

ENROLLED SENATE
BILL NO. 360

By: Shurden and Reynolds of
the Senate

and

Smith (Dale) of the House

An Act relating to game and fish; amending 29 O.S. 2001, Sections 3-201, 4-110, as last amended by Section 1 of Enrolled House Bill 1663 of the 1st Session of the 49th Oklahoma Legislature, 4-111, 4-112, as last amended by Section 2 of Enrolled House Bill 1663 of the 1st Session of the 49th Oklahoma Legislature, 4-113 and 4-120, as amended by Sections 3 and 6 of Enrolled House Bill No. 1663 of the 1st Session of the 49th Oklahoma Legislature, which relate to departmental organization and license and permit requirements; removing certain enforcement requirement; modifying certain exemption; modifying fees for certain licenses; setting fees; updating statutory language; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 29 O.S. 2001, Section 3-201, is amended to read as follows:

Section 3-201. A. All things being equal, veterans of World War II, the Korean, the Vietnam and Persian Gulf Wars shall be appointed as game wardens when vacancies shall occur.

B. All persons appointed game wardens shall be and have the full powers of peace officers of the State of Oklahoma in the enforcement of the provisions of this Code. Game wardens shall have the authority to enforce all state laws on Department-owned or -managed lands. Game wardens shall also enforce all other laws of this state ~~when authorized by the Governor of the State of Oklahoma.~~ Moreover, game wardens specifically:

1. Are vested with the power and authority of sheriffs in making arrests for wildlife conservation violations and nonconservation-related crimes in cooperation with other law enforcement officers and agencies ~~as authorized by the Director and approved by the Governor of the State of Oklahoma;~~

2. May take into possession any and all protected wildlife, or any part thereof, killed, taken, shipped or had in possession

contrary to the law, such wildlife or parts thereof to be disposed of as may be determined by the Director 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 for the protection and propagation of wildlife, with the sanction of the prosecuting or district attorney of the county in which such proceedings are brought, and shall not be required to give security for costs;

4. May be an authorized agent of the Commission or Department under Section 3-202 of this title in addition to his or her duties as a game warden; and

5. May assist in enforcement of the state fire laws, upon request of the Department of Agriculture.

C. 1. Pursuant to the provisions of this subsection, a game warden may operate a vehicle owned or leased by the Department upon a roadway during the hours of darkness without lighted headlamps, clearance lamps, or other illuminating devices. As used in this paragraph, "roadway" shall include any street or highway in this state except an interstate highway, a limited access highway, a state trunk highway, or any street or highway within the limits of an incorporated area.

2. Pursuant to the provisions of this subsection, a game warden may operate a vessel upon any waters of this state during the hours of darkness without the illuminating devices required by Section 4207 of Title 63 of the Oklahoma Statutes.

3. A game warden may operate such vehicle or vessel without the illuminating devices specified in paragraphs 1 and 2 of this subsection only if such operation:

- a. is made in the performance of the duties of the game warden pursuant to the provisions of the Code, and
- b. (1) will aid in the accomplishment of a lawful arrest for any violation of the Oklahoma Wildlife Code or any rule or regulation promulgated thereto, or
(2) will aid in ascertaining whether a violation of the Oklahoma Wildlife Conservation Code or any rule or regulation promulgated thereto has been or is about to be committed.

D. Any person who refuses to stop a vehicle or boat when requested to do so by a game warden in the performance of the duties of such game warden is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).

E. Any game warden who solicits or accepts any bribe or money or other thing of value in connection with the performance of the duties entrusted to him shall be guilty of a felony and, upon

conviction, shall be sentenced to a term not less than two (2) years nor more than seven (7) years in the State Penitentiary and shall be summarily removed from office.

SECTION 2. AMENDATORY 29 O.S. 2001, Section 4-110, as last amended by Section 1 of Enrolled House Bill 1663 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 4-110. A. Except as otherwise provided in the Oklahoma Wildlife Conservation Code, no person shall fish, pursue, harass, catch, kill, take in any manner, use, have in possession, sell, or transport all or any portion of fish without having first procured a license for such from the Director or from any of the authorized agents of the Department of Wildlife Conservation. The Wildlife Conservation Commission may designate two (2) days per year in which residents and nonresidents may fish without first procuring a fishing license pursuant to the provisions of this section.

