

EHB 2701

1 THE STATE SENATE  
2 Monday, March 29, 2010

3 ENGROSSED

4 House Bill No. 2701

5 As Amended

6 ENGROSSED HOUSE BILL NO. 2701 - By: McDaniel (Randy) and Hoskin of  
7 the House and Lamb of the Senate.

8 ( game and fish - amending 29 O.S., Sections 2-138, 410 and  
9 4-112 - licensing purposes - military personnel -  
10 emergency )

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

12 SECTION 1. AMENDATORY 29 O.S. 2001, Section 2-138, as  
13 amended by Section 1, Chapter 44, O.S.L. 2007 (29 O.S. Supp. 2009,  
14 Section 2-138), is amended to read as follows:

15 Section 2-138. "Resident" is any individual who has an  
16 established bona fide or actual residence in Oklahoma for a period  
17 of not less than sixty (60) consecutive days immediately preceding  
18 the date the application for a license, permit, stamp, or any other  
19 issue of the Department is submitted. The burden of establishing  
20 proof of residency shall be on the person claiming residency status.  
21 A person holding a valid driver license or permit to operate a motor  
22 vehicle shall be deemed to be a resident of the state issuing the  
23 license or permit. For a valid Oklahoma driver license to be used  
24 as the sole source of proof of residency, it shall have been issued  
25 not less than sixty (60) days prior to submission of the

1 application. If a person does not hold a valid Oklahoma driver  
2 license, the Department may consider other reliable documentation  
3 for establishing proof of residency including, but not limited to,  
4 property tax receipts, resident income tax returns, voter  
5 registration, motor vehicle or vessel registrations, and other  
6 public records documenting residence. Residency status of children  
7 under eighteen (18) years of age is presumed to be that of the  
8 custodial parent or legal guardian unless otherwise documented.  
9 Ownership or possession of real property in the state by a person  
10 residing outside the state shall not qualify the person as a  
11 resident. A person shall not be entitled to claim multiple states  
12 of residence, except as follows:

13 1. A person who is not otherwise a resident of the state and is  
14 a member of the Armed Forces of the United States and is on active  
15 duty and permanently assigned to a military installation located in  
16 the state shall be eligible to qualify as a resident if the person  
17 presents with the license application a certificate of assignment in  
18 the state from a commanding officer or designated representative. A  
19 spouse or dependent of the person who is not otherwise a resident of  
20 the state, is living within the same household and is similarly  
21 certified by a commanding officer, shall also be eligible to qualify  
22 as a resident; and

1           2. The residency of a person shall not terminate upon entering  
2 the Armed Forces of the United States. A person on active duty ~~who~~  
3 ~~resided in the state upon entering military service~~, and any  
4 dependents of the person, is presumed to retain residency status in  
5 the state for purposes of purchasing an annual hunting and fishing  
6 license as long as the person is on active duty ~~and maintains~~  
7 ~~Oklahoma as their official "state of residence" or "home of record"~~,  
8 ~~as shown on current leave and earnings statement~~ verified by valid  
9 military documentation.

10           The residency status of any person, ~~including~~ excluding a member  
11 of the Armed Forces of the United States while on active duty, shall  
12 terminate if the person obtains any resident hunting, fishing,  
13 trapping license or permit or valid driver license issued by another  
14 state.

15           SECTION 2.           AMENDATORY           29 O.S. 2001, Section 4-110, as  
16 last amended by Section 1, Chapter 123, O.S.L. 2009 (29 O.S. Supp.  
17 2009, Section 4-110), is amended to read as follows:

18           Section 4-110. A. Except as otherwise provided in the Oklahoma  
19 Wildlife Conservation Code, no person shall fish, pursue, harass,  
20 catch, kill, take in any manner, use, have in possession, sell, or  
21 transport all or any portion of fish without having first procured a  
22 license for such from the Director or from any of the authorized  
23 agents of the Department of Wildlife Conservation. The Wildlife

1 Conservation Commission may designate two (2) days per year in which  
2 residents and nonresidents may fish without first procuring a  
3 fishing license pursuant to the provisions of this section.

