

EHB 2861

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

**THE STATE SENATE**  
**Monday, March 22, 2010**

**ENGROSSED**

**House Bill No. 2861**

ENGROSSED HOUSE BILL NO. 2861 - By: Richardson and Smithson of the House and Garrison of the Senate.

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:

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

Section 5-203. A. A hunting dog trainer may carry shotguns or firearms on public or private property, other than state parks where

1 hunting game to kill is ~~now~~ prohibited, while training bird hunting  
2 dogs provided that:

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

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

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

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

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

21 ~~B. Any person convicted of violating the provisions of this~~  
22 ~~section shall be punished by a fine of not less than One Hundred~~  
23 ~~Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00),~~

1 ~~or by imprisonment in the county jail for not less than ten (10)~~  
2 ~~days nor more than one (1) year, or by both such fine and~~  
3 ~~imprisonment.~~

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

6 Section 5-402. A. Any person convicted of violating any  
7 provision of Section 5-203 and Sections 5-401 through 5-410 of this  
8 title, shall be punished by a fine of not less than Twenty-five  
9 Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Any  
10 person convicted of violating any provision of Sections 5-411 and 5-  
11 412 of this title, shall be punished by a fine not less than ~~Five~~  
12 ~~Hundred Dollars (\$500.00)~~ Seven Hundred Fifty Dollars (\$750.00) nor  
13 more than ~~One Thousand Dollars (\$1,000.00)~~ One Thousand Two Hundred  
14 Fifty Dollars (\$1,250.00) or by imprisonment in the county jail for  
15 not less than ten (10) days nor more than thirty (30) days, or by  
16 both such fine and imprisonment.

17 B. The State of Oklahoma, on relation of the district attorney,  
18 is hereby authorized to institute legal action against the owner or  
19 operator of any air, land or water conveyances, firearms or other  
20 items or equipment ~~so~~ used, if ~~such~~ the owner or operator is found  
21 guilty of a ~~second or subsequent~~ violation of+

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

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

5       ~~3. 5-412 of this title.~~

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

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

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

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

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

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

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

1 addition to the execution of sentence in whole or in part, shall  
2 order the convicted defendant to provide restitution to the Oklahoma  
3 Department of Wildlife Conservation.

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON TOURISM & WILDLIFE, dated 3-18-10  
21 - DO PASS.