B. Pursuant to the provisions of this Code, persons excepted from the license requirements of this section are:

1. Legal residents under sixteen (16) years of age ~~on the first day of the current calendar year~~ and nonresidents under sixteen (16) years of age from states which do not require nonresident fishing licenses for persons under sixteen (16) years of age;

2. Legal residents sixty-four (64) years of age or older and nonresidents sixty-four (64) years of age or older from states which do not require nonresident fishing licenses for persons sixty-four (64) years of age or older, provided such resident has obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title;

3. Legal residents born on or before January 1, 1923;

4. Legal resident veterans having a disability of sixty percent (60%) or more;

5. Legal resident owners or tenants, their spouses, parents, grandparents, children and their spouses, grandchildren and their spouses who fish in private ponds on land owned or leased by them;

6. Every Oklahoma citizen who is serving in a branch of the United States Armed Forces, is on properly authorized leave of absence from military duty, has in possession proper written evidence showing such authorized leave, and is serving outside the State of Oklahoma at the time of such fishing;

7. Any patient of an institution of the State of Oklahoma established for the care and treatment of mental illness or alcohol or drug dependency or any developmentally disabled person residing in any group home or other institution or developmentally disabled persons when accompanied by an attendant of such institution or legal guardian of said patient, or when fishing on institutional property;

8. Any person under eighteen (18) years of age who is in the legal and physical custody of the State of Oklahoma or one of its agencies by court order;

9. Any person under eighteen (18) years of age who is in the physical custody of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes;

10. Any person who is legally blind or who has any other physical impairment, as certified by a physician licensed in this state or any state which borders this state, which prevents the person from properly using fishing apparatus without the assistance of another person, and any one person actually accompanying and actually assisting such legally blind or otherwise physically impaired person while the latter is fishing. This certification shall be carried by the individual while fishing;

11. Nonresidents under fourteen (14) years of age;

12. Job Corps trainees of this state, provided that such trainees shall have on their persons a duly authorized identification card issued by their respective Job Corps Center and shall present such card upon request, in lieu of a fishing license. The trainees shall return their cards to their respective Job Corps Center when the trainees leave their respective Job Corps training programs;

13. Any legal resident having a proven disability which renders the resident nonambulatory and confined to a wheelchair as certified by a physician licensed in this state or any state which borders this state; and

14. Any person who is fishing with a pole and line, trotline, or throwline in streams, natural lakes, natural ponds, and mine pits in the county in which the person is a resident, or in streams, natural lakes, natural ponds, and mine pits which form a part of the boundary line of the county in which the person is a resident, when using any bait other than commercial or artificial bait, blood, stink bait, cut fish, and shrimp.

C. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, the fee for an annual license issued pursuant to the provisions of this section shall be:

1. For legal residents eighteen (18) years of age and older, Nineteen Dollars (\$19.00); for legal residents sixteen (16) or seventeen (17) years of age, Four Dollars (\$4.00). For a two-day resident permit license, Nine Dollars (\$9.00);

2. For nonresidents, Thirty-six Dollars (\$36.00), provided the Commission may enter into reciprocity agreements with states wherein nonresident license fees shall be in conformity with such reciprocal agreements. For a five-day nonresident permit license, Seventeen Dollars and fifty cents (\$17.50). Of the amount of monies collected pursuant to the provisions of this paragraph, Five Dollars (\$5.00) of the license fee for nonresidents, and One Dollar and fifty cents (\$1.50) of the five-day nonresident permit fee shall be deposited in

the Wildlife Land Acquisition Fund created pursuant to the provisions of Section 4-132 of this title.

