

1 ENGROSSED HOUSE
2 BILL NO. 2861

By: Richardson and Smithson of
the House

3 and

4 Garrison of the Senate
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8 An Act relating to game and fish; amending 29 O.S.
9 2001, Section 5-203, which relates to carrying
10 firearms while training dogs; deleting obsolete
11 language; clarifying statutory language; deleting
12 penalty; amending 29 O.S. 2001, Section 5-402, which
13 relates to punishments for violation of certain laws;
14 increasing certain penalty; modifying violations
15 subject to seizure and forfeiture actions;
16 authorizing a court to order suspension, revocation
17 or denial of hunting and fishing privileges;
18 providing maximum period for revocation or
19 suspension; allowing a person to apply for a new or
20 reinstated license; establishing reinstatement fee;
21 amending 29 O.S. 2001, Section 5-412, which relates
22 to endangered or threatened species or subspecies;
23 deleting certain penalty; amending 29 O.S. 2001,
24 Section 7-207, which relates to wildlife offenses;
modifying species for which restitution may be
ordered; providing for an order for payment of
restitution for certain species; setting range of
amounts for restitution; directing the Department of
Wildlife Conservation to provide recommendations;
requiring the court to consider certain previous
convictions; repealing 29 O.S. 2001, Section 1002, as
amended by Section 1, Chapter 302, O.S.L. 2005 (29
O.S. Supp. 2009, Section 1002), which relates to
habitual wildlife violators; and declaring an
emergency.

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

2 SECTION 1. AMENDATORY 29 O.S. 2001, Section 5-203, is
3 amended to read as follows:

4 Section 5-203. A. A hunting dog trainer may carry shotguns or
5 firearms on public or private property, other than state parks where
6 hunting game to kill is ~~now~~ prohibited, while training bird hunting
7 dogs provided that:

8 1. The trainer notifies the game warden in ~~his~~ the region prior
9 to going into the field;

10 2. The trainer has a dog training shoot to kill license,
11 ~~obtainable from~~ issued by the Oklahoma Department of Wildlife
12 Conservation ~~at a~~. The fee for the license shall not to exceed Ten
13 Dollars (\$10.00) per year;

14 3. The trainer has a current receipt from a licensed commercial
15 or noncommercial game breeder of the propagated bird, ~~or has reared~~
16 ~~the bird himself~~, which is being released for the training purposes,
17 stating the number of birds and the date obtained or has proof that
18 the bird was reared by the trainer; and

19 4. All propagated birds so used are tagged or banded prior to
20 their release. ~~Provided, further that the~~ The use of a bird hunting
21 dog may be permitted in the legal hunting of quail, dove, prairie
22 chickens, pheasant and waterfowl.
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1 ~~5- B.~~ A person may carry a pistol while training a bird dog
2 without having met the provisions of paragraphs 1 through 4 of ~~this~~
3 subsection A of this section.

4 ~~B. Any person convicted of violating the provisions of this~~
5 ~~section shall be punished by a fine of not less than One Hundred~~
6 ~~Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00),~~
7 ~~or by imprisonment in the county jail for not less than ten (10)~~
8 ~~days nor more than one (1) year, or by both such fine and~~
9 ~~imprisonment.~~

10 SECTION 2. AMENDATORY 29 O.S. 2001, Section 5-402, is
11 amended to read as follows:

12 Section 5-402. A. Any person convicted of violating any
13 provision of Section 5-203 and Sections 5-401 through 5-410 of this
14 title, shall be punished by a fine of not less than Twenty-five
15 Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Any
16 person convicted of violating any provision of Sections 5-411 and 5-
17 412 of this title, shall be punished by a fine not less than ~~Five~~
18 ~~Hundred Dollars (\$500.00)~~ Seven Hundred Fifty Dollars (\$750.00) nor
19 more than ~~One Thousand Dollars (\$1,000.00)~~ One Thousand Two Hundred
20 Fifty Dollars (\$1,250.00) or by imprisonment in the county jail for
21 not less than ten (10) days nor more than thirty (30) days, or by
22 both such fine and imprisonment.

23 B. The State of Oklahoma, on relation of the district attorney,
24 is hereby authorized to institute legal action against the owner or

1 operator of any air, land or water conveyances, firearms or other
2 items or equipment ~~so~~ used, if ~~such~~ the owner or operator is found
3 guilty of a ~~second or subsequent~~ violation of+

4 ~~1. Section 32 of this act in cases of deer, turkey, antelope~~
5 ~~and elk or when violations involve possession of a legal deer rifle~~
6 ~~or shotgun with slug or buckshot,~~

7 ~~2. Sections~~ Section 5-411 or 5-412 of this title, ~~or~~

8 ~~3. 5-412 of this title.~~

9 ~~Such~~ The legal proceedings shall subject all of the
10 above-mentioned items to seizure and forfeiture proceedings pursuant
11 to Section 7-206 of this title, if it is found that ~~such~~ the items
12 were used as an aid in violation ~~hereof~~ of Section 5-411 or 5-412 of
13 this title.

