

ENGROSSED HOUSE
BILL NO. 2417

By: Hutchison

(game and fish - amending 29 O.S., Sections 4-110, 4-201,
5-401, 5-407 and 5-409 - Oklahoma Wildlife Conservation
Code - emergency)

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

SECTION 1. AMENDATORY 29 O.S. 1991, Section 4-110, as last amended by Section 3, Chapter 214, O.S.L. 1993 (29 O.S. Supp. 1993, Section 4-110), is amended to read as follows:

Section 4-110. A. Except as otherwise provided in the Oklahoma Wildlife Conservation Code, no person shall fish, pursue, harass, catch, kill, take in any manner, use, have in possession, sell, or transport all or any portion of fish without having first procured a license for such from the Director or from any of the authorized agents of the Department. The Commission may designate two (2) days per year in which residents and nonresidents may fish without first procuring a fishing license pursuant to the provisions of this section.

B. Pursuant to the provisions of this Code, persons excepted from the license requirements of this section are:

1. Legal residents under sixteen (16) years of age on the first day of the current calendar year and nonresidents under sixteen (16) years of age from states which do not require nonresident fishing licenses for persons under sixteen (16) years of age;

2. Legal residents sixty-four (64) years of age or older and nonresidents sixty-four (64) years of age or older from states which do not require nonresident fishing licenses for persons sixty-four (64) years of age or older, provided such resident has obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title;

3. Legal resident veterans having a disability of sixty percent (60%) or more;

4. Legal resident owners or tenants, their spouses, parents, grandparents, children and their spouses, grandchildren and their spouses who fish in private ponds on land owned or leased by them;

5. Every Oklahoma citizen who is serving in a branch of the United States Armed Forces, is on properly authorized leave of absence from military duty, has in his possession proper written evidence showing such authorized leave, and is serving outside the State of Oklahoma at the time of such fishing;

6. Any patient of an institution of the State of Oklahoma established for the care and treatment of mental illness or alcohol or drug dependency or any developmentally disabled person residing in any group home or other institution or developmentally disabled persons when accompanied by an attendant of such institution or legal guardian of said patient, or when fishing on institutional property;

7. Any person under eighteen (18) years of age who is in the legal and physical custody of the State of Oklahoma or one of its agencies by court order;

8. Any person who is legally blind or who has any other physical impairment, as certified by a duly qualified physician, which prevents him from properly using fishing apparatus without the assistance of another person, and any one person actually accompanying and actually assisting such legally blind or otherwise

physically impaired person while the latter is fishing. This certification shall be carried by the individual while fishing;

9. Nonresidents under fourteen (14) years of age;

10. Job Corps trainees of this state, provided that such trainees shall have on their persons a duly authorized identification card issued by their respective Job Corps Center and shall present such card upon request, in lieu of a fishing license. The trainees shall return their cards to their respective Job Corps Center when the trainees leave their respective Job Corps training programs;

11. Any legal resident having a proven disability which renders him nonambulatory and confines him to a wheelchair as certified by a duly qualified physician; and

12. Any person who is fishing with a pole and line, trotline, or throwline in streams, natural lakes, natural ponds, and mine pits in the county in which he is a resident, or in streams, natural lakes, natural ponds, and mine pits which form a part of the boundary line of the county in which he is a resident, when using any bait other than commercial or artificial bait, blood, stink bait, cut fish, and shrimp.

C. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, the fee for an annual license issued pursuant to the provisions of this section shall be:

1. For legal residents, Nine Dollars and twenty-five cents (\$9.25); and

2. For nonresidents, Twenty-two Dollars and fifty cents (\$22.50), provided the Commission may enter into reciprocity agreements with states wherein nonresident license fees shall be in conformity with such reciprocal agreements. For a ten-day nonresident permit license, Fourteen Dollars (\$14.00). For a ~~three-day~~ five-day nonresident permit license, ~~Six Dollars and fifty cents (\$6.50)~~ Ten Dollars (\$10.00). Of the amount of monies

collected pursuant to the provisions of this paragraph, Five Dollars (\$5.00) of the license fee for nonresidents, Two Dollars and fifty cents (\$2.50) of the ten-day nonresident permit fee and One Dollar and fifty cents (\$1.50) of the three-day nonresident permit fee shall be deposited in the Wildlife Habitat Fund created pursuant to the provisions of Section 4-132 of this title.