4 B. Pursuant to the provisions of this Code, persons excepted  
5 from the license requirements of this section are:

6 1. Legal residents under sixteen (16) years of age and  
7 nonresidents under sixteen (16) years of age from states which do  
8 not require nonresident fishing licenses for persons under sixteen  
9 (16) years of age;

10 2. Legal residents sixty-four (64) years of age or older and  
11 nonresidents sixty-four (64) years of age or older from states which  
12 do not require nonresident fishing licenses for persons sixty-four  
13 (64) years of age or older, provided such resident has obtained a  
14 senior citizen's license pursuant to the provisions of Section 4-133  
15 of this title;

16 3. Legal residents born on or before January 1, 1923;

17 4. Legal resident veterans having a disability of sixty percent  
18 (60%) or more;

19 5. Legal resident owners or tenants, their spouses, parents,  
20 grandparents, children and their spouses, grandchildren and their  
21 spouses who fish in private ponds on land owned or leased by them;

22 6. ~~Every Oklahoma citizen who is serving in a branch of the~~  
23 ~~United States Armed Forces, is on properly authorized leave of~~

1 ~~absence from military duty, has in possession proper written~~  
2 ~~evidence showing such authorized leave, and is serving outside the~~  
3 ~~State of Oklahoma at the time of such fishing,~~

4 ~~7.~~ Any patient of an institution of the State of Oklahoma  
5 established for the care and treatment of mental illness or alcohol  
6 or drug dependency or any developmentally disabled person residing  
7 in any group home or other institution or developmentally disabled  
8 persons when accompanied by an attendant of such institution or  
9 legal guardian of said patient, or when fishing on institutional  
10 property;

11 ~~8.~~ 7. Any person under eighteen (18) years of age who is in the  
12 legal and physical custody of the State of Oklahoma or one of its  
13 agencies by court order;

14 ~~9.~~ 8. Any person under eighteen (18) years of age who is in the  
15 physical custody of a child care facility as defined by Section 402  
16 of Title 10 of the Oklahoma Statutes;

17 ~~10.~~ 9. Any person who is legally blind or who has any other  
18 physical impairment, as certified by a physician licensed in this  
19 state or any state which borders this state, which prevents the  
20 person from properly using fishing apparatus without the assistance  
21 of another person, and any one person actually accompanying and  
22 actually assisting such legally blind or otherwise physically

1 impaired person while the latter is fishing. This certification  
2 shall be carried by the individual while fishing;

3 ~~11.~~ 10. Nonresidents under fourteen (14) years of age;

4 ~~12.~~ 11. Job Corps trainees of this state, provided that such  
5 trainees shall have on their persons a duly authorized  
6 identification card issued by their respective Job Corps Center and  
7 shall present such card upon request, in lieu of a fishing license.  
8 The trainees shall return their cards to their respective Job Corps  
9 Center when the trainees leave their respective Job Corps training  
10 programs;

11 ~~13.~~ 12. Any legal resident having a proven disability which  
12 renders the resident nonambulatory and confined to a wheelchair as  
13 certified by a physician licensed in this state or any state which  
14 borders this state;

15 ~~14.~~ 13. Any person who is fishing with a pole and line,  
16 trotline, or throwline in streams, natural lakes, natural ponds, and  
17 mine pits in the county in which the person is a resident, or in  
18 streams, natural lakes, natural ponds, and mine pits which form a  
19 part of the boundary line of the county in which the person is a  
20 resident, when using any bait other than commercial or artificial  
21 bait, blood, stink bait, cut fish, and shrimp; and

22 ~~15.~~ 14. Any person participating in an aquatic education event  
23 or clinic sanctioned by the Department of Wildlife Conservation.