D. Legal residents who have resided in this state for at least six (6) months and who are receiving Social Security Disability benefits, Supplemental Security Income benefits, disability benefits under the Railroad Retirement Act, 45 U.S.C.A., Section 231a, or postal employees receiving disability benefits pursuant to 5, U.S.C., Section 8451 (1998), may purchase a disability fishing license from the Director for Ten Dollars (\$10.00) for five (5) years.

E. 1. Any person arrested while violating the provisions of this section who does not meet the requirements of subsection H of this section, may purchase a substitute temporary thirty-day license from the arresting game warden in lieu of posting bond. The fee for a substitute license purchased pursuant to the provisions of this subsection shall be:

- a. for legal residents, Fifty Dollars (\$50.00), and
- b. for nonresidents, Ninety Dollars (\$90.00).

2. Except as otherwise provided by this subsection, the fees from licenses purchased pursuant to the provisions of this subsection shall be deposited in the Wildlife Conservation Fund to be used exclusively for developing, managing, preserving, and protecting wildlife and wildlife habitat.

F. Unless a substitute license is purchased as provided for by subsection E of this section, any resident of this state convicted of violating the provisions of this section shall be punished by the imposition of a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00) or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment.

G. Unless a substitute license is purchased as provided for by subsection E of this section, any nonresident convicted of violating this section shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) or by imprisonment in the county jail for a period not more than thirty (30) days, or by both such fine and imprisonment.

H. Any person producing proof in court that a current fishing license issued by the Department of Wildlife Conservation to such person was in force at the time of the alleged offense shall be entitled to dismissal of a charge of violating this section upon payment of court costs; however, if proof of fishing license is presented to the court or district attorney within seventy-two (72) hours after the violation, the charge shall be dismissed without payment of court costs.

SECTION 3. AMENDATORY 29 O.S. 2001, Section 4-111, is amended to read as follows:

Section 4-111. A. No person may buy, barter or deal in any fur or pelt of furbearers in this state without having first procured a license for such from the Director.

B. Fur dealers must 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.

C. It shall be illegal and punishable under the provisions of this section, for anyone not having a current fur dealer's license to sell, barter or deal in any fur or pelt of furbearers in this state for shipment of said fur or pelt out of state without having obtained a current license and without reporting said sale to the Director.

D. The fee for a license under this section shall be ~~Sixty-eight Dollars (\$68.00)~~ Twenty-five Dollars (\$25.00) for residents or nonresidents.

E. All licenses issued pursuant to this section shall expire on June 30 of each year.

F. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both such fine and imprisonment.

SECTION 4. AMENDATORY 29 O.S. 2001, Section 4-112, as last amended by Section 2 of Enrolled House Bill 1663 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 4-112. A. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, no person may hunt, pursue, trap, harass, catch, kill, take or attempt to take in any manner, use, have in possession, sell, or transport all or any portion of any wildlife except fish, without having first procured a license for such from the Director or from any authorized agents of the Department of Wildlife Conservation. The Wildlife Conservation Commission shall designate a consecutive Saturday and Sunday in September of each year as free hunting days in which residents of this state may hunt without first procuring a hunting license pursuant to the provisions of this section.

B. Pursuant to the provisions of this Code, persons excepted from the license requirement of this section are:

1. Legal residents of Oklahoma under sixteen (16) years of age ~~on the first day of the current calendar year;~~

2. Legal residents of Oklahoma sixty-four (64) years of age or older provided such persons have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title;

3. Legal residents born on or before January 1, 1923;

4. Legal resident veterans having a disability of sixty percent (60%) or more;

5. Legal resident owners or tenants who hunt on land owned or leased by them;

6. Every citizen of Oklahoma serving in a branch of the United States Armed Forces, who is on properly authorized leave from military duty, who has in their possession proper written evidence showing such authorized leave, and who is serving outside the State of Oklahoma at the time of such hunting;

7. Any nonresident under fourteen (14) years of age;

8. Legal residents having a proven disability which renders them nonambulatory and confines them to a wheelchair, as certified by a physician licensed in this state or in any state which borders this state; and

9. Any person under eighteen (18) years of age who is in the physical custody of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes.

