ENROLLED SENATE
BILL NO. 1182

By: Littlefield of the Senate

and

Hutchison of the House

An Act relating to game and fish; amending 29 O.S. 1991, Section 4-129, as last amended by Section 1, Chapter 185, O.S.L. 1998 (29 O.S. Supp. 1999, Section 4-129), which relates to mussel harvesting; modifying dates for mussels to be harvested; and declaring an emergency.

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

SECTION 1. AMENDATORY 29 O.S. 1991, Section 4-129, as last amended by Section 1, Chapter 185, O.S.L. 1998 (29 O.S. Supp. 1999, Section 4-129), is amended to read as follows:

Section 4-129. A. No person may harvest, or attempt to harvest, or assist in harvesting, or sell, buy or export mussels from the waters of this state without having first procured the proper license for such purposes from the Director of Wildlife Conservation. The fees for licenses under this section shall be:

1. For a resident license to harvest, or attempt to harvest, or assist in harvesting, or sell mussels, Fifty Dollars ($50.00);

2. For a nonresident license to harvest, or attempt to harvest, or assist in harvesting, or sell mussels, said fee shall be One Thousand Dollars ($1,000.00);

3. To buy, transport out of state or export mussels, One Thousand Dollars ($1,000.00); prior to the issuance of this license the applicant shall file with the Department of Wildlife Conservation a good and sufficient surety bond by a surety company licensed to do business in this state in the sum of Five Thousand Dollars ($5,000.00) conditioned upon the observance and compliance with the provisions of the Oklahoma Wildlife Conservation Code, Section 1-101 et seq. of this title, which bond will be subject to forfeiture upon conviction for the violation of any of the provisions of this section or any resolution adopted by the Department; and

4. Any person in the possession of more than twenty (20) mussels or parts thereof shall be required to have the proper license as provided for in this section.

B. In addition to the requirements of subsection A of this section, any person harvesting, selling, buying or exporting mussels from the waters of this state shall procure an applicable annual fishing license pursuant to Section 4-110 of this title.

C. Except as otherwise provided for by law, the Oklahoma Wildlife Conservation Commission shall regulate the harvest season, gear types to be used, size and species to be harvested and issue such other rules as it deems necessary and shall design all forms necessary for the operation of these provisions.

D. It shall be unlawful for anyone to take or possess the following mussel species or their shells smaller than the following size limits:

1. Sand shells, muckets, creepers, grandmas, pocketbooks, lady fingers, squaw feet or cucumbers, less than three (3) inches minimum diameter;

2. Maple leaf and three ridge, less than two and three-fourths (2 3/4) inches minimum diameter;

3. Three knot, less than two (2) inches minimum diameter;

4. Washboards, less than four (4) inches minimum in diameter; and

5. All other species except Buckhorn and the Ouachita Rock Pocket Book which are prohibited, less than two and one-half (2 1/2) inches minimum diameter.

E. All mussels shall be sized immediately after harvesting, before harvester moves his or her boat or begins another dive.

F. Mussels shall be measured by passing the mussel, shell included, through a circular measuring device with the appropriate inside diameter. If the mussel passes through the appropriate circular measuring device from any angle or direction it is too small, and must be returned to the water.

G. 1. The maple leaf mussel is the only mussel which shall be harvested for commercial purposes in the open portion of Grand Lake and its tributaries.

2. The mussel harvest season on Grand Lake shall be from ~~April~~ May 1 to ~~September~~ October 30, inclusive. No mussel shall be harvested in the portion of Grand Lake of the Cherokees from twin bridges north to the Kansas state line.

H. Nothing in this section shall prevent a person from taking six (6) or less mussels per day of any size for noncommercial personal use.

I. 1. Any person who exports mussels from the State of Oklahoma shall pay the Department as a severance fee an amount not to exceed one-eighth (1/8) of the dollar value of purchased shells or a lesser figure as directed by the Commission.

2. Except as otherwise required by this subsection, such funds shall be used for mussel enforcement, management and/or research.

3. One-fifth (1/5) of the monies collected pursuant to this subsection not to exceed Forty Thousand Dollars ($40,000.00) annually shall be made available to counties in this state for beaver control and abatement pursuant to contracts with such criteria and restrictions required and specified by the Department. The payment shall be computed from shipping bills of lading and paid by the 15th day of the following month. The Commission shall issue such regulations governing exports as it deems necessary and shall design all forms necessary for the operation of these provisions.

J. No mussels shall be harvested except during daylight hours from sunrise until sunset. No harvesting shall ever take place in Tenkiller Lake.

K. Any person buying or exporting mussels from the waters of this state shall provide advance notice of each and every place where such business is transacted. Such notice shall be to the Director in the manner prescribed by the Commission.

L. 1. Except as provided for in paragraph 3 of this subsection, any resident of this state convicted of violating subsection A, C, D, G or J of this section shall be punished by a fine of not less than One Hundred Dollars ($100.00), nor more than Five Hundred Dollars ($500.00), or by imprisonment not to exceed thirty (30) days, or by confiscation of gear and/or mussels pursuant to the provisions of Section 7-206 of this title or by a combination of fine, imprisonment and confiscation.

2. Except as provided for in paragraph 3 of this subsection, any nonresident convicted of violating the provisions of subsection A, C, D, G or J of this section shall be punished by the imposition of a fine of not less than Two Thousand Five Hundred Dollars ($2,500.00) nor more than Five Thousand Dollars ($5,000.00) or by confiscation of gear and/or mussels pursuant to the provisions of Section 7-206 of this title or by a combination of fine, imprisonment and confiscation.

3. Any person convicted of violating the provisions of paragraph 2 of subsection A of this section or of subsection I or K of this section 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 not to exceed thirty (30) days, or by confiscation of the shipment of mussels pursuant to the provisions of Section 7-206 of this title, or by a combination of fine, imprisonment and confiscation. In addition, such person shall forfeit his or her license and not be permitted to renew the license for a one-year period.

SECTION 2. 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 Senate the 6th day of March, 2000.

President of the Senate

Passed the House of Representatives the 10th day of April, 2000.

Speaker of the House of Representatives