1 C. Except as otherwise provided for in the Oklahoma Wildlife  
2 Conservation Code, the fee for an annual license issued pursuant to  
3 the provisions of this section shall be:

4 1. For legal residents eighteen (18) years of age and older,  
5 Twenty-four Dollars (\$24.00); for legal residents sixteen (16) or  
6 seventeen (17) years of age, Four Dollars (\$4.00). For a two-day  
7 resident permit license, Fourteen Dollars (\$14.00). Of the amount  
8 of monies collected pursuant to the provisions of this paragraph,  
9 Five Dollars (\$5.00) of each license fee shall be deposited in the  
10 Oklahoma Wildlife Land Stamp Fund created pursuant to the provisions  
11 of Section 4-141 of this title; and

12 2. For nonresidents, Forty-one Dollars (\$41.00), provided the  
13 Commission may enter into reciprocity agreements with states wherein  
14 nonresident license fees shall be in conformity with such reciprocal  
15 agreements. For a five-day nonresident permit license, Twenty-two  
16 Dollars and fifty cents (\$22.50). Of the amount of monies collected  
17 pursuant to the provisions of this paragraph, Five Dollars (\$5.00)  
18 of the license fee for nonresidents, and One Dollar and fifty cents  
19 (\$1.50) of the five-day nonresident permit fee shall be deposited in  
20 the Wildlife Land Acquisition Fund created pursuant to the  
21 provisions of Section 4-132 of this title.

22 D. Legal residents who have resided in this state for at least  
23 six (6) months and who are receiving Social Security Disability

1 benefits, Supplemental Security Income benefits, disability benefits  
2 under the Railroad Retirement Act, 45 U.S.C.A., Section 231a,  
3 postal employees receiving disability benefits pursuant to 5,  
4 U.S.C., Section 8451 (1998) or legal residents who are one hundred  
5 percent (100%) disabled and are receiving disability payments from  
6 the Multiple Injury Trust Fund pursuant to Section 173 of Title 85  
7 of the Oklahoma Statutes, may purchase a disability fishing license  
8 from the Director for Ten Dollars (\$10.00) for five (5) years.

9 E. 1. Any person arrested while violating the provisions of  
10 this section who does not meet the requirements of subsection H of  
11 this section, may purchase a substitute temporary thirty-day license  
12 from the arresting game warden in lieu of posting bond. The fee for  
13 a substitute license purchased pursuant to the provisions of this  
14 subsection shall be:

15 a. for legal residents, Fifty Dollars (\$50.00), and

16 b. for nonresidents, Ninety Dollars (\$90.00).

17 2. Except as otherwise provided by this subsection, the fees  
18 from licenses purchased pursuant to the provisions of this  
19 subsection shall be deposited in the Wildlife Conservation Fund to  
20 be used exclusively for developing, managing, preserving, and  
21 protecting wildlife and wildlife habitat.

22 F. Unless a substitute license is purchased as provided for by  
23 subsection E of this section, any resident of this state convicted

1 of violating the provisions of this section shall be punished by the  
2 imposition of a fine of not less than Twenty-five Dollars (\$25.00)  
3 nor more than Two Hundred Dollars (\$200.00) or by imprisonment in  
4 the county jail for a period not to exceed thirty (30) days, or by  
5 both said fine and imprisonment.

6 G. Unless a substitute license is purchased as provided for by  
7 subsection E of this section, any nonresident convicted of violating  
8 this section shall be punished by a fine of not less than Fifty  
9 Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) or by  
10 imprisonment in the county jail for a period not more than thirty  
11 (30) days, or by both such fine and imprisonment.

12 H. Any person producing proof in court that a current fishing  
13 license issued by the Department of Wildlife Conservation to such  
14 person was in force at the time of the alleged offense shall be  
15 entitled to dismissal of a charge of violating this section upon  
16 payment of court costs; however, if proof of fishing license is  
17 presented to the court or district attorney within seventy-two (72)  
18 hours after the violation, the charge shall be dismissed without  
19 payment of court costs.

