

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 216

By: Fields of the Senate

and

Vaughan of the House

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8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to game and fish; requiring certain  
11 hunting guide license for certain persons; requiring  
12 the Department of Wildlife Conservation to promulgate  
13 certain rules; setting fee; stating exemptions;  
14 setting penalties; providing for suspension and  
15 revocation of the hunting guide license for certain  
16 violations; defining term; amending 29 O.S. 2011,  
17 Section 7-206, which relates to seizure; requiring  
18 game wardens turn certain weapons over to county  
19 sheriff; requiring condition affidavit; providing for  
20 codification; and providing an effective date.

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

24 SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 4-113B of Title 29, unless there  
is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in the Oklahoma Wildlife  
Conservation Code, no person shall assist, accompany, transport,  
guide or aid persons in the taking of wildlife for compensation

1 without having first procured a license specified in subsection B of  
2 this section from the Director of the Department of Wildlife  
3 Conservation or from any of the authorized agents of the Department.

4 B. The Department shall promulgate rules for a hunting guide  
5 license, for persons who assist, accompany, transport, guide or aid  
6 persons in the taking of wildlife for compensation.

7 C. The fee for a license under this section shall be One  
8 Hundred Dollars (\$100.00) for residents and Three Hundred Dollars  
9 (\$300.00) for nonresidents annually.

10 D. The provisions of this section shall not apply to:

11 1. Landowners or agricultural lessees who provide such services  
12 on properties they own or lease;

13 2. Persons guiding upland bird hunts on commercially licensed  
14 upland hunting areas or persons guiding for big game on commercially  
15 licensed big game hunting areas; and

16 3. Persons involved in hunting dog trials or performance tests  
17 sanctioned by the Department of Wildlife Conservation or a  
18 nationally recognized hunting dog organization.

19 E. Any person licensed as a hunting guide pursuant to this  
20 section shall be prohibited from offering or providing guide  
21 services on any lake or lands owned or managed by the Department of  
22 Wildlife Conservation.

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1 F. The provisions of this section shall not exempt a person  
2 procuring a license pursuant to this section from any other hunting  
3 licenses as may be required by law.

4 G. 1. Any person convicted of violating the provisions of this  
5 section shall be punished by a fine of One Thousand Dollars  
6 (\$1,000.00) or by imprisonment in the county jail for a period not  
7 to exceed six (6) months, or by both such fine and imprisonment.

8 2. In addition to any other penalty provided by law, any person  
9 licensed as a hunting guide pursuant to this section who is  
10 convicted of violating any daily or possession limits for any  
11 wildlife or is providing guide services to any person who is  
12 convicted of violating any daily or possession limits for any  
13 wildlife, as established by the Department, shall have the license  
14 issued pursuant to this section suspended for a period of one (1)  
15 year for the first violation and a period of three (3) years for the  
16 second violation. Upon a third violation, the license shall be  
17 revoked and no new license shall be issued to that person from and  
18 after the date on which the revocation becomes effective.

19 H. As used in this section "compensation" shall mean monetary  
20 remuneration.

21 SECTION 2. AMENDATORY 29 O.S. 2011, Section 7-206, is  
22 amended to read as follows:

23 Section 7-206. A. Any game warden, sheriff, deputy sheriff or  
24 other peace officer of this state is authorized to seize any item,

1 equipment, vehicle or other property, which is used or operated in  
2 violation of any provision of Sections 5-411, 5-412~~7~~ and 6-301 of  
3 this title, Section ~~42~~ 6-301a of this ~~act~~ title, subsection A of  
4 Section 6-302 of this title, paragraph 2 of subsection A of Section  
5 6-303 of this title, subsection A, B, C, D, G, H or K of Section 4-  
6 129 of this title, Section ~~32~~ 5-203.1 of this ~~act~~ title, or as  
7 otherwise specified by the Oklahoma Wildlife Conservation Code.  
8 Such items, equipment, vehicles or other such property shall be held  
9 as evidence until:

10 1. A forfeiture or release has been ordered by the court  
11 pursuant to the provisions of this act; or

12 2. The district attorney of the county in which the item,  
13 equipment, vehicle or other property was seized determines that such  
14 item, equipment, vehicle or other property is not needed for  
15 prosecution of the violation.

16 Upon such forfeiture by order of the court, or upon such  
17 determination by the district attorney, the court or the district  
18 attorney as the case may be~~7~~, shall provide for the release of such  
19 item, equipment, vehicle or other property so seized.

20 B. Any game warden seizing a firearm pursuant to subsection A  
21 of this section shall turn the firearm over to the county sheriff of  
22 the county wherein the property was seized. The game warden shall  
23 include an affidavit with each weapon specifying the condition of  
24 the weapon.

