

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

HOUSE BILL NO. 1130

BY: BENSON

AS INTRODUCED

AN ACT RELATING TO STATE GOVERNMENT; ESTABLISHING A
RURAL CRIME UNIT WITHIN THE OKLAHOMA STATE BUREAU
OF INVESTIGATION; DEFINING TERMS; PROVIDING FOR
SEIZURE AND FORFEITURE OF CERTAIN ITEMS; PROVIDING
FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 150.13A of Title 74, unless
there is created a duplication in numbering, reads as follows:

A. The Director of the Oklahoma State Bureau of Investigation
shall establish a rural crime unit within the Bureau. This unit
shall be comprised of not less than one (1) supervisor, one (1)
typist clerk, and six (6) agents. Such agents and employees shall
be in addition to the number of positions now authorized for the
Bureau by law. The Director may increase the number of persons
assigned to the rural crime unit to such a number as may be found to
be feasible and necessary.

B. For the purpose of this section:

1. "Domestic animal" means any animal, fish, bird, or insect
held in possession of a person, business, or corporation in this

state for the purpose of selling the meat, hide, feathers, offspring, or any product of such animal, or for the purpose of raising such animal as an educational project or hobby, or for the purpose of using the animal in any type of agricultural endeavor which is not in violation of existing law;

2. "Agricultural product" means any substance produced by a domestic animal or any lawful agricultural crop that has any economic value or worth in industry;

3. "Agricultural machinery or equipment" means any equipment used in the operation of a farm or ranch, or used in any endeavor which ultimately produces an agricultural product which is not in violation of existing law, including but not limited, to equipment used in the transportation of crops or domestic animals.

C. Members of the rural crime unit, or any commissioned employee of the Bureau, may upon request or in accordance with the policy determined by the Oklahoma State Bureau of Investigation Commission:

1. Conduct investigations into the theft of domestic animals, agricultural products, or agricultural machines or equipment, or into the unauthorized or suspicious death of or harm to any domestic animal, or the vandalism or destruction of any agricultural machinery, equipment, or product;

2. Stop and detain any vehicle transporting domestic animals, agricultural products, or agricultural machinery or equipment, upon reasonable suspicion that such cargo being transported has been stolen or is in violation of any other existing law;

3. Arrest or cause the arrest of any person when reasonable grounds exist to believe that such person has stolen a domestic animal, agricultural product, or agricultural machinery or equipment, or has killed or harmed a domestic animal belonging to another without the owner's consent, or has vandalized or destroyed another's agricultural product, machinery, or equipment;

4. Coordinate the effort of this state to reduce the theft of domestic animals, agricultural products and agricultural machinery or equipment; and

5. Develop educational programs on detection and prevention of theft of domestic animals, agricultural products and agricultural machinery or equipment.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 150.13B of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Any motor vehicle, any agricultural machinery or equipment, or any other equipment, tool, or instrument used or operated in violation of Sections 1681, 1685, 1705, 1716, 1718, 1719, or 1719.1 of Title 21 of the Oklahoma Statutes shall be subject to immediate seizure by any rural crime unit member or any other commissioned employee of the Oklahoma State Bureau of Investigation.

B. Upon the conviction of the person from whom the property was actually or constructively seized for a violation of the provisions of Section 1681, 1685, 1705, 1716, 1718, 1719, or 1719.1 of Title 21 of the Oklahoma Statutes, any such vehicles, instruments, tools, or equipment seized under paragraph A of this section shall be subject to forfeiture to the Oklahoma State Bureau of Investigation according to the following procedure:

1. Notice of seizure and intended forfeiture proceeding shall be filed by the Bureau in the office of the clerk of the district court for the county wherein such property is seized and notice shall be given all known owners and parties in interest;

2. Notice of forfeiture proceedings shall be given by the Bureau according to one of the following methods:

a. upon each owner or party in interest whose right, title, or interest is of record in the Oklahoma Tax Commission, by mailing a copy of the notice by certified mail with return receipt requested to the

address as given upon the records of the Tax Commission,

- b. upon each owner or party in interest whose name and address is known to the attorney of the Bureau or agents of the rural crime unit, by mailing a copy of the notice by certified mail with return receipt requested to the last known address, or
- c. upon all other owners or interested parties, whose addresses are unknown, but who are believed to have an interest in the property, by one publication in a newspaper of general circulation in the county where the seizure was made;

3. Within sixty (60) days after the mailing or publication of the notice, the owner of the property and any other party in interest or claimant may file a verified answer and claim to the property described in the notice of seizure and intended forfeiture;

4. If at the end of sixty (60) days after the notice has been mailed or published there is no verified answer on file, the court shall hear evidence upon the fact of the unlawful use and, if such fact is proved, shall order the property forfeited to the Bureau;

5. If a verified answer is filed, the forfeiture proceeding shall be set for hearing.

- a. at such hearing, the Bureau shall prove by a preponderance of the evidence that such seized property was used as an instrumentality in the violation of Sections 1681, 1685, 1705, 1716, 1718, 1719, or 1719.1 of Title 21 of the Oklahoma Statutes. If the court finds that the Bureau failed to satisfy this required burden of proof, the court shall order the property released to the owner or owners,
- b. the claimant of any right, title, or interest in the property may prove his lien, mortgage, or conditional

sales contract to be a bona fide or innocent ownership interest and that his right, title, or interest was created without any knowledge or reason to believe that the property was being, or was to be, used for the purpose charged. In the event of such proof, the court shall order the property released to the bona fide or innocent owner, lien holder, mortgagee, or vendor if the amount due him is equal to, or in excess of, the value of the property as of the date of the seizure, it being the intention of this section to forfeit only the right, title, or interest of the purchaser,

- c. if the amount due to a bona fide or innocent claimant provided for in subparagraph b of this paragraph is less than the value of the property, or if no bona fide claim is established, the property shall be forfeited to the Bureau. Property taken upon authority of this section shall not be repleviable, but title to such property shall transfer to the Bureau subject only to the orders and decrees of the court or the official having jurisdiction thereof;

6. Property forfeited to the Bureau as a result of forfeiture pursuant to this section may be disposed of by either converting the property to the use of the Bureau or by selling the property to the highest bidder after at least five (5) days notice has been given by publication in one issue of a legal newspaper of Oklahoma County.

7. If the forfeited property has been converted for use by the Bureau, the Bureau shall be responsible for paying the following expenses out of the OSBI Revolving Fund:

- a. the amount of interest of a bona fide or innocent purchaser, lien holder, vendor, or mortgagee of the property, if any, up to the amount of his interest in

the property, if the court declaring the forfeiture orders such a distribution to such person, and

b. the actual expenses of preserving the property.

8. The money received from the sale of any property forfeited under this section shall be distributed as follows, in the order indicated:

a. to a bona fide or innocent purchaser, lien holder, vendor or mortgagee of the property, if any, up to the amount of his interest in the property, if the court declaring the forfeiture orders a distribution to such person,

b. to the payment of the actual expenses of preserving the property, and

c. the balance to the OSBI Revolving Fund.

SECTION 3. 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.

43-1-5682

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