

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL 920

By: Martin of the Senate

and

Roan, Hilliard and Matlock  
of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to agriculture; requiring certain persons engaged in the private commercial production of certain fish to procure a license; setting fee; stating parameters for renewal of license; providing for construction; prohibiting issuance of license for certain aquatic species; updating statutory reference; authorizing the Department of Agriculture, Food and Forestry to provide certain technical assistance; authorizing fees; requiring certain fish to be confined to lands and waters of the propagator; providing for the gathering or impounding of certain species; prohibiting the sale or attempted sale of certain fish; prohibiting propagators from receiving free species furnished by the state or federal government; authorizing the Department to inspect certain operations; stating conditions for removal or treatment of certain species; requiring propagators to provide certain information as requested by the Department; stating parameters for transportation of certain fish; requiring decals for hauling units; stating requirements for application of certain licenses; stating parameters for license usage; stating violations; setting penalties and fines; authorizing revocation of certain license by the Department; setting penalty for violation of this act; stating violations of the Oklahoma Wildlife Conservation Code be under the jurisdiction of the Oklahoma Wildlife Conservation Commission; repealing 29 O.S. 2001, Sections 4-102, 6-101, 6-102, 6-103, 6-104 and 6-105, which relate to aquaculture, aquaculture license, technical assistance, confinement and separation from wild species inspections and reporting decals and penalties; 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 6-311 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. No person may engage in the private commercial production of catfish, minnows, fingerlings, fish, frogs, or other aquatic species without having first procured a license from the State Board of Agriculture.

B. The initial fee for a license issued pursuant to the provisions of this section, and the annual fee for the renewal of such license, shall be Ten Dollars (\$10.00).

C. All licenses may be renewed so long as the applicant remains in operation, in the production of a particular aquatic species and in compliance with the provisions of this act and rules promulgated thereto.

D. Nothing in this act shall be construed to authorize the importation or exportation of minnows and other fish species that are subject to the provisions of Sections 4-105, 4-115, and 7-602 of Title 29 of the Oklahoma Statutes.

E. No license shall be issued by the Department of Agriculture, Food, and Forestry pursuant to the provisions of this section for any restricted aquatic species designated by rules promulgated by the Oklahoma Wildlife Conservation Commission.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-312 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Department of Agriculture, Food and Forestry may provide technical assistance to persons legally engaged in the private commercial production of catfish, minnows, fingerlings, fish, frogs and other aquatic species pursuant to the provisions of this act. Such technical assistance shall be limited to recommendations and in no instance shall the Department provide any assistance or any funds to effectuate or implement such recommendations.

B. Reasonable fees, as determined by the State Board of Agriculture, Food and Forestry, may be charged by the Department for salary, expenses, and supplies of Department employees providing technical assistance.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-313 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. All catfish, minnows, fingerlings, fish, frogs, and other aquatic species which are legally produced, pursuant to the provisions of this act, shall be confined to the lands and waters of the licensee in such a manner so as to prohibit:

1. Contact with wild fish or other aquatic species in public waters; and

2. Such wild fish or other aquatic species in public waters from becoming a part of the commercial production.

B. 1. Except as otherwise provided by this subsection, the Department of Agriculture, Food and Forestry shall not restrict the manner in which persons, licensed pursuant to this act, gather or impound aquatic species raised within the impoundments in their commercial operations.

2. No person shall sell or attempt to sell game fish and/or paddlefish obtained from public waters that have been commingled with privately produced fish subject to the provisions of this act.

C. No licensee may receive, free of charge, any catfish, minnow, fingerling, fish, frog or other aquatic species from the state or federal government.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-314 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. a. Any duly authorized representative of the Department of Agriculture, Food and Forestry shall have the power to inspect, at reasonable times, records, facilities

and operations of any person engaging in the commercial production of catfish, minnows, fingerlings, fish, frogs and other aquatic species in order to determine whether or not diseased species, that could cause such species to contaminate wild fish, exist in the impoundments.

- b. If diseased conditions exist, the Department of Agriculture, Food and Forestry may require the removal or the treatment of the diseased species to prevent contamination of wild fish.