C. Except as otherwise provided for in the Oklahoma Wildlife Conservation Code, the fees for licenses listed in this subsection are:

1. a. Annual hunting licenses for nonresidents hunting game other than deer, antelope, or elk, Ninety-one Dollars and fifty cents (\$91.50); for deer, Two Hundred Dollars (\$200.00); for antelope and elk, Three Hundred Dollars (\$300.00). There shall be no exemptions for deer, antelope, elk, or turkey. Any nonresident with a commercial hunting area big game ten-day permit as provided for in paragraph 3 of subsection D of this section shall not be required to have an annual nonresident hunting license pursuant to this subparagraph. For a five-day nonresident hunting license to hunt game other than deer, antelope, elk, turkey, or pheasant, the fee shall be Forty-one Dollars and fifty cents (\$41.50).
- b. Annual combination hunting licenses for nonresidents hunting one antlered and one antlerless deer, Two Hundred Fifty Dollars (\$250.00); for nonresidents hunting an additional antlerless deer, Fifty Dollars (\$50.00) which shall be valid only on private lands not managed by the Department of Wildlife Conservation.
- c. Of the amount of monies collected pursuant to the provisions of this paragraph, Five Dollars (\$5.00) of the license fee for hunting game other than deer, antelope and elk, Five Dollars (\$5.00) of the license fee for hunting deer, Five Dollars (\$5.00) of the license fee for hunting antelope and elk and Two Dollars and fifty cents (\$2.50) of the five-day

hunting license shall be deposited in the Wildlife Land Acquisition Fund created pursuant to the provisions of Section 4-132 of this title.

- d. The Oklahoma Wildlife Department shall not issue any nonresident deer, antelope, or elk licenses to residents of any other state which has a deer season but does not allow Oklahoma residents the opportunity to purchase general unrestricted nonresident licenses in their state.

2. Disability hunting license, residents of this state for at least six (6) months and who are receiving Social Security Disability benefits, Supplemental Security Income benefits or disability benefits under the Railroad Retirement Act, 45 U.S.C.A., Section 231a, may purchase a disability hunting license from the Director for Ten Dollars (\$10.00) for five (5) years.

3. Deer gun hunting license, residents, Nineteen Dollars (\$19.00). There shall be no exemptions except for residents sixty-four (64) years of age or older provided such residents have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title and for legal residents of Oklahoma under eighteen (18) years of age provided such residents shall be required to pay a deer gun hunting license fee of Nine Dollars (\$9.00). In addition, veterans who are totally disabled as certified by the U.S. Department of Veterans Affairs shall be exempt from the fees specified pursuant to this paragraph.

4. Deer archery hunting license, residents, Nineteen Dollars (\$19.00). No exemptions.

5. Primitive firearms license, residents, Nineteen Dollars (\$19.00). No exemptions.

6. Elk or antelope hunting license, residents, Fifty Dollars (\$50.00). No exemptions.

7. Bonus, special or second deer gun hunting license, residents, Nineteen Dollars (\$19.00). No exemptions except for residents sixty-five (65) years of age or older provided such residents have obtained a senior citizen's license pursuant to the provisions of Section 4-133 of this title. In addition, veterans who are totally disabled, if certified by the U.S. Department of Veterans Affairs shall be exempt from the fees specified pursuant to this paragraph.

D. The fees for hunting licenses, except as provided for in the Oklahoma Wildlife Conservation Code, are:

1. Legal For legal residents eighteen (18) years of age and older, Nineteen Dollars (\$19.00); for legal residents sixteen (16) or seventeen (17) years of age, Four Dollars (\$4.00);

2. Commercial hunting area small game ten-day permit, resident or nonresident, Five Dollars (\$5.00); and

3. Commercial hunting area big game ten-day permit, resident or nonresident, Two Hundred One Dollars (\$201.00) plus Ten Dollars (\$10.00) for each additional deer license, of any type, that may be purchased from the commercial hunting area. The commercial hunting area may obtain the licenses from the Director for use at the commercial hunting area.