20 SECTION 3. AMENDATORY 29 O.S. 2001, Section 4-112, as  
21 last amended by Section 1, Chapter 49, O.S.L. 2008 (29 O.S. Supp.  
22 2009, Section 4-112), is amended to read as follows:

1 Section 4-112. A. Except as otherwise provided for in the  
2 Oklahoma Wildlife Conservation Code or the Oklahoma Farmed Cervidae  
3 Act, no person may hunt, pursue, trap, harass, catch, kill, take or  
4 attempt to take in any manner, use, have in possession, sell, or  
5 transport all or any portion of any wildlife except fish, without  
6 having first procured a license from the Department of Wildlife  
7 Conservation. The Wildlife Conservation Commission shall designate  
8 a consecutive Saturday and Sunday in September of each year as free  
9 hunting days in which residents of this state may hunt without first  
10 procuring a hunting license pursuant to the provisions of this  
11 section.

12 B. Pursuant to the provisions of this Code, persons excepted  
13 from the license requirement of this section are:

- 14 1. Legal residents of Oklahoma under sixteen (16) years of age;
- 15 2. Legal residents of Oklahoma sixty-four (64) years of age or  
16 older provided they have obtained a senior citizen's license  
17 pursuant to the provisions of Section 4-133 of this title;
- 18 3. Legal residents born on or before January 1, 1923;
- 19 4. Legal resident veterans having a disability of sixty percent  
20 (60%) or more;
- 21 5. Legal resident owners or tenants who hunt on land owned or  
22 leased by them;

1       6. ~~Every citizen of Oklahoma serving in a branch of the United~~  
2 ~~States Armed Forces on properly authorized leave from military duty~~  
3 ~~having in his or her possession proper written evidence showing such~~  
4 ~~authorized leave and serving outside the State of Oklahoma at the~~  
5 ~~time of the hunting;~~

6       ~~7.~~ Any nonresident under fourteen (14) years of age;

7       ~~8.~~ 7. Legal residents having a proven disability which renders  
8 them nonambulatory and confines them to a wheelchair, as certified  
9 by a physician licensed in this state or in any state which borders  
10 this state;

11       ~~9.~~ 8. Any person under eighteen (18) years of age who is in the  
12 physical custody of a child care facility as defined by Section 402  
13 of Title 10 of the Oklahoma Statutes; and

14       ~~10.~~ 9. Any person hunting, pursuing, trapping, harassing,  
15 catching, killing, taking, or attempting to take in any manner any  
16 species of rattlesnake during an organized rattlesnake-hunting event  
17 or festival and who has a rattlesnake permit issued pursuant to  
18 Section 4-143 of this title.

19       C. Except as otherwise provided for in this Code, the fees for  
20 licenses listed in this subsection are:

- 21       1.    a.    Annual hunting licenses for nonresidents hunting game  
22                    other than deer, antelope, or elk, One Hundred Thirty-  
23                    six Dollars (\$136.00); for deer, Two Hundred Dollars

1 (\$200.00); for antelope and elk, Three Hundred Dollars  
2 (\$300.00). There shall be no exemptions for deer,  
3 antelope, elk, or turkey. Any nonresident hunting in  
4 a big game or combination big game and upland game  
5 commercial hunting area shall be required to have an  
6 annual nonresident hunting license pursuant to this  
7 subparagraph, and the fee shall be One Hundred Thirty-  
8 six Dollars (\$136.00). For a five-day nonresident  
9 hunting license to hunt game other than deer,  
10 antelope, elk, or turkey, the fee shall be Sixty-nine  
11 Dollars (\$69.00).

