

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

2ND CONFERENCE COMMITTEE  
SUBSTITUTE FOR ENGROSSED  
HOUSE BILL NO. 1190

By: Pope (Clay) of the House

and

Henry of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to agriculture; amending 2 O.S. 1991, Sections 2-4, as last amended by Section 6, Chapter 243, O.S.L. 2000 and 6-302, as amended by Section 66, Chapter 367, O.S.L. 2000 (2 O.S. Supp. 2000, Sections 2-4 and 6-302), which relate to certain powers and duties of the State Board of Agriculture; adding powers and duties relating to certain inspections, livestock and certain equipment and implements; authorizing citations; providing procedures and process; increasing certain penalties for certain violations; authorizing the Commissioner of the State Department of Agriculture to enter into certain reciprocal agreements; providing for maintaining certain legal actions upon request; creating the Oklahoma Food Safety Task Force; providing for appointment and qualifications; providing for officers, meetings and staffing; providing for duties and reimbursement; authorizing the Commissioner upon approval of the State Board of Agriculture to commission agriculture law enforcement agents; providing for and specifying powers and duties; authorizing carrying of firearms; providing for certain restrictions; amending Section 3, Chapter 357, O.S.L. 1994 (2 O.S. Supp. 2000, Section 3003), as last amended by Section 127 of Enrolled House Bill No. 1378 of the 1st Session of the 48th Oklahoma Legislature, which relates to the Oklahoma International Trade Development Council; modifying times required to meet; providing for noncodification; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-4b of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of the State Department of Agriculture may enter into reciprocal agreements with:

1. A state agriculture agency or corresponding agency of another state, or with the person, board, officer, or commission authorized to act on behalf of that department or agency having jurisdiction affecting the importation, health, inspection, investigation, control, prevention, and eradication of contagious and infectious diseases of livestock; and

2. Another state or with the person, board, officer, or commission authorized to act on behalf of the other state relating to theft of livestock and to farming equipment and farm implements.

B. The Commissioner of the State Department of Agriculture shall, upon the written request of a state agriculture agency or other corresponding agency of any other state or of any person, board, officer, or commission of the state authorized to act for and on behalf of such department or corresponding agency, maintain actions in the courts of this state upon judgments and demands arising in the other state in the same manner and to the same extent that the actions by the Commissioner are authorized when arising in this state; provided, however, that the actions may be commenced and maintained only in those cases where the other state by appropriate legislation or by reciprocal agreement extends a like policy or approach to cases arising in the state.

SECTION 2. AMENDATORY 2 O.S. 1991, Section 2-4, as last amended by Section 6, Chapter 243, O.S.L. 2000 (2 O.S. Supp. 2000, Section 2-4), is amended to read as follows:

Section 2-4. The State Board of Agriculture shall have the power to:

A. 1. Adopt and prescribe the use of a seal, which shall be in the custody of the Secretary of the Board;

2. Promulgate rules necessary, expedient, or appropriate to the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Oklahoma Agricultural Code;

3. Initiate and prosecute administrative, civil, or criminal actions and proceedings necessary under the Oklahoma Agricultural Code;

4. Appoint authorized agents to make inspections or investigations and to perform other services for the Board or any division of the State Department of Agriculture;

5. Consolidate any of the divisions established by the Oklahoma Agricultural Code, transfer any of the functions or activities to another division, place additional functions or activities in a division, establish new divisions, and create new or additional positions in the Department, when conducive to a more efficient administration and enforcement of laws pertaining to agriculture;

6. Sell, exchange, or dispose of property;

7. Have jurisdiction over all matters affecting animal industry, animal health, and animal quarantine;

8. Issue stop-sale and stop-use orders and quarantines;

9. Employ, appoint, or contract and fix the duties and compensation of the director of each division of the Department and other personnel, either on a full-time, part-time, or contractual basis, as deemed necessary by the Board;

10. Fix the qualifications of the personnel in the Department;

11. Accept and use grants of money and other property from any source;

12. Advise, consult, cooperate, and enter into agreements or contracts with persons as defined in the Oklahoma Agricultural Code;

