ENGROSSED HOUSE
BILL NO. 2502 By: Pfeiffer of the House

and

Jech of the Senate

An Act relating to agriculture; amending 2 O.S. 2011, Section 6-504, which relates to the Oklahoma Farmed Cervidae Act; removing requirement that certain licenses be submitted under oath; amending 2 O.S. 2011, Section 8-77.7, which relates to the Oklahoma Fertilizer Act; removing requirement that certain report information be submitted under oath; amending 2 O.S. 2011, Section 10-9.5, as last amended by Section 4, Chapter 313, O.S.L. 2015 (2 O.S. Supp. 2015, Section 10-9.5), which relates to the Oklahoma Registered Poultry Feeding Operations Act; removing requirement that certain applications be under oath; amending 2 O.S. 2011, Section 20-7, as amended by Section 1, Chapter 35, O.S.L. 2012 (2 O.S. Supp. 2015, Section 20-7), which relates to the Oklahoma Swine Feeding Operations Act; removing requirement that certain applications be under oath; amending 2 O.S. 2011, Section 20-45, which relates to the Oklahoma Concentrated Animal Feeding Operations Act; removing requirement that certain applications be under oath; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 6-504, is amended to read as follows:

Section 6-504. A. No person shall breed, possess, or raise cervidae for commercial or noncommercial purposes without first obtaining a farmed cervidae facility license from the Oklahoma Department of Agriculture, Food, and Forestry.

B. The Department may issue a farmed cervidae facility license to any person that lawfully obtains cervidae, acts in good faith, and adheres to the laws and rules of the state, including the provisions of the Oklahoma Farmed Cervidae Act. Nothing in this section shall prevent the Department from issuing a license to persons the Department deems have obtained cervidae from a legal source, acted in good faith, and failed to recognize a license was required.

C. All persons issued a farmed cervidae license shall abide by all provisions of the Oklahoma Farmed Cervidae Act. An initial application for a farmed cervidae facility license shall contain the following:

1. Name, address, and telephone number of the owner;

2. Name, address, and telephone number of the operator, if different from the owner;

3. Name, address, and telephone number of the primary contact;

4. Farm name, facility address, and facility telephone number;

5. Name, address and telephone number of the location where records are kept;

6. Specific legal description of the facility to the nearest quarter section;

7. A map showing topography of the area with a diagram of the facility structures, fencing plan, and perimeter clearly marked;

8. Whether the applicant has been convicted of a felony, misdemeanor, administrative, or civil violation of any natural resources requirements, including but not limited to wildlife, forestry, fisheries, environment, or animal health within the past three (3) years in the state or any other jurisdiction;

9. Whether the property where the farmed cervidae facility is located is owned or leased;

10. An initial inventory of the farmed cervidae, including their ages, breed and species, and a minimum of one form of official individual identification approved by the Department;

11. Method of carcass disposal for the facility;

12. Driving directions from the nearest town;

13. A list of each name the farmed cervidae facility operates under; and

14. Signature ~~under oath~~ stating: "I certify under penalty of law this document, all attachments, and information submitted are to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."

D. Using information from the application and from the state's files, the Department shall determine:

1. The accuracy of all materials in the application; and

2. Whether the applicant can reasonably be expected to comply with all legal requirements of the license.

E. The Department shall not issue a farmed cervidae facility license if the facility is not inspected by the Department.

SECTION 2. AMENDATORY 2 O.S. 2011, Section 8-77.7, is amended to read as follows:

Section 8-77.7 A. Each registrant distributing fertilizer in this state shall file with the State Board of Agriculture, not later than the last day of January and July of each year, a semiannual inspection fee report setting forth~~, under oath,~~ the number of tons sold or distributed during the period and pay an inspection fee of One Dollar ($1.00) per ton of which fifty cents ($0.50) per ton shall be forwarded directly to a special Soil Fertility Research Account in the Department of Plant and Soil Sciences of the Division of Agricultural Sciences and Natural Resources at Oklahoma State University for the purpose of conducting soil fertility research and extension involving efficient fertilizer use for agronomic crops and forages and groundwater and surface water protection from plant food nutrients. Oklahoma State University shall present an annual report to the Agriculture Committees of the Legislature on the use of the special Soil Fertility Research Account Fund.

