause to be removed from this state:

1. Any wildlife or parts thereof, nests of such wildlife, their eggs or their young; or

2. Any endangered or ~~rare~~ threatened species.

B. Exceptions to paragraph 1 of subsection A of this section:

1. ~~Game or~~ Dead fish or wildlife legally ~~possessed~~ taken by licensed hunters or fishermen may be possessed, shipped, or transported ~~or possessed with intent to transport to any point~~ into or within ~~or without~~ the borders of this state if it is accompanied by or has attached the appropriate certificate, license or tag under such rules and regulations as ~~the Commission may set out~~ may be required.

2. ~~Any deer legally killed in this state, or transported from another state, may be shipped or transported if it has attached a license tag or certificate countersigned by an authorized game~~

~~warden or county official from the county or state where such deer was taken.~~

~~3.~~ Rough fish products that have been completely processed into food and/or other products that such legally taken fish may yield may be exported from the state.

~~4.~~ 3. Any rough fish ~~caught~~ taken by ~~seining, netting or spearing by~~ licensed commercial fishermen who have been issued a special permit as required by Section 4-105 of this title by the Director may be shipped, transported or exported pursuant to such permit.

~~5.~~ 4. ~~Minnows, fish, game and other~~ Any fish or wildlife lawfully bred or propagated may be ~~knowingly sold,~~ shipped or transported within the confines of this state or ~~without~~ exported out of this state.

~~6.~~ 5. Any wildlife ~~to~~ for which the Director has given an individual specific written authority for its transportation into or out of the state.

C. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than Fifty Dollars ($50.00) nor more than Two Hundred Dollars ($200.00), or by imprisonment in the county jail for a period not less than ten (10) days nor more than sixty (60) days, or by both such fine and imprisonment.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 27th day of April, 1992.

President of the Senate

Passed the House of Representatives the 13th day of April, 1992.

Speaker of the House of Representatives