14 C. A court in this state, on relation of the district attorney,
15 may order the suspension, revocation, or denial of the hunting and
16 fishing license privileges of a person found guilty of violation of
17 Section 5-411 or 5-412 of this title for a period of time as
18 determined by the court to be consistent with the violation
19 committed and based on previous conviction history, not to exceed a
20 maximum of ten (10) years. Upon completion of the suspension or
21 revocation period, the person may apply for a new hunting or fishing
22 license or reinstatement of the lifetime license the person held by
23 paying a reinstatement fee of Two Hundred Dollars (\$200.00) for
24 residents and Five Hundred Dollars (\$500.00) for nonresidents. The

1 reinstatement fee shall be in addition to any other fees required
2 for the hunting and fishing license.

3 SECTION 3. AMENDATORY 29 O.S. 2001, Section 5-412, is
4 amended to read as follows:

5 Section 5-412. ~~A.~~ Except as otherwise provided by law, no
6 person may possess, hunt, chase, harass, capture, shoot at, wound or
7 kill, take or attempt to take, trap or attempt to trap any
8 endangered or threatened species or subspecies without specific
9 written permission of the Director. In no event, however, may that
10 permission conflict with federal law.

11 ~~B. Any person convicted of violating any of the provisions of~~
12 ~~this section shall be punished by a fine of not less than One~~
13 ~~Hundred Dollars (\$100.00) nor more than One Thousand Dollars~~
14 ~~(\$1,000.00), or by imprisonment in the county jail for a period not~~
15 ~~to exceed thirty (30) days, or by both such fine and imprisonment.~~

16 SECTION 4. AMENDATORY 29 O.S. 2001, Section 7-207, is
17 amended to read as follows:

18 Section 7-207. A. When ~~a habitual wildlife violator, as~~
19 ~~defined by Section 62 of this act,~~ a person is convicted of a
20 wildlife offense which involves a species of wildlife listed in
21 Section 5-411 of this title or a species referenced in Section 5-412
22 of this title and involves the unlawful possession, taking or
23 killing of ~~deer, turkey, elk, or antelope~~ the wildlife from an
24 unlawful hunt, chase, trap, capture, shooting, killing or slaughter,

1 netting, shocking, or poisoning, by any means, the court, in
2 addition to the execution of sentence in whole or in part, shall
3 order the convicted defendant to provide restitution to the Oklahoma
4 Department of Wildlife Conservation.

5 ~~B.~~ The amount of restitution shall ~~include but not be limited~~
6 ~~to replacement costs established by professional recommendation and~~
7 ~~approved by the Oklahoma Wildlife Conservation Commission, or any~~
8 ~~estimated average of the most recent values compiled from various~~
9 ~~states that surround the State of Oklahoma~~ be not less than One
10 Hundred Dollars (\$100.00) nor more than Five Thousand Dollars
11 (\$5,000.00) depending on the species, the type of specimen and the
12 value of that animal to the wildlife resources of the state. The
13 Department of Wildlife Conservation shall provide the court with a
14 recommendation on the replacement cost. The court shall also take
15 into consideration any previous convictions for violations of any
16 fish and wildlife laws or regulations by the offender.

17 ~~C.~~ B. When a person is convicted of a wildlife offense which
18 involves any species of wildlife other than those listed or
19 referenced in Sections 5-411 and 5-412 of this title and involves
20 the unlawful possession, taking or killing of the wildlife from an
21 unlawful hunt, chase, trap, capture, shooting, killing or slaughter,
22 netting, shocking, or poisoning, by any means, the court, in
23 addition to the execution of sentence in whole or in part, shall
24 order the convicted defendant to provide restitution to the Oklahoma

1 Department of Wildlife Conservation. The amount of restitution
2 shall be not less than Ten Dollars (\$10.00) nor more than Five
3 Thousand Dollars (\$5,000.00) depending on the species, the type of
4 specimen and the value of that animal to the wildlife resources of
5 the state. The Department of Wildlife Conservation shall provide
6 the court with a recommendation on the replacement cost. The court
7 shall also take into consideration any previous convictions for
8 violations of any fish and wildlife laws or regulations by the
9 offender.

10 C. One hundred percent (100%) of the amount of restitution
11 shall be forfeited to the Oklahoma Department of Wildlife
12 Conservation in the event of a guilty plea or a conviction.

13 SECTION 5. REPEALER 29 O.S. 2001, Section 1002, as
14 amended by Section 1, Chapter 302, O.S.L. 2005 (29 O.S. Supp. 2009,
15 Section 1002), is hereby repealed.

16 SECTION 6. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 17th day of February,
2 2010.

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5 Presiding Officer of the House of
6 Representatives

7 Passed the Senate the ____ day of _____, 2010.

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10 Presiding Officer of the Senate

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