

THE HOUSE OF REPRESENTATIVES  
Monday, April 16, 2007

Committee Substitute for  
ENGROSSED  
Senate Bill No. 810

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 810 - By:  
JUSTICE of the Senate and ARMES of the House.

An Act relating to agriculture; amending 2 O.S. 2001, Section 2-4, as last amended by Section 1, Chapter 100, O.S.L. 2004 (2 O.S. Supp. 2006, Section 2-4), which relates to the powers of the State Board of Agriculture; modifying powers of the Board; amending 2 O.S. 2001, Section 3-50.11, as last amended by Section 11, Chapter 211, O.S.L. 2006 (2 O.S. Supp. 2006, Section 3-50.11), which relates to the Boll Weevil Eradication Act; authorizing the board of directors to collect fines for certain violations; amending 2 O.S. 2001, Section 6-310, which relates to agriculture law enforcement agents; deleting certain limitation; and providing an effective date.

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

- 1 SECTION 1. AMENDATORY 2 O.S. 2001, Section 2-4, as last amended by  
2 Section 1, Chapter 100, O.S.L. 2004 (2 O.S. Supp. 2006, Section 2-4), is amended to read  
3 as follows:
- 4 Section 2-4. A. The State Board of Agriculture shall have the power to:
- 5 1. Adopt and prescribe the use of a seal, which shall be in the custody of the  
6 Secretary of the Board;

- 1           2. Promulgate rules necessary, expedient, or appropriate to the performance,  
2 enforcement, or carrying out of any of the purposes, objectives, or provisions of the  
3 Oklahoma Agricultural Code;
- 4           3. Initiate and prosecute administrative, civil, or criminal actions and proceedings  
5 necessary under the Oklahoma Agricultural Code;
- 6           4. Appoint authorized agents to make inspections or investigations and to perform  
7 other services for the Board or any division of the Oklahoma Department of Agriculture,  
8 Food, and Forestry;
- 9           5. Consolidate any of the divisions established by the Oklahoma Agricultural Code,  
10 transfer any of the functions or activities to another division, place additional functions  
11 or activities in a division, establish new divisions, and create new or additional positions  
12 in the Department, when conducive to a more efficient administration and enforcement  
13 of laws pertaining to agriculture;
- 14           6. Sell, exchange, or dispose of property;
- 15           7. Have jurisdiction over all matters affecting animal industry, animal health, and  
16 animal quarantine;
- 17           8. Issue stop-sale and stop-use orders and quarantines;
- 18           9. Employ, appoint, or contract and fix the duties and compensation of the director  
19 of each division of the Department and other personnel, either on a full-time, part-time,  
20 or contractual basis, as deemed necessary by the Board;
- 21           10. Fix the qualifications of the personnel in the Department;
- 22           11. Accept and use grants of money and other property from any source;

1           12. Advise, consult, cooperate, and enter into agreements or contracts with persons  
2 as defined in the Oklahoma Agricultural Code;

3           13. Coordinate with the federal government and other states on matters pertaining  
4 to agriculture;

5           14. Revoke, suspend, or deny for up to one (1) year, any license, permit, or charter  
6 issued by the Board if the Board finds any violations of the Oklahoma Agricultural Code  
7 or any rule of the Board;

8           15. Adopt a master plan and promulgate rules for the protection of state-owned and  
9 private forestry, grazing, and other lands from damage by fire and for suppressing fires  
10 on lands. In carrying out the master plan the Board is authorized to enter into  
11 contractual agreements with the federal government, local political subdivisions of the  
12 state, individuals, private organizations, companies, and corporations for protection and  
13 for the suppression of fires and to expend funds as available for these services. To  
14 effectuate the purposes of the Oklahoma Agricultural Code, the Board is authorized to  
15 enter into contractual agreements with private landowners for the protection and  
16 suppression of fires, provided that the private landowners reimburse the Board for actual  
17 expenses incurred in the protection and suppression of fires on privately owned lands;

18           16. Have jurisdiction over all matters affecting agriculture as contained and set out  
19 in the Oklahoma Agricultural Code, which have not been expressly delegated to another  
20 state or federal agency and be responsible for fully implementing and enforcing the laws  
21 and rules within its jurisdictional areas of environmental responsibility.

