

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 1457

By: Dahm of the Senate

and

Coody of the House

COMMITTEE SUBSTITUTE

An Act relating to the Oklahoma Wildlife Conservation Code; amending 29 O.S. 2011, Sections 2-108.1, 2-109, 2-110, 2-116.1, and 2-135, which relate to words and phrases; modifying definitions; modifying what certain words and phrases refer to; amending 29 O.S. 2011, Sections 3-102, 3-103, as last amended by Section 1, Chapter 24, O.S.L. 2017, 3-105, and 3-201 (29 O.S. Supp. 2017, Section 3-103), which relate to members, function, powers and duties of the Wildlife Conservation Commission, powers and duties of Director and game wardens; requiring the consent and approval of the Senate; removing affirmative action plan requirement; removing power of Director to make a complaint and cause proceedings against a person; requiring coordination and cooperation with other law enforcement; amending 29 O.S. 2011, Section 7-204, which relates to wildlife; making wildlife property of the people of Oklahoma; repealing 29 O.S. 2011, Section 3-313, as amended by Section 119, Chapter 304, O.S.L. 2012 (29 O.S. Supp. 2017, Section 3-313), which relates to an account within the Wildlife Conservation Fund; and providing an effective date.

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

1 SECTION 1. AMENDATORY 29 O.S. 2011, Section 2-108.1, is
2 amended to read as follows:

3 Section 2-108.1. "Domesticated animal" means an animal kept for
4 pleasure or for utility, that has adapted to life in association
5 with and to the use of human beings, and shall not include animals
6 which normally can be found in the wild state, unless specifically
7 so designated by the Oklahoma Wildlife Conservation Commission or as
8 defined in statute.

9 SECTION 2. AMENDATORY 29 O.S. 2011, Section 2-109, is
10 amended to read as follows:

11 Section 2-109. "Endangered" refers to any wildlife species or
12 subspecies in the wild or in captivity whose prospects of survival
13 and reproduction are in immediate jeopardy and includes those
14 species listed as endangered ~~by the federal government~~, as well as
15 any species or subspecies identified as threatened by Oklahoma
16 statute or Commission resolution.

17 SECTION 3. AMENDATORY 29 O.S. 2011, Section 2-110, is
18 amended to read as follows:

19 Section 2-110. "Fishing" is defined as the taking or attempting
20 to take fish or other aquatic dwelling organisms by hook and line,
21 seine, trap or such other means as may be designated as legal by the
22 provisions of this Code, ~~or~~ by the Oklahoma Wildlife Conservation
23 Commission, or by Oklahoma Statute.

24

1 SECTION 4. AMENDATORY 29 O.S. 2011, Section 2-116.1, is
2 amended to read as follows:

3 Section 2-116.1. "Game warden" is a ~~duly~~ CLEET-certified,
4 authorized employee of the Department whose ~~primary duties are the~~
5 ~~enforcement of~~ duty is to enforce the wildlife conservation laws of
6 Oklahoma. Whenever the word "ranger" appears in this title it shall
7 have the same meaning as "game warden".

8 SECTION 5. AMENDATORY 29 O.S. 2011, Section 2-135, is
9 amended to read as follows:

10 Section 2-135. "Threatened" refers to any wildlife species or
11 subspecies in the wild or in captivity that, although not presently
12 threatened with extinction, are in such small numbers throughout
13 their range that they may become an endangered species within the
14 foreseeable future or that they may be endangered if their
15 environment deteriorates. Threatened species and subspecies include
16 ~~those species and subspecies listed as "threatened" by the federal~~
17 ~~government as well as~~ any species or subspecies identified as
18 threatened by Oklahoma statutes or Commission resolution.

19 SECTION 6. AMENDATORY 29 O.S. 2011, Section 3-102, is
20 amended to read as follows:

21 Section 3-102. A. The Commission shall consist of one member
22 from each of eight districts of the state, such districts to include
23 the areas as follows:
24

1 District No. 1: Ottawa, Delaware, Craig, Mayes, Nowata, Rogers,
2 Washington, Tulsa, Pawnee and Osage Counties.

3 District No. 2: Adair, Sequoyah, Cherokee, Wagoner, Muskogee,
4 Haskell, McIntosh and Okmulgee Counties.

5 District No. 3: LeFlore, Latimer, Pittsburg, Atoka, Pushmataha,
6 McCurtain, Choctaw, Bryan, Marshall, Carter and Love Counties.