1        C. Notice of seizure and intended forfeiture proceeding shall  
2 be filed in the office of the clerk of the district court for the  
3 county wherein any such item, equipment, vehicle or property, is  
4 seized and shall be given all owners and parties in interest.

5        ~~E.~~ D. Notice shall be given according to one of the following  
6 methods:

7            1. Upon each owner or party in interest whose right, title or  
8 interest is of record in the Tax Commission, by mailing a copy of  
9 the notice by certified mail to the address as given upon the  
10 records of the Tax Commission;

11           2. Upon each owner or party in interest whose name and address  
12 is known, by mailing a copy of the notice by registered mail to the  
13 last-known address; or

14           3. Upon all other owners, whose addresses are unknown, but who  
15 are believed to have an interest in such item, equipment, vehicle or  
16 other property, by one publication in a newspaper of general  
17 circulation in the county where the seizure was made.

18        ~~D.~~ E. Within sixty (60) days after the mailing or publication  
19 of the notice, the owner of any such item, equipment, vehicle or  
20 other property, and any other party in interest or claimant may file  
21 a verified answer and claim to such item, equipment, vehicle or  
22 property described in the notice of seizure and of the intended  
23 forfeiture proceeding.

1       ~~E.~~ F. If at the end of sixty (60) days after the notice has  
2 been mailed or published there is no verified answer on file, the  
3 court shall hear evidence upon the fact of the unlawful use or  
4 intended unlawful use and shall order the item, equipment, vehicle  
5 or property, forfeited to the state, if such fact is proved.

6       ~~F.~~ G. If a verified answer is filed, the forfeiture proceeding  
7 shall be set for hearing.

8       ~~G.~~ H. At the hearing the state shall prove beyond a reasonable  
9 doubt by competent evidence that the item, equipment, vehicle or  
10 property was used or operated in a violation of any provision  
11 specified by subsection A of this section. Such items, equipment,  
12 vehicles or other such property shall be held as evidence until a  
13 forfeiture has been declared or release ordered.

14       ~~H.~~ I. The claimant of any right, title or interest in the item,  
15 equipment, vehicle or other property may prove the lien, mortgage or  
16 conditional sales contract of the claimant to be bona fide and that  
17 the right, title or interest of the claimant was created without any  
18 knowledge or reason to believe that the item, equipment, vehicle or  
19 property was being operated for the purpose charged.

20       ~~I.~~ J. In the event of such proof, the court shall order the  
21 item, equipment, vehicle or property released to the bona fide or  
22 innocent owner, lien holder, mortgagee or vendor if the amount due  
23 such person is equal to, or in excess of, the value of the item,  
24 equipment, vehicle or property as of the date of the seizure. It is

1 the intention of this section to forfeit only the right, title or  
2 interest of the purchaser.

3 ~~J.~~ K. If the amount due to such person is less than the value  
4 of the item, equipment, vehicle or property or if no bona fide claim  
5 is established, the item, equipment, vehicle or property shall be  
6 forfeited to the state and the item, equipment, vehicle or property  
7 shall be sold under judgment of the court, as on sale upon  
8 execution, except as otherwise provided for in subsection M of this  
9 section.

10 ~~K.~~ L. Property taken or detained pursuant to this section shall  
11 not be repleviable, but shall be deemed to be in the custody of the  
12 office of the district attorney of the county wherein the property  
13 was seized, subject only to the orders and decrees of the court or  
14 the official having jurisdiction thereof.

15 ~~L.~~ M. The proceeds of the sale of any such item, equipment,  
16 vehicle or property pursuant to the provisions of this section shall  
17 be distributed as follows, in the order indicated:

18 1. To the bona fide or innocent purchaser, conditional sales  
19 vendor or mortgagee of the item, equipment, vehicle or property, if  
20 any, up to the amount of the interest of such person in the item,  
21 equipment, vehicle or property, when the court declaring the  
22 forfeiture orders a distribution to such person;

23 2. To the payment of the actual expenses of preserving the  
24 property; and

1           3. The balance to be apportioned, one-fourth (1/4) to the  
2 Department of Wildlife Conservation and three-fourths (3/4) to the  
3 district court in which such proceedings were brought.

4           ~~M.~~ N. Whenever any item, equipment, vehicle or property is  
5 forfeited under this section and there is no innocent claimant  
6 thereof, the district court of jurisdiction may order that the item,  
7 equipment, vehicle or property seized may be retained by the  
8 Department of Wildlife Conservation for its official use.

9           ~~N.~~ O. If the court finds that the item, equipment, vehicle or  
10 property was not used in a violation of any provision specified by  
11 subsection A of this section, the court shall order the item,  
12 equipment, vehicle or property released to the owner as the right,  
13 title or interest of the owner appears on record in the Tax  
14 Commission as of the seizure.

15           SECTION 3. This act shall become effective November 1, 2013.

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17           54-1-7903           CJB           04/11/13

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