

ENROLLED HOUSE
BILL NO. 1889

By: Richardson and Smithson of
the House

and

Sparks of the Senate

An Act relating to game and fish; enacting the Interstate Wildlife Violator Compact; listing findings; stating the policy of participating state; stating the purpose of the compact; providing definitions; providing procedures for issuing a citation by a participating state; making personal recognizance acceptable; requiring certain report to the issuing state; providing for transmission of certain information to the home state upon conviction or noncompliance; requiring the home state to notify a violator; authorizing the home state to initiate a license suspension action; requiring due process safeguards; authorizing the home state to enter a conviction in the records; requiring home state to maintain certain records and make certain reports; providing for reciprocal recognition of a suspension by all participating states; requiring communications of suspension information in certain form and content; limiting application of the compact on other law; providing for the establishment of a board of compact administrators; providing for composition of the board; providing for appointment of a state compact administrator; specifying duties of the board; providing for donation to the board; authorizing the board to contract for services; directing the board to formulate procedures and forms; providing procedures for entry into and withdrawal from the compact; providing procedures for amendments to the compact; requiring liberal construction of the compact; providing for severability; requiring the Department of Wildlife Conservation to enforce the compact; authorizing the

Director of the Department of Wildlife Conservation to enter or withdraw from the compact and adopt amendments; directing the Department to make a certain determination regarding the suspension of hunting, fishing, or trapping privileges of certain persons; authorizing the Department to recognize the conviction of an issuing state; requiring certain notice; establishing penalty for failure to comply with suspension notice; allowing a request for a hearing; specifying procedures for a hearing; providing for certain action by the Department; providing for codification; and providing an effective date.

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 10-101 of Title 29, unless there is created a duplication in numbering, reads as follows:

The Interstate Wildlife Violator Compact is hereby enacted into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE 1. FINDINGS, DECLARATION OF POLICY, AND PURPOSE

A. The participating states find that the following provisions apply:

1. Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors;

2. The protection of the wildlife resources of a state is materially affected by the degree of compliance with state statutes, laws, ordinances, regulations, and administrative rules relating to the management of such resources;

3. The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of such natural resources;

4. Wildlife resources are valuable without regard to political boundaries; therefore, every person should be required to comply with wildlife preservation, protection, management and restoration laws, ordinances, regulations, and administrative rules of the participating states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife;

5. Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property;

6. The mobility of many wildlife law violators necessitates the maintenance of channels of communication among the various states;

7. In most instances, a person who is cited for a wildlife violation in a state other than that person's own state:

- a. is required to post collateral or a bond to secure appearance for a trial at a later date,
- b. is taken into custody until the collateral or bond is posted, or
- c. is taken directly to court for an immediate appearance;

8. The purpose of the enforcement practices set forth in paragraph 7 of this subsection is to ensure compliance with the terms of a wildlife citation by the cited person who, if permitted to proceed after receiving the citation, could return to the home state of the person and disregard their duty under the terms of the citation;

9. In most instances, a person receiving a wildlife citation in the home state of the person is permitted to accept the citation from the officer at the scene of the violation and immediately proceed after agreeing or being instructed to comply with the terms of the citation;

10. The practices described in paragraph 7 of this subsection cause unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay a fine and is thus compelled to remain in custody until some alternative arrangement is made; and

11. The enforcement practices described in paragraph 7 of this subsection consume an undue amount of law enforcement time.

B. It is the policy of the participating states to:

1. Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states;

2. Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and may treat the suspension as if it had occurred in their state;

3. Allow a violator, except as provided in subsection B of Article 3 of this compact, to accept a wildlife citation and proceed without delay, whether or not a resident of the state in which the citation was issued, provided that the home state of the violator is party to this compact;

4. Report to the appropriate participating state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state;

5. Allow the home state to recognize and treat convictions recorded against its residents, which convictions occurred in a participating state, as though they occurred in the home state;

6. Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state;

7. Maximize effective use of law enforcement personnel and information; and

8. Assist court systems in the efficient disposition of wildlife violations.

C. The purpose of this compact is to:

1. Provide a means through which participating states may join in a reciprocal program to effectuate the policies enumerated in subsection B of this article in a uniform and orderly manner; and

2. Provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of a participating state.

ARTICLE 2. DEFINITIONS

As used in this compact, unless the context requires otherwise, the following definitions apply:

1. "Citation" means any summons, complaint, summons and complaint, ticket, penalty assessment, or other official document that is issued to a person by a game warden, wildlife officer or other peace officer for a wildlife violation and that contains an order requiring the person to respond;

2. "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a game warden, wildlife officer or other peace officer of a citation for a wildlife violation;

