

ENROLLED SENATE
BILL NO. 70

By: Shurden of the Senate

and

Smith (Bill), Hefner,
Rhodes (Dusty), Gray and
Seikel of the House

An Act relating to wildlife; amending 29 O.S. 1991, Sections 2-109.1, 2-121.2, 4-110 and 4-112, as amended by Sections 1 and 2 of Enrolled Senate Bill No. 372 of the 1st Session of the 44th Oklahoma Legislature, 4-112A, 5-202, 5-209, 6-302, as amended by Section 2, Chapter 402, O.S.L. 1992 (29 O.S. Supp. 1992, Section 6-302) and 1001, which relate to certain licenses, hunting and permits for disabled applicants; modifying certain definitions; providing for licenses for certain disabled persons; prohibiting issuance of certain licenses; providing for license for certain disabled persons; requiring certain hunter safety certification prior to certain actions; providing that consent does not create additional duty of care or additional liability of landowner, occupant or lessee; providing that consent does not relieve authorized user of land from duty of care or liability; increasing certain fine; modifying conditions for certain permit; establishing fee; requiring certain portions of Illinois River and its tributaries to be open at specified dates for specified purposes; prohibiting use of certain fishing devices if unattended; providing that certain fishing devices have name and address of owner attached; specifying characteristics of lines attached to certain fishing devices; and providing an effective date.

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

SECTION 1. AMENDATORY 29 O.S. 1991, Section 2-109.1, is amended to read as follows:

Section 2-109.1 "Exotic wildlife" includes any and all species of wildlife that are not indigenous to, occur naturally, or are characteristic of another country other than the United States, its territories, commonwealths or possessions or that may not be found in the wild in, the continental United States.

SECTION 2. AMENDATORY 29 O.S. 1991, Section 2-121.2, is amended to read as follows:

Section 2-121.2 "Native wildlife" means any and all species of wildlife that are indigenous to ~~or occur naturally within the United~~

~~States, or any other territory, commonwealth, or possession of, or that may be found in the wild in, the United States.~~

SECTION 3. AMENDATORY 29 O.S. 1991, Section 4-110, as amended by Section 1 of Enrolled Senate Bill No. 372 of the 1st Session of the 44th Oklahoma Legislature, 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 nonresident permit license, Six Dollars and fifty cents (\$6.50). 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 G 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.

~~E.~~ F. Unless a substitute license is purchased as provided for by subsection ~~D~~ 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.

~~F.~~ G. Unless a substitute license is purchased as provided for by subsection ~~D~~ 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.

~~G.~~ 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 4. AMENDATORY 29 O.S. 1991, Section 4-112, as amended by Section 2 of Enrolled Senate Bill No. 372 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 4-112. A. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, no person may hunt, pursue, trap, harass, catch, kill, take or attempt to take in any manner, use, have in possession, sell, or transport all or any portion of any wildlife except fish, without having first procured a license for such from the Director or from any authorized agents of the Department.

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

1. Legal residents of Oklahoma under sixteen (16) years of age on the first day of the current calendar year;
2. Legal residents of Oklahoma sixty-four (64) years of age or older provided such persons have 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 who hunt on land owned or leased by them;
5. Every citizen of Oklahoma serving in a branch of the United States Armed Forces, who is on properly authorized leave from military duty, who has in his possession proper written evidence showing such authorized leave, and who is serving outside the State of Oklahoma at the time of such hunting;
6. Any nonresident under fourteen (14) years of age; and
7. Legal residents having a proven disability which renders them nonambulatory and confines them to a wheelchair, as certified by a medical doctor duly licensed to practice medicine in this state.

C. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, the fees for licenses listed in this subsection are:

1. a. Annual hunting licenses for nonresidents hunting game other than deer, antelope, or elk, Seventy-three Dollars and fifty cents (\$73.50); for deer, One Hundred Forty-two Dollars (\$142.00); for antelope and elk, Two Hundred Ten Dollars and fifty cents (\$210.50). There shall be no exemptions for deer, antelope, elk, or turkey. For a five-day nonresident hunting license to hunt game other than deer, antelope, elk, turkey, or pheasant, the fee shall be Twenty-four Dollars (\$24.00).
- b. Of the amount of monies collected pursuant to the provisions of this paragraph, Five Dollars (\$5.00) of the license fee for hunting game other than deer, antelope and elk, Five Dollars (\$5.00) of the license fee for hunting deer, Five Dollars (\$5.00) of the license fee for hunting antelope and elk and Two Dollars and fifty cents (\$2.50) of the five-day

hunting license shall be deposited in the Wildlife Habitat Fund created pursuant to the provisions of Section 4-132 of this title.

c. The Oklahoma Wildlife Department shall not issue any nonresident deer, antelope, or elk licenses to residents of any other state which has a deer season but does not allow Oklahoma residents the opportunity to purchase nonresident licenses in their state.

2. Disability hunting license, residents of this state for at least six (6) months and who are receiving Social Security disability and Social Security insurance benefits may purchase a disability hunting license from the Director for Ten Dollars (\$10.00) for five (5) years.

3. Deer gun hunting license, residents, Thirteen Dollars and seventy-five cents (\$13.75). There shall be no exemptions except for residents sixty-four (64) years of age or older provided such residents have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title. In addition, veterans who are totally disabled as certified by the U.S. Veterans Administration shall be exempt from the fees specified pursuant to this paragraph.

~~3.~~ 4. Deer archery hunting license, residents, Thirteen Dollars and seventy-five cents (\$13.75). No exemptions.

~~4.~~ 5. Primitive firearms license, residents, Thirteen Dollars and seventy-five cents (\$13.75). No exemptions.

~~5.~~ 6. Elk or antelope hunting license, residents, Thirty-four Dollars and twenty-five cents (\$34.25). No exemptions.

~~6.~~ 7. Bonus, special or second deer gun hunting license, residents, Thirteen Dollars and seventy-five cents (\$13.75). No exemptions except for residents sixty-five (65) years of age or older provided such residents have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title. In addition, veterans who are totally disabled, if certified by the U.S. Veterans Administration shall be exempt from the fees specified pursuant to this paragraph.

D. The fees for hunting licenses, except as provided for in the Oklahoma Wildlife Conservation Code, are:

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

2. Commercial hunting area ten-day permit, resident or nonresident, Five Dollars (\$5.00).

E. The provisions of this section shall not be construed to require a hunting license, resident or nonresident, of any person merely because he participates, as owner or handler of an entry, as an official, or as a spectator in the conduct of a field trial or performance test of dogs, whether he is a resident or nonresident of the State of Oklahoma. No license to hunt shall be required of any person engaged in training or working dogs, provided said person is in no way engaged in hunting and does not take or attempt to take in any manner any game.

F. Any person arrested for hunting game other than deer, antelope, elk, or turkey without a valid hunting license as required by the provisions of subsection A of this section may purchase a substitute temporary thirty-day license from the arresting game warden in lieu of posting bond. Proof of hunter safety certification will not be required for such temporary substitute license. 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, One Hundred Thirty Dollars (\$130.00).

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.

G. Any person producing proof in court that a current hunting 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 hunting 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.

H. Unless a substitute license is purchased as provided for by subsection F of this section, any resident convicted of violating the provisions of this section shall be punished by the imposition of 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 to exceed thirty (30) days, or by both said fine and imprisonment.

I. Unless a substitute license is purchased as provided for by subsection F of this section, any nonresident convicted of violating the provisions of this section shall be punished by the imposition of a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed six (6) months, or by both said fine and imprisonment.