B. Each registrant distributing commercial fertilizer in this state shall file with the State Board of Agriculture not later than the last day of January and July of each year, a semiannual tonnage report stating ~~under oath~~:

1. The number of net tons of fertilizer distributed during the preceding six (6) calendar months;

2. The amount in tons of each grade of fertilizer distributed during the preceding six (6) calendar months; and

3. Whether the fertilizer was distributed in bag, bulk, or liquid.

C. If no fertilizer was sold or distributed in this state for the semiannual period, the registrant shall submit a statement reflecting that information and shall remit a minimum fee of Ten Dollars ($10.00). If the inspection fee and tonnage report are not filed and the payment of the inspection fee is not made within thirty (30) days after the end of the specified filing period, a collection fee of ten percent (10%) of the inspection fee due or a minimum of Ten Dollars ($10.00) shall be assessed and added to the amount due.

D. Sales or exchanges between importers, manufacturers, distributors, registrants, or licensees are exempt.

E. When more than one person is involved in the distribution of a fertilizer, the last person who has the fertilizer registered and who distributed the fertilizer to a nonregistrant dealer or consumer

is responsible for reporting the tonnage and paying the inspection fee, unless the report and payment is made by a prior distributor or manufacturer of the fertilizer.

F. If the Board finds any deficient inspection fees due as a result of an audit of the records of any person subject to the provisions of the Oklahoma Fertilizer Act, the Board shall assess a penalty fee of ten percent (10%) of the amount due, with a maximum not to exceed Two Thousand Dollars ($2,000.00) or a minimum of One Hundred Dollars ($100.00) whichever is greater. The audit penalty shall be added to the deficient inspection fees due and payment shall be made within thirty (30) days of notice of the deficiency.

G. No information furnished to the Board under this section shall be disclosed in a way which divulges proprietary information about the operation of any person.

H. Each registrant, distributor, or manufacturer shall keep accurate records of the tonnage of fertilizer distributed in this state.

SECTION 3. AMENDATORY 2 O.S. 2011, Section 10-9.5, as last amended by Section 4, Chapter 313, O.S.L. 2015 (2 O.S. Supp. 2015, Section 10-9.5), is amended to read as follows:

Section 10-9.5 A. The State Board of Agriculture shall provide the necessary forms and applications for any person desiring or required to register a poultry feeding operation or expanding operation.

B. The application to register to operate a new or previously unregistered poultry feeding operation or expanding operation ~~shall be under oath and~~ shall contain, at a minimum, the following information:

1. Name and address of the owner and operator of the facility;

2. Name and address of the poultry feeding operation;

3. Number and type of poultry housed or confined;

4. Name and address of the integrator whose poultry will be raised by the poultry feeding operation;

5. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, poultry waste storage facilities, and land-application sites owned or leased by the applicant or which the applicant has contracted with for the application of poultry waste;

6. A copy of the Nutrient Management Plan, or proof of application for such plan, Best Management Practices or any other plans authorized by the Oklahoma Department of Agriculture, Food, and Forestry;

7. A statement of ownership.

a. If the applicant is a corporation, the name and address of the corporation and the name and address of

each officer and registered agent of the corporation shall be included in the application.

b. If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

c. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

8. The name and address of the person having day-to-day control of the operation, if such person is not the applicant and is acting as agent for the applicant;

9. An environmental history from the past three (3) years of any poultry feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state;

10. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

11. Any other information or records required by the Department for purposes of implementing the Oklahoma Registered Poultry Feeding Operations Act or rules promulgated pursuant thereto.

C. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or

certification in, omits material data from, or tampers with any application for registration shall, upon conviction, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each such violation.

D. The owner of a poultry feeding operation shall be responsible for sending written notification to the Department upon changing integrators.

