

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1590

By: Shurden

AS INTRODUCED

An Act relating to agriculture; creating the Domesticated Fowl Breeding, Exhibition and Preservation Act; providing short title; stating legislative intent; recognizing certain historic and economic value of domesticated fowl and certain economic contributions; authorizing certain rally and exhibition for certain purpose; prohibiting unlawful activities; authorizing an admission fee; setting certain fee amount; controlling fees and recognitions by rule; requiring certain sanction by the State Board of Agriculture for violations; providing for criminal prosecution for crimes; prohibiting certain enactments and enforcement; allowing certain participation in certain activities; directing the State Board of Agriculture to promulgate certain rules; authorizing employment of certain persons subject to funding; requiring appointment of certain committee membership for certain purpose; providing for membership, terms, vacancies, and responsibilities; establishing procedure for emergency and proposed rules; requiring certain license for certain purpose; setting license fee by rule; directing deposit of certain fees in certain fund; construing license not subject to certain violations; exempting license for certain private activity; requiring on-site inspection prior to issuing license; requiring certain affidavit prior to licensing or participation in certain activities; creating the Domesticated Fowl Breeding, Exhibition and Preservation Act Fund in the Oklahoma Department of Agriculture, Food, and Forestry; providing for deposits and expenditures; designating domesticated fowl as certain product; providing exception to certain designation; requiring completion of certain form for certain purpose; requiring certain form prior to certain activities; making certain notorized form an exemption for certain purpose; creating form and contents; defining terms; providing for codification; providing an effective date; 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 15-170 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Domesticated Fowl Breeding, Exhibition and Preservation Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.1 of Title 2, unless there is created a duplication in numbering, reads as follows:

This state recognizes the historic and economic value of domesticated fowl, specifically roosters. This state further recognizes the contributions made from the various agricultural services and products supporting this industry and the economic benefits of such services, products, and industry activities to this state. The Legislature recognizes that certain breeds of domesticated fowl, specifically roosters are becoming endangered, and certain businesses and operations are suffering severe economic setbacks as the result of recent laws and ordinances affecting the breeding and preservation of domesticated fowl, specifically roosters. Before the agricultural industry becomes further weakened or certain breeds of domesticated fowl, specifically roosters, are endangered or extinct, it is the intent of the Legislature to encourage and promote the safe breeding, exhibition and preservation of the various breeds of domesticated fowl, and thereby promote the economic growth of the related agricultural industries, businesses, and operations in this state. Since Oklahoma is primarily a rural state, the Legislature supports all agricultural operations for the economic benefit of this state and its citizens, and finds that the safe breeding, ownership, possession, exhibition, sale and purchase of various breeds of domesticated fowl, and specifically roosters, is deemed vital to the economy of the rural counties and this state. No provision of law shall operate to destroy the vitality of any breed of domesticated fowl or the related industries and operations.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.2 of Title 2, unless there is created a duplication in numbering, reads as follows:

Pursuant to the provisions and rules of this act, and notwithstanding any ordinance or other provision of law, any person interested in the safe breeding, exhibition and preservation of the various breeds of domesticated fowl, specifically roosters, may hold a rooster rally and exhibition as such terms are defined in this act. Every rooster rally and exhibition shall be open to the public as provided by rule.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

No person licensed pursuant to the provisions and rules of this act to hold a rooster rally and exhibition shall permit any activity or equipment otherwise prohibited by law, unless such activity is specifically exempt by the provisions or rules of this act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.4 of Title 2, unless there is created a duplication in numbering, reads as follows:

A person licensed pursuant to the provisions and rules of this act may charge an admission fee to each spectator at a rooster rally not to exceed Fifteen Dollars (\$15.00) per person. All entry fees for participants or their roosters, and all awards, recognitions or other compensations awarded to participants in any contest, show or exhibition shall be set and disbursed according to the rules promulgated for this act.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.5 of Title 2, unless there is created a duplication in numbering, reads as follows:

If any person's conduct violates any of the provisions or rules of this act, the person shall be sanctioned by the State Board of Agriculture by being prohibited from obtaining any license or participating in any rooster rally or exhibition pursuant to the provisions and rules of this act, or if such conduct is deemed

criminal, the person shall be reported to local law enforcement, charged and prosecuted pursuant to the laws of this state.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.6 of Title 2, unless there is created a duplication in numbering, reads as follows:

On and after the effective date of this act, the enactment and enforcement of any ordinance or other provision of law that is calculated or designed, or attempted to be enforced by any agency, to destroy, confiscate, or decrease the populations or number of any breed of domesticated fowl as such term is defined in this act, or to endanger or promote the extinction of any breed of domesticated fowl, and specifically roosters, in this state, except for disease or conditions related to human health, is specifically prohibited by this act.

Notwithstanding any ordinance or other provision of law enacted prior to the effective date of this act, a person may participate in a rooster rally and exhibition as such terms are defined in this act, and may own, possess, keep, breed, train, exhibit, and show any domesticated fowl, specifically roosters, pursuant to the provisions and rules of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.7 of Title 2, unless there is created a duplication in numbering, reads as follows:

The State Board of Agriculture is authorized to promulgate rules for the administration, implementation and enforcement of the provisions of this act. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required within the funds available.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.8 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture shall appoint a rule advisory committee of five (5) members who, without compensation, shall act as advisors to the Board in formulating the rules promulgated pursuant to this act. The committee members shall consist of:

1. Two (2) members who have expertise relating to exhibitions for rooster rallies as defined in this act;

2. Two (2) members who have expertise relating to raising exhibition quality roosters or judging exhibition quality roosters; and

3. One (1) member who shall be an attorney currently licensed to practice law in this state.

Of the initial five (5) members, two shall serve one-year terms, and three shall serve three-year terms. Thereafter, all members shall serve three-year terms; provided, all members serve at the pleasure of the Board. Any member may be reappointed for a new term. Any vacancy in any term shall be filled by the Board. The members shall not be compensated for travel.

B. The Board shall consult the advisory committee in advance of any proposed rules being formulated.

C. Except for emergency rules, the Board shall propose rules to the rule advisory committee at the same time as the Board causes notice to be published in "the Oklahoma Register" pursuant to subsection B of Section 309 of Title 75 of the Oklahoma Statutes. Comments of the rule advisory committee shall be submitted to the members of the Board at least fifteen (15) days prior to any official action by the Board on the rules.

D. Proposed emergency rules shall be submitted by the Board to the rule advisory committee at least five (5) days prior to the rules being considered by the Board.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.9 of Title 2, unless there is created a duplication in numbering, reads as follows:

Any person meeting the criteria to hold a rooster rally or exhibition shall be required to obtain a license from the Department of Agriculture as specified by the rules promulgated for this act. The license fee, if any, shall be set by rule. Every fee established or collected for any purpose in this act shall be deposited in the Domesticated Fowl Breeding, Exhibition and Preservation Act Fund as provided in Section 11 of this act.

No person who voluntarily obtains a license pursuant to this section shall be deemed to be in violation of any provision of law for cockfighting. In no case shall a license be required for any activity when all domesticated fowl, specifically roosters, are owned by the same person and any authorized activity pursuant to this act takes place privately with no spectators or judges present. In no case shall a license be issued until there has been an on-site inspection of the rooster rally and exhibition site as provided by rule.

Every person shall present a signed notarized affidavit as provided in Section 12 of this act, and any proof required by rule for disease control purposes, before being permitted to obtain any license pursuant to this section, and before being permitted to exhibit, show or otherwise enter any domesticated fowl, and specifically roosters, in any rooster rally or exhibition pursuant to this act or any rule promulgate for purposes of this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.10 of Title 2, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a fund for the Oklahoma Department of Agriculture, Food, and Forestry to be designated the "Domestic Fowl Breeding, Exhibition and Preservation Fund". The fund shall be subject to legislative appropriations and shall consist of all appropriated funds and all fees established and collected pursuant to the Domesticated Fowl Breeding, Exhibition and

