

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2643 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Kevin Wallace _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 2643

By: Wallace

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to game and fish; amending 29 O.S. 2011, Section 3-105, which relates to powers and duties of the Director of Wildlife Conservation; updating statutory language; modifying certain powers and duties; allowing the Director to authorize the Department to initiate and conduct certain administrative proceedings; authorizing the Director to issue a final administrative order; listing certain sanctions; allowing for the imposition of certain costs; making the state a proper and necessary party; authorizing the Attorney General to appear and assist in certain actions and hearings; providing for application of certain provisions of law; providing for appeal of a final administrative order; providing for execution of a final administrative order as a judgment; adding duty to assist in promulgation of rules; amending 29 O.S. 2011, Section 4-101, as amended by Section 1, Chapter 341, O.S.L. 2013 (29 O.S. Supp. 2015, Section 4-101), which relates to license usage and general requirements; providing for the revocation of certain licenses based on certain findings in a final administrative order; and declaring an emergency.

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

1 SECTION 1. AMENDATORY 29 O.S. 2011, Section 3-105, is
2 amended to read as follows:

3 Section 3-105. A. Immediately upon ~~the~~ appointment ~~of,~~ the
4 Director, ~~he~~ of the Department of Wildlife Conservation shall become
5 vested with the duties and powers of the management and control of
6 the Department of Wildlife Conservation under ~~such~~ any provisions,
7 orders, and rules ~~and regulations~~ as may be prescribed by the
8 Wildlife Conservation Commission, and in addition thereto shall have
9 the following specific powers and duties:

10 1. To manage and control, under the supervision of the
11 Commission, all wildlife refuges and real or personal properties
12 which are held, operated or maintained by the Department ~~;~~;

13 2. To appoint and employ ~~such~~ assistants, department heads,
14 rangers, clerical help and other employees as the Commission may
15 deem necessary, subject to the approval of the Commission. The
16 Director shall fix and determine the salaries and wages to be paid
17 under and subject to the ~~rules and regulations as promulgated by~~
18 approval of the Commission; ~~and the~~ The Director shall supervise
19 and direct all employees of either the Commission or the Department
20 and may suspend, discharge, station or transfer them at any time
21 that, ~~in his judgment,~~ the Director determines the Commission or the
22 state will be best served ~~thereby.~~ by the action;

23 3. To approve or disapprove and pay all legal claims for
24 services rendered or expenses incurred by rangers and other

1 employees of the Department in accordance with the schedules
2 ~~therefor and the rules and regulation previously adopted~~ approved by
3 the Commission-;

4 4. To establish and maintain a proper system of bookkeeping and
5 accounting under the supervision of the State Auditor and
6 Inspector-;

7 5. To promote and manage wildlife propagation by raising and
8 distributing the same over the state at the direction of the
9 Commission; ~~to~~

10 6. To capture, propagate, transport, buy, sell or exchange any
11 species of fish, game, furbearing animals and protected birds needed
12 for stocking the lands or waters of the state- and to feed, provide
13 and care for such fish, animals and birds-;

14 ~~6.~~ 7. To make a complaint and cause proceedings to be commenced
15 against any person for violation of any of the laws ~~for the~~
16 ~~conservation of wildlife~~ in this title with the sanction of the
17 district attorney of the county in which ~~such~~ the proceedings are
18 brought, and shall not be required to give security for costs. The
19 Director may also appear in behalf of the people in any court of
20 competent jurisdiction in any prosecution for a violation of any of
21 the laws ~~for the protection of wildlife,~~ in this title and may
22 prosecute the same in the same manner and with the same authority as
23 the district attorney of the county where ~~such~~ the proceedings are
24

1 pending in cases where ~~such~~ the district attorney is unable to be
2 present or refuses to prosecute ~~such~~ the case-;

3 ~~7.~~ 8. To make emergency purchases of equipment, materials and
4 supplies under rules ~~and regulations~~ prescribed by the Commission;

5 9. To authorize the Department to initiate an administrative
6 proceeding against any person for violation of any provision of this
7 title or any administrative rule of the Department or Commission.