3. "Compliance" with respect to a citation means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs, and surcharges, if any;

4. "Conviction" means a conviction, including any court conviction, for any offense that is related to the preservation, protection, management, or restoration of wildlife and that is prohibited by state statute, law, regulation, ordinance, or administrative rule. The term also includes the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court;

5. "Court" means a court of law, including magistrate's court and the justice of the peace court;

6. "Home state" means the state of primary residence of a person;

7. "Issuing state" means the participating state which issues a wildlife citation to the violator;

8. "License" means any license, permit, or other public document that conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a participating state;

9. "Licensing authority" means the commission, department or division within each participating state that is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife;

10. "Participating state" means any state that enacts legislation to become a member of this wildlife compact;

11. "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of the citation;

12. "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the provinces of Canada, and other countries;

13. "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license;

14. "Terms of the citation" means those conditions and options expressly stated in the citation;

15. "Wildlife" means all species of animals including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a participating state. Species included in the definition of "wildlife" for purposes of this compact are based on state or local law;

16. "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof;

17. "Wildlife officer" means any individual authorized by a participating state to issue a citation for a wildlife violation; and

18. "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted for the management of wildlife resources and the uses thereof.

ARTICLE 3. PROCEDURES FOR ISSUING STATE

A. When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state and may not require the person to post collateral to secure appearance, subject to the exceptions noted in subsection B of this article, if the officer receives the recognizance of the person that the person will comply with the terms of the citation.

B. Personal recognizance is acceptable if:

1. Not prohibited by state or local law or the compact manual;
and

2. The violator provides adequate proof of identification to the wildlife officer.

C. Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report must be made in accordance with procedures specified by the issuing state and must contain information as specified in the compact manual as minimum requirements for effective processing by the home state.

D. Upon receipt of the report of conviction or noncompliance pursuant to subsection C of this article, the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in form and content as prescribed in the compact manual.

ARTICLE 4. PROCEDURE FOR HOME STATE

A. Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority of the home state shall notify the violator and may initiate a suspension action in

accordance with the suspension procedures of the home state and may suspend the license privileges of the violator until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

B. Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state may enter the conviction in its records and may treat the conviction as though it occurred in the home state for the purposes of the suspension of license privileges if the violation resulting in a suspension could have been the basis for suspension of license privileges in the home state.

C. The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

ARTICLE 5. RECIPROCAL RECOGNITION OF SUSPENSION

A. All participating states may recognize the suspension of license privileges of any person by any participating state as though the violation resulting in the suspension had occurred in their state and could have been the basis for suspension of license privileges in their state.

B. Each participating state shall communicate suspension information to other participating states in form and content as contained in the compact manual.

ARTICLE 6. APPLICABILITY OF OTHER LAWS

Except as expressly required by this compact, nothing herein may be construed to affect the right of any participating state to apply any of its laws relating to license privileges to any person or circumstance or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state concerning wildlife law enforcement.

ARTICLE 7. COMPACT ADMINISTRATOR - PROCEDURES

A. For the purposes of administering this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board is composed of one representative from each

of the participating states to be known as the compact administrator. The compact administrator must be appointed by the head of the licensing authority of each participating state and serves and is subject to removal in accordance with the laws of the state the compact administrator represents. A compact administrator may provide for the discharge of duties and the performance of functions as a board member by an alternate. An alternate is not entitled to serve unless written notification of the identity of the alternate has been given to the board.

B. Each member of the board of compact administrators is entitled to one vote. No action of the board is binding unless taken at a meeting at which a majority of the total number of the votes by the board are cast in favor thereof. Action by the board may be only at a meeting at which a majority of the participating states is represented.

C. The board shall elect annually from its membership a presiding officer and a vice presiding officer.

D. The board shall adopt bylaws not inconsistent with the provisions of this compact or the laws of a participating state for the conduct of its business and may amend and rescind its bylaws.

E. The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and receive, utilize, and dispose of the same.

F. The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, or any private nonprofit organization or institution.

G. The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action must be contained in a compact manual.

ARTICLE 8. ENTRY INTO COMPACT AND WITHDRAWAL

A. This compact becomes effective at such time as it is adopted in a substantially similar form by two or more states.

B. 1. Entry into the compact must be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the presiding officer of the board.

2. The resolution must substantially be in the form and content as provided in the compact manual and must include the following:

- a. a citation of the authority from which the state is empowered to become a party to this compact,
- b. an agreement of compliance with the terms and provisions of this compact, and
- c. an agreement that compact entry is with all states participating in the compact and with all additional states legally becoming a party to the compact.

3. The effective date of entry must be specified by the applying state but may not be less than sixty (60) days after notice has been given by the:

- a. presiding officer of the board of the compact administrators, or
- b. secretariat of the board to each participating state that the resolution from the applying state has been received.