E. The provisions of this section shall not be construed to require a hunting license, resident or nonresident, of any person merely because the person participates, as owner or handler of an entry, as an official, or as a spectator in the conduct of a field trial or performance test of dogs, whether a resident or nonresident of the State of Oklahoma. No license to hunt shall be required of any person engaged in training or working dogs, provided said person is in no way engaged in hunting and does not take or attempt to take in any manner any game.

F. 1. Any person arrested for hunting game other than deer, antelope, elk, or turkey without a valid hunting license as required by the provisions of subsection A of this section may purchase a substitute temporary thirty-day license from the arresting game warden in lieu of posting bond. Proof of hunter safety certification will not be required for such temporary substitute license. The fee for a substitute license purchased pursuant to the provisions of this subsection shall be:

- a. for legal residents, Fifty Dollars (\$50.00), and
- b. for nonresidents, One Hundred Forty-five Dollars (\$145.00).

2. Except as otherwise provided for by this subsection, the fees from licenses purchased pursuant to the provisions of this subsection shall be deposited in the Wildlife Conservation Fund to be used exclusively for developing, managing, preserving, and protecting wildlife and wildlife habitat.

G. Any person producing proof in court that a current hunting license issued by the Department of Wildlife Conservation to such person was in force at the time of the alleged offense shall be entitled to dismissal of a charge of violating this section upon payment of court costs; however, if proof of hunting license is presented to the court or district attorney within seventy-two (72) hours after the violation, the charge shall be dismissed without payment of court costs.

H. Unless a substitute license is purchased as provided for by subsection F of this section, any resident convicted of violating the provisions of this section shall be punished by the imposition of a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment.

I. Unless a substitute license is purchased as provided for by subsection F of this section, any nonresident convicted of violating the provisions of this section shall be punished by the imposition

of a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a period not to exceed six (6) months, or by both said fine and imprisonment.

SECTION 5. AMENDATORY 29 O.S. 2001, Section 4-113, as amended by Section 3 of Enrolled House Bill 1663 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 4-113. A. All legal residents who are not the individuals excepted from the license requirement as provided in subsection B of Section 4-112 of the Oklahoma Wildlife Conservation Code may purchase an annual combination hunting/fishing license from the Director or agents of the Director.

B. The fee for a license under this section for legal residents eighteen (18) years of age and older shall be Thirty-six Dollars (\$36.00); for legal residents sixteen (16) or seventeen (17) years of age, Eight Dollars (\$8.00).

SECTION 6. AMENDATORY 29 O.S. 2001, Section 4-120, as amended by Section 6 of Enrolled House Bill 1663 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 4-120. A. No person may fish in designated trout waters without having first procured a license from the Director or authorized agents of the Director.

B. The Commission shall decide the open season for trout fishing and which waters are designated trout waters.

C. The fee for a license under this section shall be Nine Dollars (\$9.00); for persons under eighteen (18) years of age, Four Dollars (\$4.00).

D. Any person arrested while violating the provisions of this section may purchase a substitute temporary thirty-day license from the arresting game warden in lieu of posting bond. The fee for a substitute license purchased pursuant to the provisions of this subsection shall be:

1. For legal residents, Thirty-five Dollars (\$35.00); and
2. For nonresidents, Seventy-five Dollars (\$75.00).

The fees from licenses purchased pursuant to the provision of this subsection shall be deposited in the Wildlife Conservation Fund to be used exclusively for developing, managing, preserving and protecting wildlife and wildlife habitat.

E. Unless a substitute license is purchased as provided for by subsection D of this section, any resident of this state convicted of violating this section shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), or by imprisonment in the county jail for a period not more than thirty (30) days, or by both such fine and imprisonment.

F. Unless a substitute temporary license is purchased as provided for by subsection D of this section, any nonresident convicted of violating the provisions of this section shall be punished by the imposition of a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days, or by both said fine and imprisonment.

SECTION 7. This act shall become effective July 1, 2003.

SECTION 8. 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 14th day of May, 2003.

Presiding Officer of the Senate

Passed the House of Representatives the 20th day of May, 2003.

Presiding Officer of the House
of Representatives