Preservation Act. The funds shall be expended by warrant issued by the State Treasury and may be used for expenses of personnel, enforcement, and other necessary administrative costs to implement the Domesticated Fowl Breeding, Exhibition and Preservation Act.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.11 of Title 2, unless there is created a duplication in numbering, reads as follows:

Every domesticated fowl, specifically roosters, as such terms are defined in this act, shall be deemed to be the product of agricultural production of fowl for human consumption, unless the rooster exhibits natural and instinctive behaviors for hunting, and, in such case, the rooster shall be deemed a hunting fowl. The owner of any domesticated fowl, specifically roosters, shall designate whether the fowl is a product of agricultural production for human consumption or a hunting fowl by completing the following form, or a substantially similar form, and affixing their signature on the form before a notary public. One form may include one or more birds of the same biological or genetic line. The form must be presented at any rooster rally and exhibition prior to admission according to the provisions of this act and any rules promulgated for this act. The form shall be lawful proof of an exemption under any provision of law exempting fowl for agricultural production of fowl for human consumption or hunting fowl or birds.

AFFIDAVIT FOR PRODUCT OF AGRICULTURAL PRODUCTION

FOR HUMAN CONSUMPTION OR DESIGNATION OF HUNTING FOWL

I _____ (name) certify that I am the owner, breeder, exhibitor, purchaser or seller of _____ (number) birds or roosters for purposes of the Domesticated Fowl Breeding, Exhibition and Preservation Act. These birds and roosters are hereby designated as _____ (A: product of agricultural production for human consumption or B: hunting fowl) and are exempt from any confiscation, destruction or other enforcement actions that are calculated or

designed to decrease the breed populations or number, or in any manner promote death, confiscation, destruction, endangerment or extinction of such birds or roosters, except when diseased as regulated by law, sold by the above-named person, consumed for food as authorized by the above-named person, or injured or destroyed while hunting. The above-named person states to the best of his or her knowledge, that all of the above-mentioned birds and roosters have no disease or condition regulated by the Oklahoma Statutes, or regulated by any agricultural agency of this state or federal law, and further states that all criteria and rules have been met for safe breeding, exhibition, or sale pursuant to the Domesticated Fowl Breeding, Exhibition and Preservation Act, and any rules promulgated thereto.

(Signature of owner, breeder, exhibitor, purchaser or seller)

(date)

Subscribed and sworn before me this _____ day of _____.

(Affix Notary Seal)

(Signature of Notary Public)

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 15-170.12 of Title 2, unless there is created a duplication in numbering, reads as follows:

For purposes of this act,

1. "Domesticated fowl" means any poultry, bird or game fowl raised in captivity for a designated purpose, including production for human consumption, sport activities, exhibitions, or hunting purposes;
2. "Rooster" means a chick or adult male domesticated fowl of any breed or species;
3. "Rooster rally" means an exhibition for roosters only;

4. "Exhibition" means a bloodless noninjury sports activity, athletic competition, training activity, game, show or exhibit held in the presence of one or more qualified judges, with or without spectators, wherein roosters fitted with muffs are shown, exhibited, evaluated or tested in timed encounters with one another or with one or more stimuli that are designed to prompt the full display of natural and instinctive behaviors within the breed for show, contest or sale;

5. "Natural and instinctive behaviors" means any characteristic of the various breeds of rooster which is naturally occurring or enhanced by selective breeding, including, but not limited to, displays of dominance, mating behaviors, protective behaviors, vocal calls or sounds, preening activities, athletic abilities such as flying, jumping, kicking, running, strutting, fighting, pecking, wing flapping, balancing or roosting, or any other genetic disposition, characteristic or behavior identified within the various breeds of roosters; and

6. "Muffs" means a pair of soft protective or padded gloves or coverings securely fitted over a rooster's natural spurs to prevent damage or injury to any rooster, person, or object when direct contact is made with such rooster or its spurs or for purposes of transportation or movement of a rooster from place to place, or for purposes of any exhibition in any rooster rally.

SECTION 14. This act shall become effective July 1, 2006.

SECTION 15. 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.