8 The individual proceeding shall be initiated and conducted pursuant

9 to applicable rules of the Department and held at the headquarters

10 of the Department. The Director is authorized to issue a final

11 administrative order in connection with an individual proceeding and

12 impose a range of sanctions for the violation. Sanctions may

13 include but are not limited to revocation or suspension of a

14 license, assessment of an administrative fine or penalty, refusal to

15 renew a license, denial of a license, probation of licensure,

16 confiscation and disposal of wildlife, reprimand, restitution for

17 wildlife damage. In addition, the Director is authorized to order

18 the imposition of costs expended by the Department in investigating

19 and prosecuting the cause. Costs shall include but are not limited

20 to time, salary and travel expenses of staff, witness fees and

21 attorney fees. Costs shall be considered part of the final

22 administrative order. The state shall be a proper and necessary

23 party in the prosecution of all administrative hearings and actions

24 of the Department. The Attorney General, in person or by assistant,

1 is authorized to appear on behalf of the state in all administrative
2 hearings and actions of the Department. At the request of the
3 Director, the Attorney General may assist the Department with the
4 prosecution of individual proceedings. Appeal of a final
5 administrative order shall be by petition to the district court of
6 the district in which the hearing was held. Except for the venue of
7 the court conducting judicial review, the judicial review provisions
8 of the Administrative Procedures Act shall apply to administrative
9 proceedings conducted pursuant to this paragraph. The final
10 administrative order shall constitute a judgment and may be entered
11 on the judgment docket of the district court in which the respondent
12 has property. Execution of the judgment shall be in the same manner
13 as any other judgment of a court of record, unless the fine or
14 penalty and any costs assessed in the final administrative order are
15 paid within thirty (30) days after the appeal time has run; and

16 10. To authorize and assist the Department in promulgating
17 rules prescribed and approved by the Commission.

18 B. All duties and authority imposed or conferred upon the
19 former Wildlife Conservation Director by any statute, rule or
20 regulation of the Commission are hereby imposed and conferred upon
21 the Director until such time as the Commission or the Legislature
22 shall, by appropriate measure, change such duties or authority
23 imposed by said Commission.

1 SECTION 2. AMENDATORY 29 O.S. 2011, Section 4-101, as
2 amended by Section 1, Chapter 341, O.S.L. 2013 (29 O.S. Supp. 2015,
3 Section 4-101), is amended to read as follows:

4 Section 4-101. A. All licenses and permits issued by the
5 Director of Wildlife Conservation, the Department of Wildlife
6 Conservation or by any of its agents shall be used only in
7 conformity with the provisions of this title and the rules
8 promulgated by the Oklahoma Wildlife Conservation Commission.

9 B. All persons making application for any licenses required by
10 this section shall produce a valid license to operate a motor
11 vehicle or other positive proof of identification, age and
12 residency, and any such license issued shall show such data as well
13 as the date and time of issuance.

14 C. All licenses are nontransferable. No person shall alter,
15 change, lend or transfer any license. No person shall use or borrow
16 a license which has not been issued to that person by the Director,
17 the Department or by any of its agents pursuant to the provisions of
18 this section.

19 D. No person may engage in activities requiring a license
20 without that person's carrying such license on their person and
21 producing the same for an inspection upon the demand of any Oklahoma
22 citizen or game warden.

23 E. Any person required to produce a license ~~must~~ shall also
24 identify themselves as the person to whom ~~such~~ the license was

1 issued, and failure or refusal to comply shall be deemed prima facie
2 evidence of a violation of this section.

3 F. Unless otherwise provided for in this ~~Code~~ title:

4 1. Hunting licenses issued pursuant to paragraph 1 of
5 subsection C and paragraphs 1 and 3 of subsection E of Section 4-112
6 of this title and paragraphs 1 and 3 of subsection B of Section 4-
7 113 of this title shall expire on December 31 of the year issued.
8 Hunting licenses issued pursuant to paragraph 2 of subsection C and
9 paragraphs 2 and 4 of subsection E of Section 4-112 of this title
10 and paragraphs 2 and 4 of subsection B of Section 4-113 of this
11 title shall expire on June 30 of the fiscal year issued. All other
12 licenses shall terminate December 31 for the year issued; and

13 2. Any person convicted of violating any of the provisions of
14 this title or who is found to have violated any of the provisions of
15 this title as set forth in a final administrative order issued by
16 the Department or Commission may have any or all licenses held by
17 that person or the privilege of applying for, purchasing or
18 exercising the benefits conferred by the licenses revoked by the
19 Department in accordance with rules promulgated by the Commission or
20 by a court of competent jurisdiction for a period of not less than
21 one (1) year. For purposes of this paragraph, a court conviction, a
22 plea of guilty, a plea of nolo contendere, the imposition of a
23 deferred or suspended sentence by a court, or forfeiture of bond
24 shall be deemed a conviction.