E. For a transfer of registration to a new owner, the new owner shall register the operation pursuant to the rules of the Department.

F. 1. All operators of poultry feeding operations and poultry waste applicators shall attend educational courses on poultry waste handling. All such operators and applicators shall attend educational training on poultry waste management as provided by Oklahoma State University through the Oklahoma Cooperative Extension Service. All current and new operators and applicators shall receive the initial nine (9) hours of training in the first year and two (2) hours of continuing education every year until the operator or applicator has received a total of nineteen (19) hours of training. Any operator or applicator may attend more hours than is required, however, those hours shall not be carried forward. Upon receiving the nineteen (19) required hours, the operator or applicator shall be required to receive two (2) hours of continuing education every three (3) years. The Oklahoma Cooperative Extension

Service shall develop the educational training course to aid in certification. Curricula for the training course will include the Oklahoma Cooperative Extension Service Waste Management Facts series and record books or their current equivalent. Courses for poultry waste management shall include the following topics:

a. environmental process relevant to protecting water quality in poultry production,

b. basic handling systems to manage poultry waste from all types of poultry operations,

c. nutrient management, including sampling procedures, application rate determination, equipment calibration, and record-keeping systems,

d. relevant laws and rules applicable to poultry waste management in the State of Oklahoma, and

e. any other related subject as determined by Oklahoma State University in consultation with the Department.

2. At the completion of each course, the operator or applicator shall receive a certification verifying completion. The certificates shall be kept on site for five (5) years.

3. Failure to obtain the initial nine-hour training and any continuing education as provided in this subsection shall be deemed a violation of the Oklahoma Registered Poultry Feeding Operations Act for operators and the Oklahoma Poultry Waste Applicators Certification Act for applicators.

4. All operators or applicators shall meet the educational requirements of this section no later than December 31 of each year.

G. No integrator shall enter into any contract with an operator of a poultry feeding operation who is not in compliance with the education requirements of subsection F of this section.

SECTION 4. AMENDATORY 2 O.S. 2011, Section 20-7, as amended by Section 1, Chapter 35, O.S.L. 2012 (2 O.S. Supp. 2015, Section 20-7), is amended to read as follows:

Section 20-7. A. The State Board of Agriculture shall cause to be prepared and available, for any person desiring or required to apply for a license to operate a new or previously unlicensed swine feeding operation or expanding operation, the necessary forms and applications.

B. The application for a license to operate a new or previously unlicensed swine feeding operation or expanding operation shall contain, as a minimum, the following information:

1. Name and address of the owner and operator of the facility;

2. Name and address of the swine feeding operation;

3. Capacity in swine animal units, and number and type of swine housed or confined;

4. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not limited to, drainage from the facility, swine waste storage

facilities and land application sites owned or leased by the applicant;

5. A copy of the Pollution Prevention Plan containing a Swine Waste Management Plan, Best Management Practices, Odor Abatement Plan or such other plan authorized by the Oklahoma Swine Feeding Operations Act and approved by the Department;

6. A copy of the written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by Sections 20-19 and 20-21 of this title; and

7. Any other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Swine Feeding Operations Act and rules promulgated pursuant thereto.

C. 1. An application for renewal of a license to operate a swine feeding operation shall be considered to be properly filed when the Department has received a completed renewal application and payment of fees from the applicant.

2. If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for issuance of the renewal license and the opportunity for the applicant to request an administrative hearing.

D. No new licensed managed feeding operation or expanding operation shall be constructed until a building permit for such facility or expansion has been issued by the Department. No new licensed managed feeding operation shall be placed in operation until a license for the facility or expansion has been issued by the Department.

E. For transfer of a license to a new owner or operator, the following conditions shall be met:

1. The new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation;

2. After receipt of the information required, the Department shall review the information, and within sixty (60) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if:

a. the new owner or operator cannot comply with the requirements of transfer,

b. the Department finds a material or substantial change in conditions since the issuance of the original license to operate the swine feeding operation,

c. failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Department pursuant to the Oklahoma Swine

Feeding Operations Act and rules promulgated pursuant thereto, or

d. the new owner or operator has failed to meet the requirements of Section 20-25 of this title; and

3. If a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for a transfer license by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for a transfer license, and the opportunity for the applicant to request an administrative hearing.