2. Any duly authorized representative of the Department of Wildlife Conservation shall have the power to inspect, at reasonable times, records, facilities and operations of any person engaging in the commercial production of catfish, minnows, fingerlings, fish, frogs and other aquatic species in order to determine if the commercial operation is in compliance with the Oklahoma Wildlife Conservation Code and rules promulgated thereto. Any person found or alleged to be in violation of the Oklahoma Wildlife Conservation Code or rules promulgated thereto shall be subject to the provisions of the Oklahoma Wildlife Code.

B. A licensee shall be present during any inspection authorized pursuant to the provisions of this section. In addition, the licensee shall cooperate with the Department of Agriculture, Food and Forestry and the Department of Wildlife Conservation in performing such licensee's duties pursuant to the provisions of this act.

C. Any licensee subject to the provisions of this act shall submit to the Department of Agriculture, Food and Forestry an annual summary of the number of catfish, minnows, fingerlings, fish, frogs, and other aquatic species produced and marketed by the commercial operation and any other information as requested by the Department.

The summary shall be submitted to the Department at such time and in such manner as is required by the Department.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-315 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. Each vehicle used to transport private commercially produced catfish, minnows, fingerlings, fish, frogs or other aquatic species shall be marked conspicuously by decals bearing the inscription "Aquatic Culture".

2. The decals shall be located on each side of the hauling unit.

B. The decals shall be furnished by the Department of Agriculture, Food and Forestry at a reasonable cost per decal payable by the owner of the vehicle hauling the aquatic species.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-316 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. 1. All persons applying for a license to commercially produce catfish, minnows, fingerlings, fish, frogs or other aquatic species pursuant to the provisions of this act shall produce positive proof of:

- a. identification including, but not limited to, a valid Oklahoma driver license of the applicant,
- b. age, and
- c. residency.

2. It shall be unlawful for any person to make a false statement or to give any false information in order to acquire a license, pursuant to the provisions of this act.

B. Any license issued by the Department of Agriculture, Food and Forestry pursuant to this act shall contain the data required by subsection A of this section as well as the date and time of issuance of the license.

C. 1. All licenses issued by the Department pursuant to this act shall be nontransferable.

2. No person shall alter, change, lend or transfer any such license. No person shall use, loan or borrow a license which has not been issued to that person by the Department of Agriculture, Food and Forestry.

D. All licenses issued pursuant to this act shall terminate December 31 for the year issued.

E. The Department may issue a duplicate license at a reasonable cost for a commercial operation if such license is lost or destroyed.

F. 1. A license for engaging in a private commercial operation subject to the provisions of this act may be revoked for a period of not less than one (1) year upon the conviction of the licensee for violating any provision of this act or rules promulgated thereto by the Department of Agriculture, Food and Forestry in accordance with rules promulgated by the State Board of Agriculture, or by a court of competent jurisdiction.

2. For purposes of this subsection, a court conviction, a plea of guilty, a plea of nolo contendere, the imposition of a deferred or suspended sentence by a court, or forfeiture of bond shall be deemed a conviction.

3. Any person who has had a license to engage in private commercial operations pursuant to this act shall not be entitled to reapply for such license until the revocation period has expired or the person has obtained approval of the Department of Agriculture, Food and Forestry to reapply for the license.

4. It shall be unlawful for any person to engage in a private commercial operation subject to the provisions of this act after revocation of his or her license. Upon conviction of engaging in a commercial operation after revocation of a license, such person

shall not be entitled to obtain a license pursuant to this act for a two-year period after conviction.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-317 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person convicted of violating any of the provisions of this act shall be guilty of a misdemeanor.

B. Any violations of the Oklahoma Wildlife Conservation Code shall be under the jurisdiction of the Oklahoma Wildlife Conservation Commission.

SECTION 8. REPEALER 29 O.S. 2001, Sections 4-102, 6-101, 6-102, 6-103, 6-104 and 6-105, are hereby repealed.

SECTION 9. This act shall become effective November 1, 2002.

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