13. Coordinate with the federal government and other states on matters pertaining to agriculture;

14. Revoke, suspend, or deny for up to one (1) year, any license, permit, or charter issued by the Board if the Board finds

any violations of the Oklahoma Agricultural Code or any rule of the Board;

15. Adopt a master plan and promulgate rules for the protection of state-owned and private forestry, grazing, and other lands from damage by fire and for suppressing fires on lands. In carrying out the master plan the Board is authorized to enter into contractual agreements with the federal government, local political subdivisions of the state, individuals, private organizations, companies, and corporations for protection and for the suppression of fires and to expend funds as available for these services. To effectuate the purposes of the Oklahoma Agricultural Code, the Board is authorized to enter into contractual agreements with private landowners for the protection and suppression of fires, provided that the private landowners reimburse the Board for actual expenses incurred in the protection and suppression of fires on privately owned lands;

16. Have jurisdiction over all matters affecting agriculture as contained and set out in the Oklahoma Agricultural Code, which have not been expressly delegated to another state or federal agency. The Department of Environmental Quality shall have environmental jurisdiction over:

- a. (1) commercial manufacturers of fertilizers, grain and feed products, and chemicals, and over manufacturing of food and kindred products, tobacco, paper, lumber, wood, textile mill, and other agricultural products,
- (2) slaughterhouses, but not including feedlots at these facilities, and
- (3) aquaculture and fish hatcheries, including, but not limited to, discharges of pollutants and storm water to waters of the state, surface impoundments and land application of wastes and

sludge, and other pollution originating at these facilities, and

- b. facilities storing grain, feed, seed, fertilizer, and agricultural chemicals that are required by federal regulations to obtain a federal National Pollutant Discharge Elimination Systems permit for storm water discharges shall only be subject to the jurisdiction of the Department of Environmental Quality with respect to storm water discharges.

Any point source discharge related to agriculture, as specified in paragraph 1 of subsection D of Section 1-3-101 of Title 27A of the Oklahoma Statutes, which require a federal National Pollutant Discharge Elimination Systems permit and which are not specified under subparagraphs a and b of this paragraph as being subject to the jurisdiction of the Department of Environmental Quality shall continue to be subject to the direct jurisdiction of the federal Environmental Protection Agency for issuance and enforcement of such permit and shall not be required to be permitted by the Department of Environmental Quality or the Department of Agriculture;

17. Have jurisdiction over all matters affecting the importation, health, and quarantining of exotic livestock;

18. Prescribe forms of application, certification, licenses, charters, and other forms and blanks as may be necessary to carry out the provisions of the Oklahoma Agricultural Code;

19. Stagger throughout the year the renewal dates for any licenses or permits issued by the Department pursuant to the provisions of the Oklahoma Agricultural Code by notifying licensees in writing of the expiration and renewal date being assigned to the licensee and permittee and by making an appropriate adjustment in the fee charged for the license or permit;

20. Establish and collect fees for licenses, permits, charters, and services provided. The fees shall be promulgated in accordance

with the Administrative Procedures Act and shall be fair and equitable to all parties concerned;

21. Establish planting and harvesting seasons for the purpose of meeting the maximum driving and on-duty time exemptions set forth in the National Highway System Designation Act of 1995. The Board shall notify the United States Secretary of Transportation of the seasons;

22. Fix and adopt official standards for grading and classifying any agricultural commodity, meat, or meat product prepared, produced, or distributed in Oklahoma;

23. Promulgate rules, make investigations, and conduct hearings for the purpose of making inspection compulsory on any agricultural commodity and designate the shipping points where compulsory inspection applies;

24. Inspect agricultural commodities, at any time, upon request of any financially interested party or when necessary and to issue certificates showing the quality and condition of the commodities at the time of the inspection;

25. Grade meat or meat products upon the request of any packing plant in Oklahoma. The packing plant shall be required to pay the cost of services, including the compensation and expenses of personnel employed to perform the actual grading;

26. Apply to the district court for a temporary or permanent injunction or any other remedy restraining any person from violating the Oklahoma Agricultural Code;

27. Extend and implement the powers and provisions granted by the Oklahoma Agricultural Code to all programs administered by the Department regardless of whether the statutes creating the program are codified in this title; ~~and~~

28. Increase its efforts to ensure the safety and quality of food and food products for wholesalers and retail sales in this state and shall include, but not be limited to, inspections of

retailers and wholesalers to ensure compliance with all federal and state certification standards; and

29. Exercise all incidental powers which are necessary and proper to implement and administer the purposes of the Oklahoma Agricultural Code.

B. 1. If upon inspection or investigation, or whenever the State Department of Agriculture determines that there are reasonable grounds to believe that any person is in violation of any part of the Oklahoma Environmental Quality Code which is the responsibility and jurisdiction of the State Department of Agriculture, any rule promulgated by the State Board of Agriculture, or of any order, permit, certificate, registration, charter, or license issued by the Board, the Department may give written notice to the alleged violator of the specific violation and of the alleged violator's duty to correct the violation immediately or within a set time period or both and that the failure to do so shall result in administrative fines or penalties.

2. Whenever the Department finds that an emergency exists requiring immediate action to protect the public health, welfare, or the environment, the President of the State Board of Agriculture may without notice or hearing issue an order, effective upon issuance, reciting the existence of an emergency and requiring that action be taken as specified in the order to meet the emergency. Any person to whom an order is directed shall comply immediately but may request an administrative enforcement hearing within fifteen (15) days after the order is served. The hearing shall be held by the Department within ten (10) days after receipt of the request. On the basis of the hearing record, the President of the Board shall sustain or modify the original order.

SECTION 3. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There is hereby created the Oklahoma Food Safety Task Force. The purpose of the Task Force shall be to study the administrative, policy and fiscal implications of source identity, disease transmission including, but not limited to, hoof and mouth disease and bovine spongiform encephalopathy, country of origin, issues and other food safety concerns and shall issue a report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives by January 10, 2002.

B. The Task Force shall include members of the legislative members of the Agriculture and Rural Development Committee of the Oklahoma House of Representatives and the Agriculture and Rural Development Committee of the State Senate. Three members shall be appointed by the Governor, one from each list of names submitted by the Oklahoma Farmers Union, the Oklahoma Farm Bureau, the Oklahoma Cattlemen's Association and two from a list submitted by the Oklahoma Grocers Association, one of whom is a retail member representing the Oklahoma Grocers Association and one of whom is a wholesale member representing the Oklahoma Grocers Association.

C. The Task Force shall elect a chair and vice-chair from among its legislative membership. Staffing for the Task Force shall be provided by the legislative staff of the Senate and the House of Representatives.

D. The Chair of the Agriculture and Rural Development Committee of the Oklahoma House of Representative shall call the first meeting.

E. Members of the Task Force shall receive no compensation for serving on the Task Force, but shall receive travel reimbursement as follows:

1. Legislative members of the Task Force shall be reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes from the legislative body which they serve; and

2. Nonlegislative members of the Task Force shall be reimbursed by their own agencies and organizations for their necessary travel expenses.

SECTION 4. AMENDATORY 2 O.S. 1991, Section 6-302, as amended by Section 66, Chapter 367, O.S.L. 2000 (2 O.S. Supp. 2000, Section 6-302), is amended to read as follows:

Section 6-302. A. To enable the State Board of Agriculture to implement its duties and responsibilities regarding disease eradication and control of livestock and theft of livestock, and of farming equipment and farm implements, authorized agents of the Board are authorized to stop a vehicle transporting any livestock or farming equipment or farm implement for the purposes of inspecting and examining:

1. Livestock being transported; ~~and~~
2. The documents relating to the health, ownership, or destination of the livestock; and
3. Ownership documents or serial or identification numbers relating to farming equipment or farm implements.

B. 1. Agents of the Board are authorized to issue citations to those persons committing violations of the laws relating to the control and eradication of disease in livestock in this state.

2. Each violation relating to the transportation of livestock, and any required documentation regarding disease eradication and control of livestock being transported may result in a citation not to exceed Five Hundred Dollars (\$500.00) per incident. Each citation issued shall indicate the name of the owner of the livestock being transported, as well as the name of the driver of the vehicle.

3. If an owner or driver receives three citations for violations of this subsection within a consecutive three-year period, the owner or driver may be subject to citations not to

exceed One Thousand Dollars (\$1,000.00) for any subsequent violations of this subsection.

C. The authorized agents designated to stop vehicles and issue citations shall be required to satisfactorily complete those courses offered by law enforcement agencies as are required by the Board.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-310 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Commissioner of the State Board of Agriculture may commission, subject to the approval of the Board, agriculture law enforcement agents.

B. Agriculture law enforcement agents, when commissioned, shall:

1. Have all the powers of peace officers except the serving or execution of civil process other than the execution of civil process related to the Oklahoma Agricultural Code;

2. Have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, highway patrol, and police officers in their respective jurisdictions;

3. Enforce the civil, criminal, and administrative provisions relating to livestock theft, animal health and importation statutes and theft of farming equipment and farm implements, as well as any other law contained in the Oklahoma Agricultural Code;

4. Possess all immunities and matters of defense now available or hereafter made available to sheriffs, highway patrol and police officers in any suit brought against them in consequence of acts done in the course of their employment; and

5. Comply with the provisions of Section 3311 of Title 70 of the Oklahoma Statutes.

C. Agriculture law enforcement agents specifically:

1. Are vested with the power and authority of sheriffs in making arrests for violations of the Oklahoma Agricultural Code and in the enforcement of nonagriculture-related crimes in cooperation with other law enforcement officers and agencies as authorized by the Board and approved by the Governor of the State of Oklahoma;

2. May take into possession any farming equipment or farm implement and any and all livestock, or any part thereof, killed, taken, shipped or had in possession contrary to the law. Such livestock or parts thereof may be disposed of as determined by the Commissioner or any court of competent jurisdiction;

3. May make a complaint and cause proceedings to be commenced against any person for violation of any of the laws relating to the Oklahoma Agricultural Code or relating to theft of livestock and of farming equipment or farm implements, with the sanction of the prosecuting or district attorney of the county in which the proceedings are brought, and shall not be required to give security for costs;

4. In connection with the enforcement of the civil, criminal, and administrative provisions, shall have the express authority to stop the transportation or movement of any animal or farming equipment or farm implement within this state and shall have the right to enter upon all premises, posted, or otherwise, when necessary for enforcement of the laws of this state;

5. Shall be under the control and direction of the Commissioner. The Commissioner may, at any time, remove any powers or authority of arrest conferred by the Commissioner; and

6. Shall have the right to carry firearms as authorized by the Commissioner. The right to carry firearms is limited to the authorized stop of a vehicle transporting livestock or farming equipment or farm implements, investigating the theft of livestock or of farming equipment or farm implements, and assisting other law enforcement officials. Agriculture investigators shall not bear

firearms at any other time including, but not limited to, authorized visits to livestock auction markets, residences, state offices and other places of business.

SECTION 6. AMENDATORY Section 3, Chapter 357, O.S.L. 1994 (2 O.S. Supp. 2000, Section 3003), as last amended by Section 127 of Enrolled House Bill No. 1378 of the 1st Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 3003. A. To fulfill its mission as the originator of the development of economic analysis and market planning for this state, the Oklahoma International Trade Development Council shall be the central advisory, planning, and monitoring board for all agriculture-related products, livestock, goods, services, and agricultural market development. The Council shall serve as an expert economic development advisory board to the executive branch, the state Legislature, and the judiciary regarding international export of Oklahoma agricultural products, livestock, goods, services, and agricultural market development.

1. The Oklahoma International Trade Development Council shall be an economic development advisory board for the Oklahoma Department of Commerce for agricultural marketing and investment activities.

2. The Oklahoma International Trade Development Council shall act as policy advisor for the Oklahoma International Trade Development Act to the Department of Agriculture and the Institutions of Higher Learning in their representative capacities for development of agricultural policies and programs for international export sales and markets.

3. The Oklahoma International Trade Development Council shall act as the central policy development advisory board to any newly created Oklahoma agencies, authorities, and other entities of state government whose fundamental mission is the economic development of

Oklahoma through export of agricultural products, livestock, goods, services, and agricultural market development.