1 G. Should any license or permit issued pursuant to Part 1 of
2 Article IV of this title be lost or destroyed, duplicates will be
3 issued by the Department at a fee of One Dollar and fifty cents
4 (\$1.50).

5 H. Upon harvesting any whitetail or mule deer, or any other
6 wildlife where the hunter, according to Commission rules, is
7 required to check the wildlife in at a Department check station, the
8 taker of the wildlife shall:

9 1. Securely attach the name of the taker, time of harvest, date
10 of harvest and license number to the carcass of the wildlife;

11 2. Check in the carcass of the wildlife electronically using
12 the online check station provided on the official website of the
13 Oklahoma Department of Wildlife Conservation or as prescribed by
14 rule of the Commission, within twenty-four (24) hours of leaving the
15 hunt area and in all cases prior to processing the carcass; and

16 3. Not remove evidence of the sex of the animal until after the
17 carcass of the animal has been checked in.

18 I. It shall be unlawful for any license or permit holder to
19 knowingly make a false statement or give false information to any
20 authorized hunter check station or to an authorized Department
21 employee when complying with the provisions of subsection H of this
22 section. Information which may be collected at a Department check
23 station shall include but not be limited to the name, address,
24 license or permit number and signature of the taker, the date, time,

1 county, method or weapon of the kill, sex and weight of carcass,
2 whether or not the animal was taken on public hunting land and if so
3 in what area, or any other information which may be required by the
4 Commission.

5 J. 1. Any person convicted of violating the provisions of this
6 section or of making a false statement or giving any false
7 information in order to acquire any license or permit, pursuant to
8 the provisions of this section, shall be punishable by a fine of not
9 less than One Hundred Dollars (\$100.00) nor more than Two Hundred
10 Fifty Dollars (\$250.00), or by imprisonment in the county jail for a
11 period not to exceed ten (10) days, or by both such fine and
12 imprisonment. Any person convicted of a second or subsequent
13 violation of the provisions of this section or of making a false
14 statement or giving any false information in order to acquire any
15 license or permit, pursuant to the provisions of this section, shall
16 be punishable by a fine of not less than Two Hundred Fifty Dollars
17 (\$250.00) nor more than Seven Hundred Fifty Dollars (\$750.00), or by
18 imprisonment in the county jail for a period not to exceed ten (10)
19 days, or by both such fine and imprisonment.

20 2. Any hunting or fishing license issued to a person by the
21 Department of Wildlife Conservation shall be automatically revoked
22 upon conviction of the person of violating the provisions of this
23 section. The revocation shall be for a period set by the court of
24 not less than one (1) year nor more than ten (10) years. If the

1 court does not set a period, the revocation shall be for one (1)
2 year from the date of the conviction. During this period of
3 revocation, the Department shall not issue the person a hunting or
4 fishing license. If the court does not set a revocation period, the
5 Department shall not issue that person a license within one (1) year
6 of the conviction of the person pursuant to this section. A person
7 who has a license or permit revoked pursuant to this section shall
8 surrender the revoked license or permit to the court. The court
9 shall send the Department of Wildlife Conservation the revoked
10 license and a copy of the judgment of conviction. For purposes of
11 this section, "conviction" shall include a plea of guilty or nolo
12 contendere to an offense or the imposition of deferred adjudication
13 for an offense.

14 K. Any person who has had their license privileges revoked
15 shall not be entitled to purchase, apply for, or exercise the
16 benefits conferred by any license until the revocation period has
17 expired or the person has obtained approval from the Director. Any
18 person violating the provisions of this subsection, upon conviction,
19 shall be punished by a fine of not more than Five Hundred Dollars
20 (\$500.00), or by imprisonment in a county jail for a term of not
21 more than ninety (90) days or by both the fine and imprisonment.
22 Upon conviction under this subsection, the previously granted
23 license revocation period shall be extended by two (2) additional
24 years.

1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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