

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2219

BY: RHOADS (Karroll)

AS INTRODUCED

AN ACT RELATING TO AGRICULTURE; ESTABLISHING THE RURAL CRIME UNIT; AUTHORIZING STAFF; DEFINING TERMS; STATING PURPOSE AND DUTIES OF THE UNIT; MAKING CERTAIN PERSONS PEACE OFFICERS; REQUIRING CERTIFICATION; PROVIDING FOR SEIZURE OF CERTAIN VEHICLES, MACHINERY, EQUIPMENT OR TOOLS FOR VIOLATION OF LAW; AUTHORIZING FORFEITURE OF SEIZED VEHICLES, MACHINERY, EQUIPMENT OR TOOLS UPON CONVICTION; STATING FORFEITURE PROCEDURES; REQUIRING CERTAIN NOTICE, ANSWER AND CLAIM; PROVIDING FOR HEARING; STATING PROCEDURES FOR HEARING; AUTHORIZING DISPOSAL OF CERTAIN PROPERTY; PROVIDING FOR CERTAIN EXPENSES; DIRECTING DISTRIBUTION OF MONEY FROM SALE; 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 2-50 of Title 2, unless there is created a duplication in numbering, reads as follows:

The Commissioner of the State Department of Agriculture shall establish a rural crime unit within the Department. The unit shall

be comprised of not less than one supervisor, one typist clerk, and six enforcement agents. Except as otherwise authorized by law such agents and employees shall not be in addition to the number of positions now authorized for the Department by law. The Commissioner 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.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-51 of Title 2, unless there is created a duplication in numbering, reads as follows:

For the purpose of this act:

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 domestic animal as an educational project or hobby, or for the purpose of using the domestic 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; and

3. "Agricultural machinery and 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 equipment used in the transportation of crops or domestic animals.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-52 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Enforcement agents appointed by the Commissioner are hereby declared to be peace officers of this state. Such enforcement

agents shall be vested with all powers of peace officers in enforcing the provisions of this act.

B. Enforcement agents shall meet all of the training requirements and qualifications for peace officers as are specified by Section 3311 of Title 70 of the Oklahoma Statutes.

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

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 consent of the owner, or has vandalized or destroyed the agricultural product, machinery, or equipment of another;

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

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-53 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any motor vehicle, agricultural machinery or equipment, or any other equipment, tool, or instrument used or operated in violation of Sections 1681, 1685, 1715, 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 Department.

B. Upon the conviction of any person from whom property is actually or constructively seized in violation of the provisions of Sections 1681, 1685, 1715, 1716, 1718, 1719 or 1719.1 of Title 21 of the Oklahoma Statutes, such vehicles, instruments, tools, or equipment seized under subsection A of this section shall be subject to forfeiture to the Department according to the following procedure:

1. Notice of seizure and intended forfeiture proceeding shall be filed by the Department 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 Department 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, return receipt requested, and delivery restricted to the addressee, 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 Department or agents of the rural crime unit, by mailing a copy of the notice by certified mail, return receipt requested, and delivery

restricted to the addressee, 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 Department;

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

6. At such hearing, the Department 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 Department failed to satisfy this required burden of proof, the court shall order the property released to the owner or owners;

7. 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;

8. If the amount due to such person is less than the value of the property, or if no bona fide claim is established, the property shall be forfeited to the Department. Property taken upon authority of this section shall not be repleviable, but title to such property shall transfer to the Department subject only to the orders and decrees of the court or the official having jurisdiction thereof; and

9. Property forfeited to the Department as a result of forfeiture under the provisions of this act may be disposed of by either converting the property to the use of the Department or by selling the property to the highest bidder after at least a five-day notice has been given by publication in one issue of a legal newspaper of Oklahoma County.

C. 1. If the forfeited property has been converted for use by the Department, the Department shall be responsible for paying the following expenses out of its 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.

2. 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, when 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 revolving fund of the Department.

If any other state agency, or county or municipal law enforcement agency participated in the investigation and seizure, the balance shall be shared with such agency to the extent of its participation.

SECTION 5. 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.

43-2-7153

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