SECTION 5. AMENDATORY 29 O.S. 1991, Section 4-112A, is amended to read as follows:

Section 4-112A. A. On and after January 1, 1987, no person born on or after January 1, 1972, upon reaching sixteen (16) years of age and through thirty-five (35) years of age, may purchase or receive any hunting license or hunting tag unless said person possesses and can exhibit a certificate of competency and safety in the use and handling of firearms from the Department of Wildlife Conservation. The Department shall charge no fee for the issuance of such certificates. A hunter safety certificate issued by another state or country and approved by the Department of Wildlife Conservation shall be deemed to meet the requirements of this section. No person under sixteen (16) years of age may purchase a gun deer tag or hunt large game with any firearm without first obtaining a hunter safety certification.

B. The Department of Wildlife Conservation shall prescribe, adopt, and promulgate rules and regulations necessary for the certification of programs for hunter safety offered by other public or private organizations.

C. The provisions of this section shall not apply to any person who has an honorable discharge from the United States Armed Forces. In addition, the provisions of this section shall not apply to any person who is a resident landowner or a resident tenant, while hunting game other than deer or antelope, upon land owned or leased by such person. The provisions of this subsection shall not exempt nonresidents owning land in this state nor any person leasing land, for the purpose of hunting.

D. Any person convicted of violating the provisions of this section shall be punished by the imposition of 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 to exceed thirty (30) days, or by both said fine and imprisonment.

SECTION 6. AMENDATORY 29 O.S. 1991, Section 5-202, is amended to read as follows:

Section 5-202. A. Except as otherwise provided, no person may hunt upon the land of another without the consent of the owner, lessee or occupant of such land.

B. Areas exempt from the provisions of subsection A of this section are:

1. Lands not occupied by a resident thereon, unless notice of objection is conspicuously posted upon the premises by the owner or his agent.

2. Land belonging to this state which is not leased and occupied by a resident.

C. Any game warden investigating a hunter in the field has the duty to inform the hunter that it is necessary to obtain the consent of the landowner, lessee or occupant to hunt on the particular property. Prosecution for violations of the provisions of this section may be commenced only upon written complaint of such owner, lessee or occupant filed before any court authorized to punish such violation, or upon written complaint to any game warden or officer authorized to make arrest for such offenses.

D. No person shall operate a motor-driven conveyance on lands that are fenced and posted or are in cultivation without permission of the landowner, lessee or occupant.

E. The consent of any owner, lessee or occupant of land authorizing a person to hunt, fish or engage in any recreational activity upon the land of any such owner, lessee or occupant shall not be construed to create any additional duty of care or impose any additional liability other than specified by Sections 11 and 12 of Title 76 of the Oklahoma Statutes.

F. The obtaining of consent from any owner, lessee or occupant of land authorizing a person to hunt, fish or engage in any recreational activity shall not relieve the authorized person using the land from any obligation which he may have in the absence of obtaining such consent to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.

G. Any person convicted of violating any provisions of this section shall be punished by the imposition of a fine of not less than Fifty Dollars (\$50.00) nor more than ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00), or by imprisonment in the county jail for thirty (30) days, or by both said fine and imprisonment.

SECTION 7. AMENDATORY 29 O.S. 1991, Section 5-209, is amended to read as follows:

Section 5-209. A. The Director of the Department of Wildlife Conservation may issue a permit for the hunting or taking of wildlife by the use of a crossbow to applicants, otherwise qualified, who have a permanent disability to the extent that they cannot physically use a conventional longbow, as certified by a medical doctor duly licensed to practice medicine in this state. The Holders of such a crossbow permit shall renew the permit every five (5) years. The cost and renewal cost for a crossbow permit shall be Five Dollars (\$5.00).

B. The Director may issue a lifetime crossbow permit only to amputees with the complete loss of at least the thumb or first finger of the bow hand or the index, first and ring finger of the draw hand. The cost for a lifetime crossbow permit shall be Five Dollars (\$5.00).

C. Any crossbow permit shall also allow any such person permittee to take deer by crossbow according to Department regulations during legal open archery deer season.