- 1 a. The Department of Environmental Quality shall have environmental  
2 jurisdiction over:
- 3 (1) commercial manufacturers of fertilizers, grain and feed  
4 products, and chemicals, and over manufacturing of food and  
5 kindred products, tobacco, paper, lumber, wood, textile mill, and  
6 other agricultural products,  
7 (2) slaughterhouses, but not including feedlots at these facilities,  
8 and  
9 (3) aquaculture and fish hatcheries, including, but not limited to,  
10 discharges of pollutants and storm water to waters of the state,  
11 surface impoundments and land application of wastes and  
12 sludge, and other pollution originating at these facilities.
- 13 b. Facilities storing grain, feed, seed, fertilizer, and agricultural  
14 chemicals that are required by federal National Pollutant Discharge  
15 Elimination System (NPDES) regulations to obtain a permit for storm  
16 water discharges shall only be subject to the jurisdiction of the  
17 Department of Environmental Quality with respect to storm water  
18 discharges;
- 19 17. Have jurisdiction over all matters affecting the importation, health, and  
20 quarantining of exotic livestock;

1           18. Prescribe forms of application, certification, licenses, charters, and other forms  
2 and blanks as may be necessary to carry out the provisions of the Oklahoma Agricultural  
3 Code;

4           19. Stagger throughout the year the renewal dates for any licenses or permits  
5 issued by the Department pursuant to the provisions of the Oklahoma Agricultural Code  
6 by notifying licensees in writing of the expiration and renewal date being assigned to the  
7 licensee and permittee and by making an appropriate adjustment in the fee charged for  
8 the license or permit;

9           20. Establish and collect fees for licenses, permits, charters, and services provided.  
10 The fees shall be promulgated in accordance with the Administrative Procedures Act and  
11 shall be fair and equitable to all parties concerned;

12           21. Establish planting and harvesting seasons for the purpose of meeting the  
13 maximum driving and on-duty time exemptions set forth in the National Highway  
14 System Designation Act of 1995. The Board shall notify the United States Secretary of  
15 Transportation of the seasons;

16           22. Fix and adopt official standards for grading and classifying any agricultural  
17 commodity, meat, or meat product prepared, produced, or distributed in Oklahoma;

18           23. Promulgate rules, make investigations, and conduct hearings for the purpose of  
19 making inspection compulsory on any agricultural commodity and designate the shipping  
20 points where compulsory inspection applies;

1           24. Inspect agricultural commodities, at any time, upon request of any financially  
2 interested party or when necessary and to issue certificates showing the quality and  
3 condition of the commodities at the time of the inspection;

4           25. Grade meat or meat products upon the request of any packing plant in  
5 Oklahoma. The packing plant shall be required to pay the cost of services, including the  
6 compensation and expenses of personnel employed to perform the actual grading;

7           26. Apply to the district court for a temporary or permanent injunction or any other  
8 remedy restraining any person from violating the Oklahoma Agricultural Code;

9           27. Extend and implement the powers and provisions granted by the Oklahoma  
10 Agricultural Code to all programs administered by the Department regardless of whether  
11 the statutes creating the program are codified in this title;

12           28. Increase its efforts to ensure the safety and quality of food and food products for  
13 wholesalers and retail sales in this state and shall include, but not be limited to,  
14 inspections of retailers and wholesalers to ensure compliance with all federal and state  
15 certification standards;

16           29. Exercise all incidental powers which are necessary and proper to implement  
17 and administer the purposes of the Oklahoma Agricultural Code; ~~and~~

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

20           31. Promulgate rules regarding prescribed burning and smoke management.

21           B. 1. If upon inspection or investigation, or whenever the Oklahoma Department of  
22 Agriculture, Food, and Forestry determines that there are reasonable grounds to believe

1 that any person is in violation of any part of the Oklahoma Environmental Quality Code  
2 which is the responsibility and jurisdiction of the Oklahoma Department of Agriculture,  
3 Food, and Forestry, any rule promulgated by the State Board of Agriculture, or of any  
4 order, permit, certificate, registration, charter, or license issued by the Board, the  
5 Department may give written notice to the alleged violator of the specific violation and of  
6 the alleged violator's duty to correct the violation immediately or within a set time period  
7 or both and that the failure to do so shall result in administrative fines or penalties.

8 2. Whenever the Department finds that an emergency exists requiring immediate  
9 action to protect the public health, welfare, or the environment, the President of the  
10 State Board of Agriculture may without notice or hearing issue an order, effective upon  
11 issuance, reciting the existence of an emergency and requiring that action be taken as  
12 specified in the order to meet the emergency. Any person to whom an order is directed  
13 shall comply immediately but may request an administrative enforcement hearing  
14 within fifteen (15) days after the order is served. The hearing shall be held by the  
15 Department within ten (10) days after receipt of the request. On the basis of the hearing  
16 record, the President of the Board shall sustain or modify the original order.

