

ENGROSSED HOUSE
BILL NO. 1414

By: Hutchison and Johnson of
the House

and

Shurden of the Senate

An Act relating to wildlife; amending 29 O.S. 1991, Section 4-201, as amended by Section 13, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-201), which relates to procedures for licensing dealers; modifying time period for waiver of bond and cash deposit requirements; stating bond requirements for out-of-state dealers; providing a penalty to dealers for failure to return license form; modifying penalty to dealers for late payment; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 29 O.S. 1991, Section 4-201, as amended by Section 13, Chapter 318, O.S.L. 1994 (29 O.S. Supp. 1994, Section 4-201), is amended to read as follows:

Section 4-201. A. The Wildlife Conservation Director is hereby authorized to issue license forms to dealers located in the state 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)~~ two (2) years. Dealers located out of state shall be required to obtain a surety bond.

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

Each such ~~agent~~ dealer shall also remit all such license fees received by the ~~agent~~ dealer 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.

~~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.~~ Dealers shall be penalized for every blank hunting and fishing license form that is not returned to the Oklahoma Department of Wildlife Conservation. The penalty shall be the average sales value of the last fifty original licenses sold by the dealer. If the dealer has not sold fifty original licenses, the penalty shall be the sales value of the most expensive license sold by the Department.

If the payment required by the dealer is not made on time as required by the Department, the payment shall be considered late and the dealer may be required to forfeit up to ten percent (10%) of their dealer fee for each day the payment is late or as otherwise required by the Department.

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

1. Upon failure of an ~~agent~~ dealer 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.

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).

3. Payment, in full, of the license fees and penalty, pursuant to the provisions of this subsection 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.

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.

SECTION 2. This act shall become effective July 1, 1995.

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.

Passed the House of Representatives the 9th day of March, 1995.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate