

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2110

By: Covey

COMMITTEE SUBSTITUTE

An Act relating to agriculture; making milk the official state beverage; amending 2 O.S. 2001, Sections 1-3, 2-4, 2-27, 7-408, 8-85.13, 10-73, 10-77, 10-81 and 16-63, which relate to the Oklahoma Agricultural Code; changing name of the Department of Agriculture; providing for change of name; adding to powers and duties of the State Board of Agriculture; expanding use of the Department of Agriculture State Indemnity Special Fund; modifying expenditure procedures; making certain milk hauler/sampler permits effective for two-year period; providing for purpose of certain section; removing and adding certain definitions relating to anhydrous ammonia equipment; adding to actions constituting a felony; adding pipelines; requiring certain safety information on certain egg container labels; modifying certain violations; requiring certain information on egg containers; modifying egg dealers, egg packers and processor licenses; modifying certain inspection fee stamps; modifying certain permit requirements and processes; modifying certain audit requirements; modifying inspection requirements; making certain actions relating to timber unlawful; providing for certain presumption; defining certain acts; creating the Animal Disease Outbreak Temporary Emergency Act; providing procedures for emergency controls; providing certain exemptions; providing for emergency declaration; providing for contents; authorizing for certain electronically held board meetings; requiring certain conditions and compliance; providing for creation of quarantine zones of control; requiring certain testings; providing requirements for establishing zones; providing for issuance of orders; requiring certain determinations; providing procedures; requiring certain time periods; requiring certain acknowledgment forms; requiring certain agreements; authorizing appeals; providing for hearings; authorizing certain court hearings; authorizing continuation of certain restrictions; requiring notice; providing for certain rights; providing for court orders; providing for and making certain actions a violation; authorizing certain actions for suppressing and eradicating certain diseases; authorizing certain orders; adding to powers and duties of the State Board of Agriculture; authorizing the Governor to take necessary emergency action; providing for appraisals of certain property; providing process and procedures; providing for

contents; requiring certain certifications and claims; authorizing temporary restraining orders; prohibiting certain collections; providing for certain protections for certain mortgage holders and contractors; providing procedures; defining terms; providing for codification; providing for noncodification; providing for recodification; and declaring an emergency.

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 98.7 of Title 25, unless there is created a duplication in numbering, reads as follows:

Milk is hereby designated and adopted as the official drink of the State of Oklahoma.

SECTION 2. AMENDATORY 2 O.S. 2001, Section 1-3, is amended to read as follows:

Section 1-3. For the purposes of the Oklahoma Agricultural Code, unless the context indicates otherwise:

1. "Authorized agent" means a person who has been authorized by the State Board of Agriculture to act on behalf of the Board in making investigations, inspections, performing other services, or doing any particular act or acts which have been vested by the Oklahoma Agricultural Code in the Board. A written or printed commission signed by the President of the Board shall be proof that the holder has lawful authority to act on behalf of the Board in implementing the Oklahoma Agricultural Code;

2. "Board" means the State Board of Agriculture;

3. "Code" means the Oklahoma Agricultural Code;

4. "Department" means the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry and its employees, officers, and divisions. Whenever the name "Department of Agriculture" appears in any law, contract or other document, it shall be deemed to refer to the Oklahoma Department of Agriculture, Food, and Forestry;

5. "Director" means the Director of a division established in the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry;

6. "License" means a written document issued by the Board granting authority to a person to engage in a business, occupation, or activity;

7. "Livestock" or "animals" means any cattle, bison, horses, sheep, goats, asses, mules, swine, and chickens, turkeys, and other domesticated fowl, and any animal or bird in captivity;

8. "Permit" means a written document issued by the Board giving consent for a person to engage in an activity;

9. "Person" means the state, any municipality, political subdivision, institution, individual, public or private corporation, partnership, or other legal entity;

10. "President" means the President of the State Board of Agriculture. The President of the State Board of Agriculture shall also be designated as the Commissioner of Agriculture;

11. "Producer" means any person planting, raising, growing, or harvesting agricultural products;

12. "Quarantine" means a written document issued by the Board to restrict the movement of animals, birds, plants, or agricultural commodities into or out of a specified area for the control or prevention of diseases or pests; and

13. "Stop sale order" or "stop use order" means a written or printed order signed by the President or authorized agent of the Board, prohibiting the sale, offering for sale, exposure for sale, or use of any agricultural product, article, device, service, or commodity covered by the Oklahoma Agricultural Code.

SECTION 3. AMENDATORY 2 O.S. 2001, Section 2-4, is amended to read as follows:

Section 2-4. A. 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~~ Oklahoma Department of Agriculture, Food, and Forestry;

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 Oklahoma Department of Agriculture, Food, and Forestry;

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;

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; and

30. Accept upon behalf of the Department any gift or donation of property, including but not limited to monetary gifts.

B. 1. If upon inspection or investigation, or whenever the ~~State Oklahoma~~ Department of Agriculture, Food, and Forestry 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 Oklahoma~~ Department of Agriculture, Food, and Forestry, 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 4. AMENDATORY 2 O.S. 2001, Section 2-27, is amended to read as follows:

Section 2-27. A. The Department of Agriculture State Indemnity Special Fund is hereby created in the State Treasury for the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry.

B. The fund shall consist of any monies appropriated to the Department specifically for transfer to the fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall be under the control and management of the administrative authority of the Department.

C. Expenditures from the fund shall be pursuant to the laws of this state and in accordance with rules promulgated by the State Board of Agriculture.

D. The fund shall be for the purpose of funding state indemnity payments to owners of ~~cattle~~ livestock destroyed ~~due to brucellosis~~ or disposed of pursuant to Section 6-3 of this title and to support livestock disease prevention and control programs within the designated division of the Department.

E. All expenditures shall be approved by the State Veterinarian and presented to the Board. Warrants for expenditures from the fund shall be based on claims signed by an authorized employee of the Department ~~and approved for payment by the Director of State Finance~~.

SECTION 5. AMENDATORY 2 O.S. 2001, Section 7-408, is amended to read as follows:

Section 7-408. A. No person shall produce, haul, process, or distribute Grade A raw milk for pasteurization or milk and milk

products, or hold himself or herself out as a milk producer, transporter, processor, or distributor or represent a dairy farm, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plant, receiving or transfer station, milk distribution center, or milk or milk products as "Grade A" unless that person possesses an appropriate and valid permit for the particular premises or facilities concerned.

B. Applications for permits for dairy farms, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plants, receiving or transfer stations, and milk distribution centers shall be submitted on a form approved by the Commissioner of Agriculture. Each applicant shall allow the Commissioner to inspect the applicable premises, records, and facilities. The Commissioner shall inspect premises and facilities and issue the permit applied for when compliance is confirmed. The permits shall be issued without a fee or expiration date ~~and~~ except for the bulk milk hauler/sampler and milk tank truck driver permit that shall be effective for two (2) years. Permits shall not be transferable among persons or places.

C. The Commissioner may issue permits, which shall be contingent upon continuing compliance, to facilities located outside this state which comply with the provisions of subsection B of Section 7-406 of this title. If an out-of-state facility requests, or if the facility is not certified, then the cost for all inspections necessary pursuant to this subsection shall be paid by those facilities and the amounts paid shall be deposited in the State Department of Agriculture Revolving Fund.

D. The Commissioner shall issue permits and establish classifications for milk and milk products.

SECTION 6. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The purpose of Section 7 of this act is to combat the theft of anhydrous ammonia (fertilizer) for use in the creation of methamphetamines or perpetuating a terrorist attack and other unlawful actions as specified by Section 7 of this act.

SECTION 7. AMENDATORY 2 O.S. 2001, Section 8-85.13, is amended to read as follows:

Section 8-85.13 A. 1. Except for necessary repairs to anhydrous ammonia equipment conducted by a registered distributor, supplier, dealer, or the owner of the equipment or designee of the owner, it shall be unlawful for any person to tamper with or attempt to tamper with any anhydrous ammonia pipeline, equipment, container, or storage device.

2. Any person violating this provision shall, upon conviction thereof, be guilty of a felony punishable by imprisonment in the State Penitentiary for a term not exceeding five (5) years, by a fine of not more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

~~B. "Tampering" for purposes of this section means any unauthorized adjustment, opening, removal, transfer, alteration, change, or interference with any part of the anhydrous ammonia equipment, container, or storage device.~~

~~C.~~ Theft or attempted theft of any amount of anhydrous ammonia shall be a felony punishable, upon conviction thereof, by imprisonment for not less than two (2) years nor more than ten (10) years in the State Penitentiary, by a fine not exceeding ~~Ten Thousand Dollars (\$10,000.00)~~ Twenty-five Thousand Dollars (\$25,000.00), or by both such fine and imprisonment.

~~D.~~ C. Any person who commits or attempts theft of anhydrous ammonia or who unlawfully tampers with or attempts to unlawfully tamper with any anhydrous ammonia pipeline, equipment, container, or storage device, and as a result of unlawful conduct is injured shall

be barred from commencing any civil action against the following persons:

1. Any owners of anhydrous ammonia or anhydrous ammonia equipment, containers, or storage devices;
2. Any persons responsible for the installation, repair, or operation of anhydrous ammonia equipment, containers, or storage devices;
3. Any person lawfully selling, transporting, transferring, or delivering anhydrous ammonia or anhydrous ammonia equipment, containers, or storage devices;
4. Any persons purchasing or storing anhydrous ammonia for agricultural purposes; or
5. Any persons operating anhydrous ammonia equipment or using anhydrous ammonia for agricultural purposes.

D. For purposes of this section, "tampering" means any unauthorized adjustment, opening, removal, transfer, alteration, change, or interference with any part of the anhydrous ammonia pipeline, equipment, container, or storage device.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-72.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

Shell eggs that have not been specifically processed to destroy all live salmonellae before distribution to the consumer shall require that the retail establishments include the following safe handling statement on the label of the shell egg container:

SAFE HANDLING INSTRUCTION: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm and cook foods containing eggs thoroughly.

SECTION 9. AMENDATORY 2 O.S. 2001, Section 10-73, is amended to read as follows:

Section 10-73. A. Eggs at the retail level shall be refrigerated at an ambient temperature of forty-five degrees (45°) Fahrenheit or lower. Eggs shall not be allowed to freeze.

B. Eggs stored at the packer's facility that are intended for sale to the consumer shall be held at a temperature in accordance with the USDA standards.

C. Except as provided in this section, eggs intended for sale to the consumer shall be stored and transported under refrigeration at an ambient temperature of forty-five degrees (45°) Fahrenheit or lower. ~~The State Board of Agriculture may grant an exception to the refrigeration requirement for transportation by smaller packers delivering within a fifty-mile radius~~ All containers of shell eggs packed for the purpose of resale to the consumer are to be labeled with the following statement: "Keep refrigerated at or below 45 degrees Fahrenheit". This should be done at time of grading.

D. 1. Eggs being transported or held at retail or dealer locations without proper refrigeration may be destroyed or shipped to an egg processor.

2. Destruction or shipment of eggs as required by this subsection shall be under the supervision of an authorized agent of the Board.

3. Packers shall not be responsible for the interior quality of eggs if all handling procedures in this section are not followed by all parties after the sale of the eggs by the packer.

E. At retail locations a sign furnished by the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry stating the proper procedure for storage and handling of eggs shall be permanently displayed at a location easily seen by egg-handling employees.

SECTION 10. AMENDATORY 2 O.S. 2001, Section 10-77, is amended to read as follows:

Section 10-77. It shall be a violation of this subarticle for any person other than those exempted in Section 10-77 of the Oklahoma Agricultural Code:

1. To sell, display for sale, or offer for sale eggs below the quality of "Oklahoma Grade B" to consumers;

2. To sell, display for sale, or offer for sale eggs to consumers unless the ~~container or label attached to the~~ container shows the pack-date and indicates the correct size and grade in boldface legible letters with no other descriptive wording. Descriptive wording is permitted if the eggs are not below the quality of "Oklahoma Grade A" and the descriptive wording is not false or misleading;

3. To sell, display for sale, or offer for sale eggs to consumers unless the container ~~indicates the name and address of the packer or processor who processed, graded, marked, or labeled the eggs. If any egg packer or processor operates with a permit, the packer's or processor's permit number shall also appear on the container~~ exterior bears one of the following acceptable methods:

- a. USDA plant number assigned by USDA, AMS while plant is under contract for official grading service,
- b. Oklahoma state permit number as assigned by the Oklahoma Department of Agriculture, Food, and Forestry,
- c. packer name with complete address of the location where eggs were packed, and
- d. USDA shell egg surveillance registrant number including state code and handler code. Example: 05 0267 NOTE: The shell egg surveillance registrant number contains a state code, county code, and handler code. Do not include the county code, only state and handler code;

4. To falsely or deceptively label, mark, advertise, or invoice eggs;

5. To advertise eggs for sale with any descriptive wording, except official grade designations, unless the eggs meet the quality requirements of "Oklahoma Grade A" or "Oklahoma Grade AA", or to state a price when advertising eggs without also designating the full, correct, and unabbreviated grade and size;

6. To store graded eggs at a higher ambient temperature than specified in Section 10-73 of this title, including "Grade B" and above, which are in the person's possession for sale or resale to consumers;

7. To sell, display for sale, or offer for sale eggs to consumers in a container ~~which~~ that does not bear ~~an inspection fee stamp issued by the State Board of Agriculture or~~ the permit number of the packer or processor showing that the inspection fee has been paid;

8. To use ~~an inspection fee stamp more than one time, to use a counterfeit inspection fee stamp, or to use a~~ retail egg container ~~bearing a packer's license number~~ more than one time;

9. To do business as a packer, processor, retailer, or dealer of eggs without first obtaining a license from the Board;

10. To fail or neglect to pay any license or inspection fee, to fail or neglect to file the monthly inspection fee report when required, or to file a false monthly report of the quantity of eggs packed for sale during any month;

11. To refuse any authorized agent of the Board entry to any premises or deny access to records or product when conducting inspections, investigations, or audits made pursuant to this subarticle;

12. To sell, display for sale, or offer for sale eggs to consumers below Grade "A" with any descriptive wording other than

the correct grade as provided by the United States Department of Agriculture standards for shell eggs; or

13. For any packer or dealer to sell eggs intended for sale in Oklahoma to another packer, dealer, or retailer who does not hold an appropriate Oklahoma license.

SECTION 11. AMENDATORY 2 O.S. 2001, Section 10-81, is amended to read as follows:

Section 10-81. A. No person shall be issued a license to handle eggs commercially unless an application has been properly filed on a form provided by the State Board of Agriculture, and the annual license fee has been paid. The license shall not be transferable.

1. A state egg retailer's license shall be Ten Dollars (\$10.00).

2. ~~State~~ A state egg dealer's license fees for dealers shall be determined on the basis of cases of eggs sold in the shell in any one (1) month:

- a. 1 to 500 cases \$ 5.00
- b. 501 to 2,000 cases \$12.50
- c. 2,001 to 5,000 cases \$25.00
- d. more than 5,000 cases \$50.00.

3. An egg packer or processor license shall be issued without charge provided an inspection fee is paid on a minimum of six thousand (6,000) dozen eggs or two hundred (200) cases annually.

4. Each license ~~except a packer or processor license~~ shall expire annually on the last day of the anniversary month in which the license was issued. The Board shall adjust the anniversary date to provide for efficient administration. ~~A packer or processor license shall be issued for a period of five (5) years.~~

5. Each location shall require a separate license.

6. Packers residing within the state who package eggs intended solely for distribution sale or resale outside the state shall

obtain a license except the packer shall be exempt from all fee and reporting requirements. A packer shall be subject to all inspections, record keeping, and audits.

7. If a license expires and is not renewed within thirty (30) days of its expiration, the applicant for renewal shall pay a penalty. The penalty shall be an amount equal and in addition to the license fee.

B. Each packer or processor shall pay an inspection fee of three (3) mills per dozen on all eggs that are processed, graded, packed, or repacked which are intended for sale to consumers in this state.

~~1. Inspection fee stamps shall be provided by the Board upon request. The cost shall be the per dozen fee rate and costs for printing, mailing, and handling the stamps.~~

~~2. When used, inspection fee stamps shall serve as the label indicating grade of the egg, size of the egg, and the container size.~~

~~3. Packers whose monthly production is six thousand (6,000) dozen or more may apply on a form prescribed by the State Board of Agriculture, for a permit to report and pay the fees monthly, in lieu of inspection fee stamps.~~

~~4. All inspection fees shall be paid through fee stamps or monthly reports.~~

~~5.~~ There shall be a nine-cent (\$0.09) per case inspection fee on all egg products sold or shipped into the state.

~~6.~~ 2. All egg products processors shall pay the inspection fees on all processed eggs sold or used for human consumption in the state based on the following formula:

- a. thirty-six (36) pounds of frozen or liquid eggs equals a ~~thirty (30) dozen~~ thirty-dozen case of shell eggs.1
- b. nine (9) pounds of dried eggs equals a ~~thirty (30) dozen~~ thirty-dozen case of shell eggs.1

- c. two (2) containers of boiled eggs weighing twenty (20) to twenty-five (25) pounds each equals a ~~thirty (30) dozen~~ thirty-dozen case of shell eggs, and
- d. fifty (50) pounds of cooked or diced eggs equals a ~~thirty (30) dozen~~ thirty-dozen case of shell eggs.

C. 1. Packers, processors and dealers shall keep records of eggs graded, packed, distributed, or sold as required by the State Board of Agriculture.

2. Records shall be maintained for three (3) years. The Board shall have access to all required records of any applicant for a license.

3. The Board shall audit the records of packers who report and pay monthly fees at least once ~~per year~~ every three (3) years. The packer shall reimburse to the Board for travel expenses incurred in conducting the required annual audit. The costs of audits other than the required annual audit shall be paid by the Board.

D. 1. Packers paying inspection fees on a monthly basis shall prepare a report of all fees due as of the last day of each month. The report and fee payment shall be due no later than the fifteenth day of the following month.

2. Reports shall contain the quantity of eggs packed and intended for sale or resale in the state, the names of the dealers for whom the eggs were packed or to whom the eggs were sold or delivered, and all other information required by the Board.

3. Reports provided to the Board pursuant to this section shall not be public information and may be used only for administration of this article. Reports may be used for statistical information if specific packers are not identified by name or implication.

4. If a report is not filed and the fees are not paid within thirty (30) days of the due date, the packer shall pay a penalty of two percent (2%) of the fees due for each additional day the fees are late. If the report is not filed and the fees are not paid

within sixty (60) days of the due date, the amount of the penalty shall be an amount equal and in addition to the amount of the fees due.

SECTION 12. AMENDATORY 2 O.S. 2001, Section 16-63, is amended to read as follows:

Section 16-63. A. It shall be unlawful for any person willingly, knowingly, or fraudulently to represent, make, issue, deliver, use or submit, or to participate in representing, making, issuing, delivering, using, or submitting any fictitious, false or fraudulent offer, agreement, contract, or other instrument concerning:

1. The sale of timber or the right to cut or harvest or remove timber from a site or from real property not owned or leased by that person; or

2. The sale of timber or the right to cut or harvest or remove timber that is not owned by that person.

B. It shall be unlawful for a timber owner to, knowingly or with intent to defraud, fail to pay in a timely manner the applicable owners the full price of all the purchased timber.

1. A timber owner acts with intent to defraud if the timber owner disperses, uses, or diverts money with the intent to deprive an owner of the purchase money.

2. A timber owner is presumed to have acted with intent to defraud if the timber owner does not pay all applicable owners for the purchase price of the timber not later than forty-five (45) calendar days after the date the timber owner collects money for the timber.

C. Any person convicted of violating the provisions of this section shall be guilty of:

1. A felony if the timber to be sold or right to cut or harvest the timber pursuant to subsection A of this section is valued at more than Two Hundred Dollars (\$200.00). Upon conviction the person

shall be subject to the imposition of a fine of not more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or to both; or

2. A misdemeanor if the timber to be sold or right to cut or harvest the timber pursuant to subsection A of this section is valued at Two Hundred Dollars (\$200.00) or less. Upon conviction the person shall be subject to the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail not to exceed one (1) year, or to both.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-400 of Title 2, unless there is created a duplication in numbering, reads as follows:

Subarticle 4 of Article 6 of the Oklahoma Agricultural Code shall be known and may be cited as the "Animal Disease Outbreak Temporary Emergency Act".

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-401 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. If the State Board of Agriculture determines that a confirmed case of an animal disease in this state presents a substantial and imminent threat to the state's domestic animal population and/or to protect the public welfare, the Board shall certify the case to the Governor.

2. After receiving certification from the Board, the Governor may declare an emergency pursuant to this section for purposes of allowing the Board to establish quarantine zones of control to protect the health of domestic animals and the public welfare from disease. The Governor may declare an emergency pursuant to this section without declaring an emergency under the Oklahoma Civil Defense and Emergency Resources Management Act.

3. A declaration pursuant to this section:

- a. may specify that it applies to all or certain units of the state or local government,
- b. must specify the time period for which it applies, and
- c. must be filed with the Secretary of State.

4. The provisions of this subsection are in addition to and do not limit authority granted to the Governor or local government officials by other provisions of law.

B. 1. The Board may meet by electronic means without violating state open meeting laws for the purpose of declaring that a highly suspicious case of a disease in this state presents a substantial and imminent threat to the state's domestic animal population.

2. If the Board meets by electronic means for this purpose, it shall comply with the emergency meeting notice provisions of Section 311 of Title 25 of the Oklahoma Statutes and, to the fullest extent possible, provide public and media access to the meeting.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-402 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. Upon an emergency declaration by the Governor pursuant to the Animal Disease Outbreak Temporary Emergency Act, the State Veterinarian may establish quarantine zones of control in any area where a specific animal determined to be infected or is likely to be infected with the disease be examined by a veterinarian authorized by the Board or the State Veterinarian. This determination shall be based on an actual veterinary examination or laboratory testing.

2. Quarantine zones of control shall be the smallest size practicable to prevent the spread of the disease and must exist for the shortest duration consistent with effective disease control. A quarantine zone of control shall not extend beyond a radius of three (3) miles from an animal determined to be infected or is likely to be infected with the disease, unless the Board orders that control

of a specific disease requires a larger quarantine zone of control based upon epidemiological evidence.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-403 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture may issue orders restricting the movement of persons, livestock, machinery, and personal property out of quarantine zones. The President of the Board, the State Veterinarian, or any licensed veterinarian designated by the Board may issue the orders. Any such order shall be issued upon a determination that reasonable cause exists to believe that the movement of persons or personal property out of a quarantine zone will reasonably transport a dangerous, infectious, or communicable disease outside of the quarantine zone.

B. An order restricting the movement of persons, livestock, machinery, and personal property out of quarantine zones:

1. Shall be served upon any person subject to the order;
2. Shall be limited to the greatest extent possible consistent with the paramount disease control objectives as determined by the Board;
3. May be served on any day at any time; and
4. Must include a notice of the person's rights pursuant to this section, including, but not limited to, the ability of the person to enter into an agreement to abide by disease control measures under subsection C of this section and the right to request a court hearing under paragraph D of this section.

C. No person may be restricted by an order, issued pursuant to the Animal Disease Outbreak Temporary Emergency Act for longer than seventy-two (72) hours, if the person agrees to abide by the disease control measures established by the Board. Such person shall sign an acknowledgment form prepared by the Board evidencing the person's

agreement to abide by the disease control measures established by the Board.

D. Any person whose movements are restricted by an order pursuant to the Animal Disease Outbreak Temporary Emergency Act may seek a district court hearing on the order at any time after it is served on the person. The hearing may be held by electronic means as soon as possible. The subject of the order may:

1. Contest imposition of the order on grounds that it is an abuse of the Board's discretion pursuant to the Animal Disease Outbreak Temporary Emergency Act; or

2. Seek a variance from the order to allow movement of a person inconsistent with the order, upon a showing that the person would otherwise suffer irreparable harm.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-404 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. If the State Board of Agriculture determines that a person has not or is not reasonably likely to abide by the disease control measures established by the Board, the Board may request a court hearing to determine if the emergency temporary restrictions should continue. The court shall schedule the hearing as expeditiously as possible. When the Board requests a court hearing under this section, restrictions pursuant to Section 16 of this act shall continue to apply to the person until the court has held the temporary emergency restrictions hearing and issues an order either continuing the emergency disease control measures established by the Board or removing the emergency disease control measures.

B. If the Board requests a court hearing pursuant to this section, notice of the hearing must be served upon any person restricted at least twenty-four (24) hours before the hearing.

C. The notice must contain the following information:

1. The time, date, and place of the hearing;

2. The grounds and underlying facts upon which continued restrictions are sought;

3. The person's right to appear by electronic means at the hearing and the right to have a representative appear in person at the hearing;

4. The person's right to present and cross-examine witnesses; and

5. The person's right to counsel, including the right, if the person is indigent, to representation by counsel designated by the court or county of venue.

D. 1. The court may order the continued restriction on the movement of the person if it finds, by a preponderance of the evidence, that travel outside of the quarantine zone by the person would pose an imminent threat of transporting a dangerous, infectious, or communicable disease outside of the boundaries of the quarantine zone.

2. If the person agrees to sign and comply with the acknowledgment form referred to in Section 16 of this act, the temporary restrictions shall not continue longer than thirty (30) days.

3. If the person refuses to sign and comply with the acknowledgment form, the temporary restrictions shall continue for a longer time as specified by the court. Refusal by the person to sign and comply with the acknowledgment form constitutes a knowing violation of the Animal Disease Outbreak Temporary Emergency Act.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-405 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. When it is determined by the State Board of Agriculture that it is necessary to eradicate any dangerous, infectious, communicable disease among domestic animals in the state, the presence of which constitutes an emergency declared pursuant to the Animal Disease

Outbreak Temporary Emergency Act or declared by the United States Department of Agriculture, the Board may take reasonable and necessary steps to suppress and eradicate the disease. The Board may cooperate with the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture, federally recognized Indian tribes, state or local government agencies, or any other private or public entity in the suppression and eradication of the disease.

B. When an emergency has been declared, the Board or the State Veterinarian may order:

1. Animals destroyed which are infected with the disease, exposed to the disease, or are highly susceptible to exposure to the disease because of proximity to diseased animals affected by the disease;

2. Personal property to be destroyed in order to remove the infection;

3. The cleaning and disinfection of any premises, exposed to the disease, or are highly susceptible to exposure to the disease because of proximity to diseased animals affected by the disease; and

4. Any act and incur any other expense reasonably necessary to destroy or suppress the disease.

C. The Governor, at the request of the Board, may take any other emergency action necessary to ensure the health of the public and the state livestock industry.