12 b. Annual combination hunting licenses for nonresidents  
13 hunting one antlered and one antlerless deer, Two  
14 Hundred Fifty Dollars (\$250.00); for nonresidents  
15 hunting an additional antlerless deer, Fifty Dollars  
16 (\$50.00) which shall be valid only on private lands  
17 not managed by the Department of Wildlife  
18 Conservation.

19 c. Of the amount of monies collected pursuant to the  
20 provisions of this paragraph, Five Dollars (\$5.00) of  
21 the license fee for hunting game other than deer,  
22 antelope and elk, Five Dollars (\$5.00) of the license  
23 fee for hunting deer, Five Dollars (\$5.00) of the

1 license fee for hunting antelope and elk and Two  
2 Dollars and fifty cents (\$2.50) of the five-day  
3 hunting license shall be deposited in the Wildlife  
4 Land Acquisition Fund created pursuant to the  
5 provisions of Section 4-132 of this title.

6 2. Disability hunting license, residents of this state for at  
7 least six (6) months and who are receiving Social Security  
8 Disability benefits, Supplemental Security Income benefits or  
9 disability benefits under the Railroad Retirement Act, 45 U.S.C.A.,  
10 Section 231a or residents who are one-hundred-percent disabled and  
11 are receiving disability payments from the Multiple Injury Trust  
12 Fund pursuant to Section 173 of Title 85 of the Oklahoma Statutes,  
13 may purchase a disability hunting license from the Director for Ten  
14 Dollars (\$10.00) for five (5) years.

15 3. Deer gun hunting license, residents, Nineteen Dollars  
16 (\$19.00). There shall be no exemptions except:

17 a. residents sixty-four (64) years of age or older  
18 provided such residents have obtained a senior  
19 citizen's license pursuant to the provisions of  
20 Section 4-133 of this title,

21 b. legal residents of Oklahoma under eighteen (18) years  
22 of age provided such residents shall be required to

1 pay a deer gun hunting license fee of Nine Dollars  
2 (\$9.00),

3 c. residents with proper certification from the United  
4 States Department of Veterans Affairs or its  
5 successor, certifying that the person is a disabled  
6 veteran in receipt of compensation at the one-hundred-  
7 percent rate shall be exempt from the fees specified  
8 pursuant to this paragraph, and

9 d. residents hunting in big game or combination big game  
10 and upland game commercial hunting areas shall be  
11 exempt from the fees specified pursuant to this  
12 paragraph.

13 4. Deer archery hunting license, residents, Nineteen Dollars  
14 (\$19.00) and for legal residents of Oklahoma under eighteen (18)  
15 years of age, Nine Dollars (\$9.00). There shall be no exemptions  
16 except residents with proper certification from the United States  
17 Department of Veterans Affairs or its successor, certifying that the  
18 person is a disabled veteran in receipt of compensation at the one-  
19 hundred-percent rate and residents hunting in big game or  
20 combination big game and upland game commercial hunting areas shall  
21 be exempt from the fees specified pursuant to this paragraph.

22 5. Primitive firearms license, residents, Nineteen Dollars  
23 (\$19.00) and for legal residents of Oklahoma under eighteen (18)

1 years of age, Nine Dollars (\$9.00). There shall be no exemptions  
2 except residents with proper certification from the United States  
3 Department of Veterans Affairs or its successor, certifying that the  
4 person is a disabled veteran in receipt of compensation at the one-  
5 hundred-percent rate and residents hunting in big game or  
6 combination big game and upland game commercial hunting areas shall  
7 be exempt from the fees specified pursuant to this paragraph.

8 6. Elk or antelope hunting license, residents, Fifty Dollars  
9 (\$50.00). There shall be no exemptions except residents hunting in  
10 big game or combination big game and upland game commercial hunting  
11 areas shall be exempt from the fees specified pursuant to this  
12 paragraph.

13 7. Bonus, special or second deer gun hunting license,  
14 residents, Nineteen Dollars (\$19.00). No exemptions except:

- 15 a. residents sixty-five (65) years of age or older  
16 provided such residents have obtained a senior  
17 citizen's license pursuant to the provisions of  
18 Section 4-133 of this title,
- 19 b. persons with proper certification from the United  
20 States Department of Veterans Affairs or its  
21 successor, certifying that the person is a disabled  
22 veteran in receipt of compensation at the one-hundred-

1                   percent rate shall be exempt from the fees specified  
2                   pursuant to this paragraph, and

3           c.   residents hunting in big game or combination big game  
4                   and upland game commercial hunting areas shall be  
5                   exempt from the fees specified pursuant to this  
6                   paragraph.

7           D.   The fees for hunting licenses, except as provided for in the  
8   Oklahoma Wildlife Conservation Code, are:

9           1.   For legal residents eighteen (18) years of age and older,  
10   Nineteen Dollars (\$19.00); for legal residents sixteen (16) or  
11   seventeen (17) years of age, Four Dollars (\$4.00); and

12           2.   Commercial hunting area small game ten-day permit, resident  
13   or nonresident, Five Dollars (\$5.00).

14           E.   The provisions of this section shall not be construed to  
15   require a hunting license, resident or nonresident, of any person  
16   merely because the person participates, as owner or handler of an  
17   entry, as an official, or as a spectator in the conduct of a field  
18   trial or performance test of dogs, whether a resident or nonresident  
19   of the State of Oklahoma. No license to hunt shall be required of  
20   any person engaged in training or working dogs, provided that person  
21   is in no way engaged in hunting and does not take or attempt to take  
22   in any manner any game.

1 F. 1. Any person arrested for hunting game other than deer,  
2 antelope, elk, or turkey without a valid hunting license as required  
3 by the provisions of subsection A of this section may purchase a  
4 substitute temporary thirty-day license from the arresting game  
5 warden in lieu of posting bond. Proof of hunter safety  
6 certification will not be required for the temporary substitute  
7 license. The fee for a substitute license purchased pursuant to the  
8 provisions of this subsection shall be:

- 9 a. for legal residents, Fifty Dollars (\$50.00), and  
10 b. for nonresidents, One Hundred Forty-five Dollars  
11 (\$145.00).

12 2. Except as otherwise provided for by this subsection, the  
13 fees from licenses purchased pursuant to the provisions of this  
14 subsection shall be deposited in the Wildlife Conservation Fund to  
15 be used exclusively for developing, managing, preserving, and  
16 protecting wildlife and wildlife habitat.

17 G. Any person producing proof in court that a current hunting  
18 license issued by the Department of Wildlife Conservation to that  
19 person was in force at the time of the alleged offense shall be  
20 entitled to dismissal of a charge of violating this section upon  
21 payment of court costs; however, if proof of hunting license is  
22 presented to the court or district attorney within seventy-two (72)

1 hours after the violation, the charge shall be dismissed without  
2 payment of court costs.

3 H. Unless a substitute license is purchased as provided for by  
4 subsection F of this section, any resident convicted of violating  
5 the provisions of this section shall be punished by the imposition  
6 of a fine of not less than Twenty-five Dollars (\$25.00) nor more  
7 than Two Hundred Dollars (\$200.00), or by imprisonment in the county  
8 jail for a period not to exceed thirty (30) days, or by both.

9 I. Unless a substitute license is purchased as provided for by  
10 subsection F of this section, any nonresident convicted of violating  
11 the provisions of this section shall be punished by the imposition  
12 of a fine of not less than Two Hundred Dollars (\$200.00) nor more  
13 than Five Hundred Dollars (\$500.00), or by imprisonment in the  
14 county jail for a period not to exceed six (6) months, or by both.

15 SECTION 4. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

19 COMMITTEE REPORT BY: COMMITTEE ON TOURISM & WILDLIFE, dated 3-25-10  
20 - DO PASS, As Amended.