D. Legal residents who have resided in this state for at least six (6) months and who are receiving Social Security disability and Social Security insurance benefits may purchase a disability fishing license from the Director for Ten Dollars (\$10.00) for five (5) years.

E. Any person arrested while violating the provisions of this section who does not meet the requirements of subsection H of this section, may purchase a substitute temporary thirty-day license from the arresting game warden in lieu of posting bond. The fee for a substitute license purchased pursuant to the provisions of this subsection shall be:

1. For legal residents, Thirty-five Dollars (\$35.00); and
2. For nonresidents, Seventy-five Dollars (\$75.00).

The fees from licenses purchased pursuant to the provisions of this subsection shall be deposited in the Wildlife Conservation Fund to be used exclusively for developing, managing, preserving, and protecting wildlife and wildlife habitat.

F. Unless a substitute license is purchased as provided for by subsection E of this section, any resident of this state convicted of violating the provisions of this section shall be punished by the imposition of a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment.

G. Unless a substitute license is purchased as provided for by subsection E of this section, any nonresident convicted of violating

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 a period not more than thirty (30) days, or by both such fine and imprisonment.

H. Any person producing proof in court that a current fishing license issued by the Department of Wildlife Conservation to such person was in force at the time of the alleged offense shall be entitled to dismissal of a charge of violating this section upon payment of court costs; however, if proof of fishing license is presented to the court or district attorney within seventy-two (72) hours after the violation, the charge shall be dismissed without payment of court costs.

SECTION 2. AMENDATORY 29 O.S. 1991, Section 5-401, as amended by Section 5, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1993, Section 5-401), is amended to read as follows:

Section 5-401. A. The Commission is authorized to declare an open season on wildlife in any counties or parts of counties of this state where, in the judgment of said Commission, such 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 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 3. AMENDATORY 29 O.S. 1991, Section 5-407, is amended to read as follows:

Section 5-407. A. The hunting or killing of quail may be only by use of a shotgun, longbow or by falconry, and then only between sunrise and sunset.

B. At no time shall any quail or covey be shot while resting on the ground, commonly called "pot shooting".

~~C. The bag limit shall be ten (10) quail per day, and no person may have more than two (2) days' limit in his possession at any one time. However, no person may possess more than the bag limit while in the field or while returning from one day's hunting.~~

SECTION 4. AMENDATORY 29 O.S. 1991, Section 5-409, as amended by Section 7, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1993, Section 5-409), is amended to read as follows:

Section 5-409. ~~A. 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 5. AMENDATORY 29 O.S. 1991, Section 4-201, is amended to read as follows:

Section 4-201. ~~A. All licenses shall be numbered consecutively each year beginning with the numeral 1.~~

~~B. The Department shall delegate the sale of these licenses to authorized agents. The agent shall charge a selling fee of One Dollar (\$1.00) per license above the set license fee.~~

~~C. Fishing and hunting licenses may be offered to dealers on a cash basis or under the following provisions:~~

~~1. The Wildlife Conservation Director is hereby authorized to consign hunting and fishing licenses to authorized agents of the Wildlife Conservation Department, for issuance and sale to sportsmen desiring to purchase such licenses, upon being furnished with evidence satisfactory to the Director showing the credit rating or net financial worth of the authorized agent to be reasonably sufficient to justify such consignment. Such authorized agents shall be self-employed independent contractors and shall be removeable at the will of the Department. Such agents shall be required to perform all duties and responsibilities relating to such consignments as are required by the Director pursuant to this section and written contracts executed by the Director and the authorized agent, which shall specify the date for payment or accounting for the consigned licenses. No such authorized agent shall be permitted to purchase licenses on consignment costing more~~

~~than a total of Five Thousand Dollars (\$5,000.00) issue license forms to dealers under one of the following options:~~

1. Having a surety bond obtained by the dealer;
2. Having a bond obtained from the Department; or
3. A one-thousand-dollar cash deposit or a certificate of deposit in the amount of One Thousand Dollars (\$1,000.00).