SECTION 8. AMENDATORY 29 O.S. 1991, Section 6-302, as amended by Section 2, Chapter 402, O.S.L. 1992 (29 O.S. Supp. 1992, Section 6-302), is amended to read as follows:

Section 6-302. A. No person may take, kill or catch from any river, creek, lake, state pond or privately-owned pond which is stocked by state or federal fish hatchery any game fish except by means of hook and line attached to a pole or rod, throwline, trotline or with speargun used by divers equipped with self-contained underwater breathing apparatus, except for white bass which may be taken by the use of a gig; nor may any person sell, offer to sell or have in possession for the purpose of selling any game fish. Game species open to taking by speargun include all except black bass, striped bass, walleye, northern pike and trout. Upon receiving information that damage to the fish population is occurring in any of the waters of this state, the Commission shall give notice and hold a hearing to determine such fact and may, upon good cause shown, regulate the taking of fish to any extent necessary to protect fish in said waters of this state.

B. Fish taken under the above subsection shall be in accordance with the method of taking, length limits and bag limits which shall be set by Commission resolution.

C. No nonresident may have in his possession upon leaving the state more than a two-day bag limit of any species of game fish.

D. It shall be unlawful for any person to use in the waters of this state a speargun having more than three points with more than two barbs on each point.

E. The portions of the Illinois River and its tributaries above the Horseshoe Bend Boat Ramp on Tenkiller Reservoir shall be open for the taking of nongame fish and white bass by gigging from December 1 through March 1 of each year. The portions of the Illinois River and its tributaries above Highway 62 and Highway 51 shall be open for the taking of nongame fish and white bass by gigging from December 1 through March 31 of each year.

F. 1. Except as otherwise provided for in this subsection, 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 One Hundred Dollars (\$100.00).

2. Any person convicted of violating any provisions of this section by netting, snaglining or selling game fish shall be punished by imposition of 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 for a period not to exceed thirty (30) days, or by both such fine and imprisonment. Any person, upon conviction of a second or subsequent violation of the provisions of this section by netting, snaglining or selling game fish when said violation occurred within two (2) years of a previous conviction for violating said provisions, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment. In addition, all fishing licenses and fishing privileges within the state of such person shall be revoked for a period of one (1) year from the date of such conviction.

SECTION 9. AMENDATORY 29 O.S. 1991, Section 1001, is amended to read as follows:

Section 1001. A. It shall be unlawful for any person to fish in any waters of this state by:

1. Leaving visibly unattended any mechanical fishing device which automatically recoils when a fish strikes, including, but not limited to, the device commonly known as a "yo-yo", ~~unattended for a~~

~~period longer than four (4) hours and such device shall have the name of the owner and the owner's address attached thereto.;~~

2. Use of any mechanical fishing device which automatically recoils when a fish strikes, including, but not limited to, the device commonly known as a "yo-yo", that does not have the name of the owner and the owner's address attached thereto; or

3. Stringing or suspending any device, described in paragraph 1 of this subsection, from any horizontal line or wire across any channel or navigable waterway, or attaching more than ten of any such devices from any one line, wire, or support.

B. Any line or lines to which mechanical fishing devices are attached shall be:

1. Made of nonmetallic material only;

2. No greater than 50 feet in length; and

3. Placed or suspended without restricting or impeding boat navigation between any two such lines.

C. Any person violating the provisions of this act shall be fined not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00).

~~C. D.~~ Any mechanical fishing device being used in violation of this section shall be confiscated as contraband.

~~D. E.~~ Any device as described in subsection A, paragraph 2 hereof, which is No line or lines to which mechanical fishing devices are attached shall be placed in any body of water used by boats, shall be unless marked so as to be visible to such boats using any such body of water at any time of the day or night.

SECTION 10. This act shall become effective September 1, 1993.

Passed the Senate the 17th day of May, 1993.

President of the Senate

Passed the House of Representatives the 20th day of May, 1993.

Speaker of the House of Representatives