

THE HOUSE OF REPRESENTATIVES
Monday, February 15, 2010

House Bill No. 2861

HOUSE BILL NO. 2861 - By: RICHARDSON of the House.

An Act relating to game and fish; amending 29 O.S. 2001, Section 5-203, which relates to carrying firearms while training dogs; deleting obsolete language; clarifying statutory language; deleting penalty; amending 29 O.S. 2001, Section 5-402, which relates to punishments for violation of certain laws; increasing certain penalty; modifying violations subject to seizure and forfeiture actions; authorizing a court to order suspension, revocation or denial of hunting and fishing privileges; providing maximum period for revocation or suspension; allowing a person to apply for a new or reinstated license; establishing reinstatement fee; amending 29 O.S. 2001, Section 5-412, which relates to endangered or threatened species or subspecies; deleting certain penalty; amending 29 O.S. 2001, 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.

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

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

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

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

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

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

10 4. All propagated birds so used are tagged or banded prior to their release.
11 ~~Provided, further that the~~ The use of a bird hunting dog may be permitted in the legal
12 hunting of quail, dove, prairie chickens, pheasant and waterfowl.

13 ~~5. B.~~ A. A person may carry a pistol while training a bird dog without having met the
14 provisions of paragraphs 1 through 4 of ~~this subsection~~ A of this section.

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

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

21 Section 5-402. A. Any person convicted of violating any provision of Section 5-203
22 and Sections 5-401 through 5-410 of this title, shall be punished by a fine of not less than

1 Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Any person
2 convicted of violating any provision of Sections 5-411 and 5-412 of this title, shall be
3 punished by a fine not less than ~~Five Hundred Dollars (\$500.00)~~ Seven Hundred Fifty
4 Dollars (\$750.00) nor more than ~~One Thousand Dollars (\$1,000.00)~~ One Thousand Two
5 Hundred Fifty Dollars (\$1,250.00) or by imprisonment in the county jail for not less than
6 ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment.

7 B. The State of Oklahoma, on relation of the district attorney, is hereby authorized
8 to institute legal action against the owner or operator of any air, land or water
9 conveyances, firearms or other items or equipment so used, if ~~such~~ the owner or operator
10 is found guilty of a ~~second or subsequent~~ violation of:

- 11 ~~1. Section 32 of this act in cases of deer, turkey, antelope and elk or when violations~~
12 ~~involve possession of a legal deer rifle or shotgun with slug or buckshot,~~
13 ~~2. Sections~~ Section 5-411 or 5-412 of this title, ~~or~~
14 ~~3. 5-412 of this title.~~

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

18 C. A court in this state, on relation of the district attorney, may order the
19 suspension, revocation, or denial of the hunting and fishing license privileges of a person
20 found guilty of violation of Section 5-411 or 5-412 of this title for a period of time as
21 determined by the court to be consistent with the violation committed and based on
22 previous conviction history, not to exceed a maximum of ten (10) years. Upon completion

1 of the suspension or revocation period, the person may apply for a new hunting or fishing
2 license or reinstatement of the lifetime license the person held by paying a reinstatement
3 fee of Two Hundred Dollars (\$200.00) for residents and Five Hundred Dollars (\$500.00)
4 for nonresidents. The reinstatement fee shall be in addition to any other fees required
5 for the hunting and fishing license.

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

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

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

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

19 Section 7-207. A. ~~When a habitual wildlife violator, as defined by Section 62 of this~~
20 ~~aet,~~ a person is convicted of a 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 of this title and
22 involves the unlawful possession, taking or killing of deer, turkey, elk, or antelope the

1 wildlife from an unlawful hunt, chase, trap, capture, shooting, killing or slaughter,
2 netting, shocking, or poisoning, by any means, the court, in addition to the execution of
3 sentence in whole or in part, shall order the convicted defendant to provide restitution to
4 the Oklahoma Department of Wildlife Conservation.

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

15 ~~C.~~ B. When a person is convicted of a wildlife offense which involves any species of
16 wildlife other than those listed or referenced in Sections 5-411 and 5-412 of this title and
17 involves the unlawful possession, taking or killing of the wildlife from an unlawful hunt,
18 chase, trap, capture, shooting, killing or slaughter, netting, shocking, or poisoning, by
19 any means, the court, in addition to the execution of sentence in whole or in part, shall
20 order the convicted defendant to provide restitution to the Oklahoma Department of
21 Wildlife Conservation. The amount of restitution shall be not less than Ten Dollars
22 (\$10.00) nor more than Five Thousand Dollars (\$5,000.00) depending on the species, the

1 type of specimen and the value of that animal to the wildlife resources of the state. The
2 Department of Wildlife Conservation shall provide the court with a recommendation on
3 the replacement cost. The court shall also take into consideration any previous
4 convictions for violations of any fish and wildlife laws or regulations by the offender.

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

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

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

13 COMMITTEE REPORT BY: COMMITTEE ON WILDLIFE, dated 02-11-10 - DO PASS.