7 District No. 4: Creek, Lincoln, Okfuskee, Seminole,
8 Pottawatomie, Pontotoc, Hughes, Johnston and Coal Counties.

9 District No. 5: Logan, Oklahoma, Cleveland, McClain, Garvin,
10 Murray and Payne Counties.

11 District No. 6: Blaine, Kingfisher, Canadian, Caddo, Grady,
12 Comanche, Stephens, Jefferson and Cotton Counties.

13 District No. 7: Ellis, Dewey, Roger Mills, Custer, Beckham,
14 Washita, Kiowa, Greer, Jackson, Harmon and Tillman Counties.

15 District No. 8: Cimarron, Texas, Beaver, Harper, Woodward,
16 Woods, Major, Alfalfa, Grant, Garfield, Kay and Noble Counties.

17 B. Each Commissioner shall be appointed by the Governor of the
18 State of Oklahoma, by and with the consent of the State Senate of
19 the State of Oklahoma, and shall be removed only for cause, as
20 provided by law for the removal of officers not subject to
21 impeachment, pursuant to Sections 1181 through 1197 of Title 22 of
22 the Oklahoma Statutes.

23 C. The term of office of each such member shall be eight (8)
24 years, except that the first appointed members shall hold office for

1 terms as follows: the member appointed from District No. 1 shall
2 hold office until July 1 following his appointment, and the members
3 appointed from Districts 2, 3, 4, 5, 6, 7 and 8 shall hold office
4 until July 1 of the second, third, fourth, fifth, sixth, seventh and
5 eighth succeeding calendar years, respectively. In the event the
6 Governor fails to fill a vacancy within thirty (30) days following
7 such vacancy, the remaining members of the Commission may appoint a
8 qualified person to fill such vacancy for the unexpired portion of
9 the term, by and with the consent of the Senate, such appointment to
10 have full force and effect and to be submitted to the Senate for its
11 confirmation at the first session of the Senate after such
12 appointment is made.

13 D. The members of the Commission shall be allowed travel
14 expenses as provided in the State Travel Reimbursement Act.

15 SECTION 7. AMENDATORY 29 O.S. 2011, Section 3-103, as
16 last amended by Section 1, Chapter 24, O.S.L. 2017 (29 O.S. Supp.
17 2017, Section 3-103), is amended to read as follows:

18 Section 3-103. A. The Wildlife Conservation Commission shall
19 constitute an advisory, administrative and policymaking board for
20 the protection, restoration, perpetuation, conservation,
21 supervision, maintenance, enhancement, and management of wildlife in
22 this state as provided in the Oklahoma Wildlife Conservation Code.

23 B. The Director shall consult with the Commission regarding the
24 administration of the affairs of the Department of Wildlife

1 Conservation. The Commission is authorized and empowered to require
2 from the Director complete reports and information relative to the
3 affairs of the Department at the time and in the manner the
4 Commission may deem advisable.

5 C. The Commission shall meet in regular session at least nine
6 times per year not to exceed one meeting per month with not more
7 than two consecutive calendar months between meetings and in special
8 sessions as may be called by the Chair or a majority of the
9 Commission. The Commission may hold any regular or special session
10 at any location within this state. Should a location be chosen
11 other than Commission headquarters in Oklahoma City for a regular or
12 special meeting, notice shall be posted at Commission headquarters
13 in Oklahoma City and advertised in the local newspaper of the city
14 in which the meeting is to be held, at least one time during each of
15 the two (2) weeks prior to the meeting. The advertisements shall
16 include time, date, and address of location of the meeting.

