

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE JOINT  
RESOLUTION HJR1013

By: Sweeden

AS INTRODUCED

A Joint Resolution relating to emergency rules of the Oklahoma Department of Agriculture, Food, and Forestry; disapproving in part emergency rule OAC 35:50-1-31(1)(A) regarding late fees to be assessed for renewal fees received after the annual renewal deadline; declaring legislative intent; directing distribution; and declaring an emergency.

WHEREAS, pursuant to Sections 250.2 and 308 of Title 75 of the Oklahoma Statutes, the Legislature reserves the right to designate the method for rule promulgation, establish policy, determine that a rule is not consistent with legislative intent and disapprove any rule or any portion thereof at any time; and

WHEREAS, pursuant to Section 253 of Title 75 of the Oklahoma Statutes, no agency shall adopt any emergency rule which establishes or increases fees, except during such times as the Legislature is in session, unless such fee is specifically mandated by the Legislature or federal legislation, or when the failure to establish or increase such fee would conflict with an order issued by a court of law; and

WHEREAS, emergency rule OAC 35:50-1-31(1)(A), which was adopted by the State Board of Agriculture and submitted to the Legislature and Governor on October 28, 2002, and approved by the Governor on October 31, 2002, provides that a late fee of Ten Dollars (\$10.00) shall be assessed as follows:

"(1) The renewal application shall include the following:

(A) A renewal fee of ten dollars (\$10.00). Any renewal fee received after the annual renewal deadline of December 31st shall be assessed a late fee of ten dollars (\$10.00)."; and

WHEREAS, the Legislature recognizes that the portion of emergency rule OAC 35:50-1-31(1) (A), as it relates to the late fee of Ten Dollars (\$10.00), is not consistent with legislative intent, exceeds the statutory authority of the Oklahoma Department of Agriculture, Food, and Forestry violates state statute and violates the public policy of this state.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES AND THE SENATE OF THE 1ST SESSION OF THE 49th OKLAHOMA LEGISLATURE:

SECTION 1. The Legislature hereby disapproves paragraph (1) (A) of emergency rule OAC 35:50-1-31, which was adopted by the State Board of Agriculture on October 28, 2002, while the Legislature was not in session, as it states:

"Any renewal fee received after the annual renewal deadline of December 31st shall be assessed a late fee of ten dollars (\$10.00)."

SECTION 2 The Legislature hereby declares that in accordance with Section 253 of Title 75 of the Oklahoma Statutes that it is the intent of the Legislature that no rules shall be adopted when the Legislature is not in session except where the agency has been specifically authorized to do so by the Legislature or federal legislation, or when the failure to establish or increase the fee would conflict with an order issued by a court of law.

SECTION 3. The Secretary of State is hereby directed to distribute copies of this resolution to the Governor, the Secretary of the Oklahoma Department of Agriculture, Food, and Forestry and the Editor of "The Oklahoma Register".

SECTION 4. 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 resolution shall take effect and be in full force from and after its passage and approval.

49-1-6014          EAP          01/21/03