D. 1. The Board may:

a. accept on behalf of the state, the regulations adopted by the Animal and Plant Health Inspection Service of the United States Department of Agriculture pertaining to the disease authorized under an act of Congress, or the portion of the regulations deemed necessary, suitable, or applicable, and

- b. cooperate with the Animal and Plant Health Inspection Service of the United States Department of Agriculture, in the enforcement of such regulations.

2. Alternatively, the Board may follow the procedure only as to quarantine, inspection, condemnation, appraisal, compensation, destruction, burial of animals, disinfection, or other acts the Board considers reasonably necessary for the destruction or suppression of the disease as adopted by the Board.

E. 1. For the purpose of determining compensation as provided by subsection F of this section, appraisals of animals or personal property destroyed pursuant to the Animal Disease Outbreak Temporary Emergency Act must be made by a Board-approved appraiser or by an appraisal committee consisting of an appraiser representing the Board, an appraiser representing the Animal and Plant Health Inspection Service of the United States Department of Agriculture, and an appraiser representing the owner. When, in the judgment of the Board or the State Veterinarian, the animals to be killed or personal property to be destroyed poses a disease threat, appraisals may be conducted after the animals are killed based on documents, testimony, or other relevant evidence.

3. Appraisals must be:

- a. in writing and signed by the appraisers or appraisal committee, and
- b. made at the fair market value of all animals and personal property appraised, unless otherwise provided by applicable federal law or regulation when compensation is paid by federal funds.

F. Upon destruction of animals or personal property, burial or other disposition of the carcasses of the animals, and the completion of the cleaning and disinfection of the premises in accordance with the provisions of the Animal Disease Outbreak Temporary Emergency Act, the Board or its authorized agent shall

certify the appraisal to the Director of State Finance. If funds are available for this purpose, the Director shall then file a claim with the State Treasurer for a warrant in the amount payable to the owner, excluding any compensation received by the owner from other sources.

G. A person who believes that the Board's certified appraisal is not sufficient may apply for a temporary restraining order or injunctive relief from the appropriate district court.

H. 1. No person or other legal entity may initiate any proceeding to collect a debt from the owner relating to animals or personal property destroyed pursuant to this section, until the owner has received compensation under paragraph F of this section.

2. If a person or other legal entity refuses to comply with this subsection after being informed that the owner qualifies for relief pursuant to the Animal Disease Outbreak Temporary Emergency Act, the owner may apply to the district court in the county in which the owner resides for a court order directing the person or other legal entity to comply with this subsection and to reimburse the owner for reasonable attorney fees incurred in obtaining the court order.

3. The provisions of this subsection shall not affect the validity of a mortgage foreclosure, contract for deed cancellation or other proceeding involving the title to real property, unless the owner records in the office of the county clerk where the real property is located, prior to completion of the proceeding to collect the debt, a certified copy of the court order determining that the owner qualifies for relief pursuant to the Animal Disease Outbreak Temporary Emergency Act, and the legal description of the real property.

4. a. For purposes of proceedings involving title to real property pursuant to paragraph 3 of this subsection, the court order must provide that the order expires

ninety (90) days after the date of application for the court order, unless the court extends the court order prior to that date for good cause shown.

- b. A certified copy of any extension of the court order must be filed in the office of the county clerk in order to affect the validity of a proceeding affecting the title to real property.

5. For purposes of this subsection:

- a. "completion of a proceeding to collect a debt" means, in the case of a mortgage foreclosure or of a foreclosure of any other lien on real property, the filing or recording of the sheriff's certificate of sale, and, in the case of a contract for deed cancellation the end of the cancellation period provided in that law, and
- b. "proceeding to collect a debt" includes foreclosure, repossession, garnishment, levy, contract for deed cancellation, an action to obtain a court judgment, a proceeding to collect real estate taxes or special assessments, eviction, and any other in-court and out-of-court proceedings to collect a debt. The term shall not include sending bills or other routine communications to the owner.

SECTION 19. RECODIFICATION 2 O.S. 2001, Section 8-85.13, as amended by Section 6 of this act, shall be recodified as Section 11-10 of Title 2 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 20. 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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