C. A participating state may withdraw from participation in this compact by official written notice to each participating state, but withdrawal does not become effective until ninety (90) days after the notice of withdrawal is given. The notice must be directed to the compact administrator of each member state. Withdrawal of any state does not affect the validity of this compact as to the remaining participating states.

ARTICLE 9. AMENDMENTS TO THE COMPACT

A. This compact may be amended from time to time. Amendments must be presented in resolution form to the presiding officer of the board of the compact administrators and must be initiated by one or more participating states.

B. Adoption of an amendment requires endorsement by all participating states and becomes effective thirty (30) days after the date of the last endorsement.

C. Failure of a participating state to respond to the compact presiding officer within one hundred twenty (120) days after receipt of a proposed amendment constitutes endorsement thereof.

ARTICLE 10. CONSTRUCTION AND SEVERABILITY

This compact must be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or the United States, or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the validity of the remainder of the compact is not affected thereby. If this compact is held contrary to the constitution of any participating state, the compact remains in full force and effect as to the remaining states and in full force and effect as to the participating state affected as to all severable matters.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-102 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. The Department of Wildlife Conservation shall enforce the Interstate Wildlife Violator Compact as set forth in Section 1 of this act and shall do all things within the jurisdiction of the Department that are appropriate in order to effectuate the purposes and the intent of the compact.

B. The Director of the Department of Wildlife Conservation is authorized on behalf of the state to enter or withdraw from the Interstate Wildlife Violator Compact pursuant to the terms of Article 8 of the compact.

C. The Director is authorized to adopt amendments to the Interstate Wildlife Violator Compact pursuant to the terms of Article 9 of the compact.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-103 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. When the Department of Wildlife Conservation receives notice of the suspension of the hunting, trapping, or fishing privileges of a person by a participating issuing state as set forth in the Interstate Wildlife Violator Compact, the Department shall determine whether the violation leading to the suspension could have led to the forfeiture of privileges under the law of this state. If the Department determines that the privileges of the person could have been forfeited, the Department may suspend the privileges to hunt, trap, or fish in this state of the person for the same period as imposed by the participating state not to exceed the maximum limits allowed by state law.

B. When the Department receives notice of a conviction of a state resident from the licensing authority of the participating issuing state, the Department may treat the conviction as if it had occurred in this state and shall determine whether the conviction could have led to the forfeiture of the hunting, trapping, or fishing privileges of the resident under state law. If the Department determines that the privileges of the resident could have been forfeited, the Department may suspend the privileges of the resident to hunt, trap, or fish in this state for the same period as the issuing state, not to exceed the limit that could have been imposed under state law.

C. Notice of the suspension shall be sent to the person, who shall surrender any current Oklahoma hunting, trapping, or fishing licenses to the Department within ten (10) days.

D. A person whose privileges have been suspended and who hunts, traps, or fishes in this state, who applies for or purchases any licenses or permits to hunt, trap, or fish in this state, or who refuses to surrender any current hunting, trapping, or fishing licenses as required pursuant to this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00).

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-104 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. The Department of Wildlife Conservation may suspend the hunting, trapping, or fishing privileges of any resident of this state upon notification from the licensing authority of a

participating state as set forth in the Interstate Wildlife Violator Compact, that the resident has failed to comply with the terms of a citation issued for a wildlife violation. The suspension remains in effect until the Department receives satisfactory evidence of compliance from the issuing state.

B. Notice of the suspension must be sent to the resident, who shall surrender all current Oklahoma hunting, trapping, or fishing licenses to the Department within ten (10) days.

C. A person who hunts, traps, or fishes, who applies for or purchases licenses or permits, or who refuses to surrender any current hunting, trapping, or fishing licenses in violation of this section shall be guilty of a misdemeanor and shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00).

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-105 of Title 29, unless there is created a duplication in numbering, reads as follows:

A. Upon suspending the hunting, trapping, or fishing privileges of any person under Section 3 or Section 4 of this act, the Department of Wildlife Conservation shall immediately notify the person in writing. The person may, within twenty (20) days of the notice, request a hearing before the Department on whether the requirements for suspension have been met.

B. Upon request, the Department shall set a hearing as early as practicable. The requesting person may present evidence and arguments at the hearing contesting the suspension.

C. Following the hearing, the Department, through its authorized agent, may, based on the evidence, affirm, modify, or rescind the suspension of privileges.

SECTION 6. This act shall become effective November 1, 2010.

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

Presiding Officer of the House of
Representatives

Passed the Senate the 20th day of April, 2010.

Presiding Officer of the Senate