17 SECTION 2. AMENDATORY 2 O.S. 2001, Section 3-50.11, as last amended by  
18 Section 11, Chapter 211, O.S.L. 2006 (2 O.S. Supp. 2006, Section 3-50.11), is amended to  
19 read as follows:

20 Section 3-50.11 A. The board of directors may request the Oklahoma Department  
21 of Agriculture, Food, and Forestry to provide for the collection of the assessment or for  
22 other enforcement action necessary as determined by the board of directors for violations

1 of the Boll Weevil Eradication Act and for collection of any administrative penalty or fine  
2 from any person who is determined to have violated any provision of the Boll Weevil  
3 Eradication Act.

4 B. Notwithstanding any other provision of the law, in an enforcement action  
5 brought by the board of directors, the board of directors may collect, in addition to the  
6 assessment, a fine from any person or cotton gin that is determined to have violated any  
7 provision of the Boll Weevil Eradication Act.

8 C. Failure by any person to comply with any provisions of the Boll Weevil  
9 Eradication Act may result in assessment of an administrative penalty or fine of not less  
10 than One Hundred Dollars (\$100.00) and not more than Ten Thousand Dollars  
11 (\$10,000.00) for each violation.

12 ~~C. D.~~ Any administrative penalty or fine collected pursuant to the provisions of this  
13 section shall be deposited in the Boll Weevil Eradication Fund; provided, the Department  
14 shall be reimbursed for any costs incurred by the Department in the enforcement of this  
15 section.

16 SECTION 2. AMENDATORY 2 O.S. 2001, Section 6-310, is amended to read as  
17 follows:

18 Section 6-310. A. The Commissioner of the State Board of Agriculture may  
19 commission, subject to the approval of the Board, agriculture law enforcement agents.

20 B. Agriculture law enforcement agents, when commissioned, shall:

1           1. Have all the powers of peace officers except the serving or execution of civil  
2 process other than the execution of civil process related to the Oklahoma Agricultural  
3 Code;

4           2. Have in all parts of the state the same powers with respect to criminal matters  
5 and enforcement of the laws relating thereto as sheriffs, highway patrol, and police  
6 officers in their respective jurisdictions;

7           3. Enforce the civil, criminal, and administrative provisions relating to livestock  
8 theft, animal health and importation statutes and theft of farming equipment and farm  
9 implements, as well as any other law contained in the Oklahoma Agricultural Code;

10          4. Possess all immunities and matters of defense now available or hereafter made  
11 available to sheriffs, highway patrol and police officers in any suit brought against them  
12 in consequence of acts done in the course of their employment; and

13          5. Comply with the provisions of Section 3311 of Title 70 of the Oklahoma Statutes.

14          C. Agriculture law enforcement agents specifically:

15           1. Are vested with the power and authority of sheriffs in making arrests for  
16 violations of the Oklahoma Agricultural Code and in the enforcement of  
17 nonagriculture-related crimes in cooperation with other law enforcement officers and  
18 agencies as authorized by the Board and approved by the Governor of the State of  
19 Oklahoma;

20           2. May take into possession any farming equipment or farm implement and any  
21 and all livestock, or any part thereof, killed, taken, shipped or had in possession contrary

1 to the law. Such livestock or parts thereof may be disposed of as determined by the  
2 Commissioner or any court of competent jurisdiction;

3 3. May make a complaint and cause proceedings to be commenced against any  
4 person for violation of any of the laws relating to the Oklahoma Agricultural Code or  
5 relating to theft of livestock and of farming equipment or farm implements, with the  
6 sanction of the prosecuting or district attorney of the county in which the proceedings are  
7 brought, and shall not be required to give security for costs;

8 4. In connection with the enforcement of the civil, criminal, and administrative  
9 provisions, shall have the express authority to stop the transportation or movement of  
10 any animal or farming equipment or farm implement within this state and shall have the  
11 right to enter upon all premises, posted, or otherwise, when necessary for enforcement of  
12 the laws of this state;

13 5. Shall be under the control and direction of the Commissioner. The  
14 Commissioner may, at any time, remove any powers or authority of arrest conferred by  
15 the Commissioner; and

16 6. Shall have the right to carry firearms as authorized by the Commissioner. ~~The~~  
17 ~~right to carry firearms is limited to the authorized stop of a vehicle transporting livestock~~  
18 ~~or farming equipment or farm implements, investigating the theft of livestock or of~~  
19 ~~farming equipment or farm implements, and assisting other law enforcement officials.~~  
20 ~~Agriculture investigators shall not bear firearms at any other time including, but not~~  
21 ~~limited to, authorized visits to livestock auction markets, residences, state offices and~~  
22 ~~other places of business.~~

1 SECTION 3. This act shall become effective November 1, 2007.  
2 COMMITTEE REPORT BY: COMMITTEE ON NATURAL RESOURCES, dated 04-12-  
3 07 - DO PASS, As Amended.