

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2417

By: Hutchison

AS INTRODUCED

An Act relating to game and fish; amending 29 O.S.

1991, Sections 4-110, as last amended by Section 3, Chapter 214, O.S.L. 1993, 4-128, 5-401, as amended by Section 5, Chapter 149, O.S.L. 1992, 5-407 and 5-409, as amended by Section 7, Chapter 149, O.S.L. 1992 (29 O.S. Supp. 1993, Sections 4-110, 5-401 and 5-409), which relate to the Oklahoma Wildlife Conservation Code; increasing certain fees and length of licenses; requiring certain persons to obtain additional licenses; removing certain seasons and bag units; and declaring an 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 4-128, is amended to read as follows:

Section 4-128. A. Except as otherwise provided in this Code, no person shall fish, pursue, harass, catch, kill, take, attempt to take in any manner, use, have in possession, sell or transport all or any portion of a fish in Lake Texoma without having first procured a license pursuant to Section 4-110 of this title and a special Oklahoma Lake Texoma license ~~for such~~ from the Director or from any of his authorized agents.

B. Persons excepted from the license requirements of this section are:

1. Nonresidents under fourteen (14) years of age;
2. Nonresidents in possession of a valid nonresident license issued under Section 4-110 of ~~Title 29 of the Oklahoma Statutes~~ this title and fishing the Oklahoma portion of Lake Texoma;
3. Holders of parallel special Texas fishing license for Lake Texoma and the regular Texas fishing license; and
4. A resident holding a valid Oklahoma fishing license or excepted from such by Section 4-110 of ~~Title 29 of the Oklahoma Statutes~~ this title and fishing only the Oklahoma side of Lake Texoma.

C. The fee for this special Lake Texoma fishing license shall be Six Dollars and seventy-five cents (\$6.75). Licenses shall be issued in accordance with Sections 4-201 and 4-202 of ~~Title 29 of the Oklahoma Statutes~~ this title.

D. Revenue received from the sale of this special license for Lake Texoma shall be divided between the Oklahoma Department of Wildlife Conservation and the Texas Parks and Wildlife Department. The Oklahoma Department of Wildlife Conservation shall receive seventy percent (70%) of the fees collected. The remaining thirty percent (30%) of the fees collected shall be forwarded by the Oklahoma Department of Wildlife Conservation to the Texas Parks and Wildlife Department.

E. 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 One Hundred Dollars (\$100.00).

SECTION 3. 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.~~ D. 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.~~ E. 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.~~ F. 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.~~ G. 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 4. 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 5. 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 6. 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.

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