F. Any suspension or revocation or nonrenewal of a license issued pursuant to the Oklahoma Swine Feeding Operations Act by the Board shall be made in accordance with Section 20-25 of this title.

G. In addition to other information required for issuance of a new or transfer license, an application for a new or transfer license for a concentrated swine feeding operation shall ~~be under oath and shall~~ contain the following information:

1. a. A statement of ownership.

(1) If the applicant is a firm or partnership, the name and address of each member thereof shall be included in the application.

(2) If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of

the corporation shall be included in the application.

(3) If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

b. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

2. The name and address of the management, if the management is not the applicant and is acting as agent for the applicant;

3. a. An environmental history from the past three (3) years of any concentrated animal feeding operation or concentrated swine feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state. The environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any environmental law, rule, agency order, or

court action relating to the operation of an animal feeding operation or swine feeding operation.

b. A copy of all records relating to the environmental history required by this paragraph shall accompany the application.

c. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of the final order or judgment shall not be considered a final order or judgment for the purposes of this subsection;

4. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

5. Any other information or records required by the Department for purposes of implementing the Oklahoma Swine Feeding Operations Act or rules promulgated pursuant thereto.

H. 1. All employees of a proposed licensed managed feeding operation whose duties include treatment, storage, or application of swine waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control. Proof of certification of a minimum of nine (9) hours of training and education shall be submitted either with the license application or within six (6) months of the date of the application for the license.

2. All employees of a licensed managed feeding operation whose duties include treatment, storage or application of animal waste shall provide proof of certification of satisfactory completion of formal education or training in the areas of waste management and odor control.

3. The Department shall require a minimum of three (3) hours of annual refresher training for any employee of a licensed managed feeding operation whose duties include treatment, storage, or application of swine waste.

4. After completing eighteen (18) hours of training, an employee shall be exempt from the annual training requirement, and shall be required to complete three (3) hours of training every three (3) years.

5. Appropriate curricula and course content shall be developed by the licensed managed feeding operation and submitted to the Department for approval.

6. Failure to obtain the prerequisite nine (9) hours of training and any continuing education training as required in this subsection shall be deemed a violation of the Oklahoma Swine Feeding Operations Act.

I. 1. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for a license, or notice relating to the determination

of affected property owners, shall, upon conviction thereof, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each violation. In addition, the Department shall deny licensure to the applicant or may require submission of a new application.

2. The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

SECTION 5. AMENDATORY 2 O.S. 2011, Section 20-45, is amended to read as follows:

Section 20-45. A. The State Board of Agriculture shall cause to be prepared and available, for any person desiring or required to apply for a license to operate a new or previously unlicensed animal feeding operation, the necessary forms and applications.

B. The application for a license to operate a new or previously unlicensed animal feeding operation shall contain, as a minimum, the following information:

1. Name and address of the owner and operator of the facility;

2. Name and address of the animal feeding operation;

3. Capacity in animal units, and number and type of animals housed or confined;

4. A diagram or map and legal description showing geographical location of the facility on which the perimeters of the facility are designated, location of waters of the state, including, but not

limited to, drainage from the facility, animal waste storage facilities and land application sites owned or leased by the applicant;

5. A copy of the Pollution Prevention Plan containing an Animal Waste Management Plan, Best Management Practices, or such other plan authorized by the Oklahoma Concentrated Animal Feeding Operations Act and approved by the Department;

6. A copy of the written waiver by an adjacent property owner to the facility releasing specified setback requirements as provided by Section ~~44~~ 20-57 of ~~the Oklahoma Concentrated Animal Feeding Operations Act~~ this title; and

7. Any other information deemed necessary by the Oklahoma Department of Agriculture, Food, and Forestry to administer the provisions of the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto.