The cash deposit or certificate of deposit will remain at the Department until the dealer chooses to discontinue selling licenses or a loss of money and/or licenses has occurred. The Department may waive bond and cash deposit requirements to existing dealers as of July 1, 1994, who have been in good standing for five (5) years.

~~2.~~ B. Each agent shall submit the appropriate report designated by the Department to properly account for all license fees received by the agent pursuant to the provisions of this subsection.

Each such agent shall also remit all such license fees received by the agent to the Department or return the licenses not sold within the time period specified by the Department. No further license consignment shall be permitted until such agent has remitted all license fees received pursuant to the provisions of this subsection in full. The Department shall rebate to the dealer One Dollar (\$1.00) for each type license sold except as otherwise provided by law.

~~3.~~ C. Any authorized agent who fails to remit the required license fees as required by the Department shall be liable for a penalty, to be imposed by the Department, equal to one percent (1%) of the gross amount of the license fees received by the authorized agent pursuant to this subsection.

~~4.~~ D. In addition, failure to remit such license fees, any penalty, or both such fees and penalty shall subject the agent to criminal and civil proceedings pursuant to this paragraph.

~~a.~~ 1. Upon failure of an agent to remit the license fees and penalty, as required, the Department shall give written notice to

the alleged violator specifying the cause of the complaint. Such notice shall state the amount of the license fees owed and any penalty assessed by the Department. The notice shall require immediate payment of such debt and penalties or require that the alleged violator appear before the Department at a time and place specified in the notice and answer the charges. The notice shall additionally inform the alleged violator that failure to either pay the debt and penalty as required or to appear at the hearing shall subject such alleged violator to an administrative order which shall be entered on the judgment docket of the district court in a county in which the alleged violator has property and shall be enforced in the same manner as an order of the district court for collection action. The notice shall be served upon the alleged violator in the same manner prescribed for service of summons in a civil action. The Department shall afford the alleged violator an opportunity for a fair hearing within fifteen (15) days of receipt of notice provided by this paragraph in accordance with the provisions of the Administrative Procedures Act. On the basis of evidence produced at the hearing or if the alleged violator fails to appear at the hearing as required, the Department shall make findings of fact and conclusions of law and enter an order thereon. The order of the Department shall become final and binding on all parties unless appealed to the district court as provided in the Administrative Procedures Act. If an appeal is not made, such order may be entered on the judgment docket of the district court in a county in which the debtor has property and thereafter enforced in the same manner as an order of the district court for collection actions.

~~b.~~ 2. Failure to return or pay for such licenses is hereby declared to be a misdemeanor, and punishable upon conviction by a fine not to exceed Five Thousand Dollars (\$5,000.00).

~~e.~~ 3. Payment, in full, of the license fees and penalty, pursuant to the provisions of this paragraph shall be full and

complete satisfaction of the violation for which the Administrative Order was issued and shall preclude any other civil or criminal penalty for the same violation.

~~5. The Wildlife Conservation Director may issue licenses to authorized agents of the Wildlife Conservation Department who do not qualify for consignment in the manner provided in paragraph 1 of this subsection when payment or accounting for such licenses is guaranteed by the terms of a corporate surety bond furnished to the Department by such authorized agent. Such bonds shall be executed by a surety company licensed to do business in this state. Licenses purchased on consignment as provided herein shall not exceed the penalty amount of the bond.~~

~~6. E.~~ E. The Office of the Attorney General, at the request of the Director, may assist the Department in the assessment and collection of the debt and penalties, and recovery on the bond pursuant to the provisions of this section.

~~D. In order to obtain refunds for unused and spoiled licenses, the agents shall return by January 30 of the year following license issuances those licenses which remain intact in the books.~~

~~E. The Department will then credit and return to the agents money equal to all unused or spoiled licenses which remain intact in the books.~~

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-135 of Title 29, unless there is created a duplication in numbering, reads as follows:

The Department is authorized to issue permits to landowners, lessees or their designated agents and to any entity of state, county or local government to control nuisance or damage by any species of wildlife under rules promulgated by the Commission. Such permits may be issued without limitation to statewide season regulations.

SECTION 7. 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 House of Representatives the 9th day of March, 1994.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1994.

President of the Senate