4. In its capacity as Oklahoma's central economic policy, advisory, and monitoring board for export of agricultural products, livestock, goods, services, and agricultural market development, the Oklahoma International Trade Development Council shall promote greater collaboration and cooperation between the executive and legislative branches, agribusiness, financial institutions, labor and management, educational institutions, and local communities to create increased innovation, creativity, diversity, and productivity greater than any one sector can achieve acting alone.

B. 1. The Oklahoma International Trade Development Council shall consist of the following ex officio members or their designee:

- a. the Commissioner of the State Department of Agriculture,
- b. the Executive Director of the Oklahoma Department of Commerce,
- c. Chair and ~~Vice-Chair~~ Vice-chair of the Agriculture Committee of the House of Representatives,
- d. Chair and ~~Vice-Chair~~ Vice-chair of the Agriculture Committee of the State Senate,
- e. the Chair and ~~Vice-Chair~~ Vice-chair of the Economic Development Committee of the Oklahoma House of Representatives,
- f. the Chair and ~~Vice-Chair~~ Vice-chair of the Economic Development Committee of the State Senate, and
- g. the Chair of the Oklahoma State Chamber of Commerce and Associated Industries;

2. In addition to the members specified in paragraph 1 of this subsection, the Council shall consist of the following:

- a. the Governor shall appoint six members as follows:

- (1) a representative of the Oklahoma wheat industry,  
from a list submitted by statewide wheat producer  
associations,
- (2) a representative of the Oklahoma cattle industry,  
from a list submitted by statewide Oklahoma  
cattlemen's producer associations,
- (3) a representative of the Oklahoma pork producers  
submitted by statewide pork producer  
associations,
- (4) a representative of the Oklahoma food processing  
industry,
- (5) a representative of a state financial institution  
with experience in international finance, and
- (6) one member from the public at large,

b. the Speaker of the House of Representatives shall  
appoint five members as follows:

- (1) a representative of the Oklahoma grain and seed  
industry,
- (2) a representative of the Oklahoma poultry  
producers,
- (3) a representative of the Oklahoma cotton  
producers,
- (4) a representative from the pure breed livestock  
industry, and
- (5) one member from the public at large,

c. the Pro Tempore of the Senate shall appoint five  
members as follows:

- (1) a representative from the Oklahoma nursery  
industry,
- (2) a representative from the Oklahoma soybean  
producers,

- (3) a representative from the Oklahoma peanut producers,
- (4) a specialized genetic expert, and
- (5) a member from the public at large.

C. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through four (4) years so that only one term expires each calendar year. Each of the first members appointed from the public at large shall serve a term of three (3) years. Subsequent appointments shall be for four-year terms.

D. All appointees to the Council shall be selected for outstanding knowledge and leadership in their fields.

E. No appointed member may serve more than two consecutive full terms of office on the Oklahoma International Trade Development Council.

F. Any vacancy in the appointive membership of the Oklahoma International Trade Development Council shall be filled for the unexpired term in the same manner as the original appointment.

G. The ~~chairman~~ Chair of the Oklahoma International Trade Development Council shall be elected annually from among the private sector members. A ~~vice-chairman~~ Vice-chair shall be elected annually from among all the members.

H. The Oklahoma International Trade Development Council shall meet at least ~~six times annually with time lapse between meetings not to exceed sixty (60) days~~ quarterly each year, and at other times upon the call of the Governor.

I. The Oklahoma International Trade Development Council shall be managed by the State Department of Agriculture who is authorized to contract for services with any person to accomplish the purposes of the Oklahoma International Trade Development Act.

J. Nonlegislative members of the Oklahoma International Trade Development Council shall be reimbursed for actual and necessary

travel expenses in performing their duties as members of the Oklahoma International Trade Development Council. Legislative members of the Council shall be reimbursed as provided in Section 456 of Title 74 of the Oklahoma Statutes.

K. In making appointments to the board of directors of the Oklahoma International Trade Development Council, appropriate consideration shall be given to representation upon the Council by race, gender, and geographical area.

SECTION 7. This act shall become effective November 1, 2001.

48-1-7281          KSM          6/12/15