C. 1. An application for renewal of a license to operate an animal feeding operation shall be considered to be properly filed when the Department has received a completed renewal application and payment of fees from the applicant.

2. If the application for renewal is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for issuance of the

renewal license and the opportunity for the applicant to request an administrative hearing.

D. For transfer of a license to a new owner or operator, the following conditions shall be met:

1. The new owner or operator shall submit to the Department a transfer application, attaching any change of conditions resulting from the transfer of ownership or operation;

2. After receipt of the information required, the Department shall review the information, and within sixty (60) days, issue approval or denial of the transfer. Transfer of a license shall be denied only if:

a. the new owner or operator cannot comply with the requirements of transfer,

b. the Department finds a material or substantial change in conditions since the issuance of the original license to operate the animal feeding operation,

c. failure of the new owner or operator to meet any other conditions or requirements for compliance established by the Department pursuant to the Oklahoma Concentrated Animal Feeding Operations Act and rules promulgated pursuant thereto, or

d. the new owner or operator has failed to meet the requirements of Section ~~48~~ 20-61 of ~~the Oklahoma~~

~~Concentrated Animal Feeding Operations Act~~ this title; and

3. If a transfer is denied, written notification of the denial and an opportunity for an administrative hearing on the denial shall be given to the applicant for a transfer license by the Department. The notification shall set forth the reasons for the denial, steps necessary to meet the requirements for a transfer license, and the opportunity for the applicant to request an administrative hearing.

E. Any suspension or revocation or nonrenewal of a license issued pursuant to the Oklahoma Concentrated Animal Feeding Operations Act by the Board shall be made in accordance with Section ~~48~~ 20-61 of this ~~act~~ title.

F. In addition to other information required for issuance of a new or transfer license, an application for a new or transfer license for a concentrated animal feeding operation shall ~~be under oath and shall~~ contain the following information:

1. a. A statement of ownership.

(1) If the applicant is a firm or partnership, the name and address of each member thereof shall be included in the application.

(2) If the applicant is a corporation, the name and address of the corporation and the name and address of each officer and registered agent of

the corporation shall be included in the application.

(3) If the applicant is a partnership or other legal entity, the name and address of each partner and stockholder with an ownership interest of ten percent (10%) or more shall be included in the statement.

b. The information contained in the statement of ownership shall be public information and shall be available upon request from the Board;

2. The name and address of the management, if the management is not the applicant and is acting as agent for the applicant;

3. a. An environmental history from the past three (3) years of any concentrated animal or swine feeding operation established and operated by the applicant or any other operation with common ownership in this state or any other state. The environmental history shall include but not be limited to all citations, administrative orders or penalties, civil injunctions or other civil actions, criminal actions, past, current and ongoing, taken by any person, agency or court relating to noncompliance with any environmental law, rule, agency order, or court action relating to the operation of an animal or swine feeding operation.

b. A copy of all records relating to the environmental history required by this paragraph shall accompany the application.

c. Noncompliance with a final agency order or final order or judgment of a court of record which has been set aside by a court on appeal of the final order or judgment shall not be considered a final order or judgment for the purposes of this subsection;

4. Environmental awards or citations received or pollution prevention or voluntary remediation efforts undertaken by the applicant; and

5. Any other information or records required by the Department for purposes of implementing the Oklahoma Concentrated Animal Feeding Operations Act or rules promulgated pursuant thereto.

G. 1. In addition to other penalties as may be imposed by law, any person who knowingly makes any false statement, representation, or certification in, omits material data from, or tampers with any application for a license, or notice relating to the determination of affected property owners, shall, upon conviction thereof, be guilty of a misdemeanor and may be subject to a fine of not more than Ten Thousand Dollars ($10,000.00) for each such violation. In addition, the Department shall deny licensure to the applicant or may require submission of a new application.

2. The responsibility for ensuring that all affected property owners are notified pursuant to the provisions of this section shall be upon the applicant.

SECTION 6. This act shall become effective November 1, 2016.

Passed the House of Representatives the 3rd day of March, 2016.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2016.

_____
Presiding Officer of the Senate