17 D. In addition to the other powers and duties prescribed by
18 law, the Commission shall:

19 1. ~~Institute an affirmative action plan for hiring women and~~
20 ~~minorities throughout the agency;~~

21 2. Elect a chair, vice-chair, and secretary, who shall perform
22 the duties required of them by statutes, rules of the Commission,
23 and the Constitution of the State of Oklahoma. The chair, vice-
24 chair, and secretary shall receive no extra compensation;

1 ~~3.~~ 2. Appoint a Director, and determine the qualifications of
2 the Director and all assistants and employees. A Commissioner shall
3 not be eligible for employment in any position within the
4 Department;

5 ~~4.~~ 3. Prescribe rules and policies for the transaction of its
6 business and the control of the Department;

7 ~~5.~~ 4. Develop and implement a plan to provide step raises for
8 Commission employees so that discrepancies of pay levels within a
9 pay grade are eliminated;

10 ~~6.~~ 5. Acquire by purchase, lease, gift, or devise, ~~waters,~~ real
11 property, and personal property incident to the exercise of its
12 functions and to maintain, operate, and dispose of the same;

13 ~~7.~~ 6. Acquire real property by condemnation only when the
14 Attorney General or other counsel deems it an appropriate means of
15 clearing title from willing or unavailable sellers;

16 ~~8.~~ 7. Supervise the establishment, extension, improvement, and
17 operation of the wildlife refuges, propagation areas or stations,
18 public hunting areas, public fishing areas, game management areas,
19 and fish hatcheries;

20 ~~9.~~ 8. Prescribe the manner of cooperation with the Oklahoma
21 Tourism and Recreation Department, colleges and universities within
22 the state, other state agencies, any agency of the federal
23 government, and any city, town, school district, or any other agency
24 or organization in study of conservation and propagation of wildlife

1 and in the establishment, maintenance, and operation of visual
2 educational facilities, recreational facilities, and hunting and
3 fishing facilities, in the study and propagation of wildlife;

4 ~~10.~~ 9. Supervise the letting of all contracts and purchases for
5 the Department, with all purchases of personal property to be made
6 through the Office of Management and Enterprise Services;

7 ~~11.~~ 10. Authorize all claims or expenditures prior to incurring
8 payment except as otherwise provided in this Code;

9 ~~12.~~ 11. Prescribe rules on the use of Department-owned vehicles
10 by the Director, department heads and other essential employees as
11 the Commission deems necessary in order to perform their duties;

12 ~~13.~~ 12. Prescribe rules for the sale of all regular or special
13 licenses;

14 ~~14.~~ 13. Publicize and encourage the conservation and
15 appreciation of wildlife and all other natural resources;

16 ~~15.~~ 14. Regulate the seasons and harvest of wildlife;

17 ~~16.~~ 15. Promulgate rules to sell fishing and hunting licenses
18 via the Internet;

19 ~~17.~~ 16. Annually report to the Governor and the Legislature on
20 the complete operation, activities, and plans of the Department,
21 together with such recommendations for future activities as the
22 Commission may deem to be in the best interest of the state; and

23 ~~18.~~ 17. Provide the Governor and the Legislature with an annual
24 inventory of all property and equipment.

SECTION 8. AMENDATORY 29 O.S. 2011, Section 3-105, is amended to read as follows:

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

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

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

3. To approve or disapprove and pay all legal claims for services rendered or expenses incurred by rangers and other employees of the Department in accordance with the schedules

1 therefor and the rules and regulations previously adopted by the
2 Commission-;

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

6 5. To promote and manage wildlife propagation by raising and
7 distributing the same over the state at the direction of the
8 Commission; to capture, propagate, transport, buy, sell or exchange
9 any species of fish, game, furbearing animals and protected birds
10 needed for stocking the lands or waters of the state; and to feed,
11 provide and care for such fish, animals and birds-; and

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

23 7. To make emergency purchases of equipment, materials and
24 supplies under rules and regulations prescribed by the Commission.

1 B. All duties and authority imposed or conferred upon the
2 former Wildlife Conservation Director by any statute, rule or
3 regulation of the Commission are hereby imposed and conferred upon
4 the Director until such time as the Commission or the Legislature
5 shall, by appropriate measure, change such duties or authority
6 imposed by said Commission.

7 SECTION 9. AMENDATORY 29 O.S. 2011, Section 3-201, is
8 amended to read as follows:

9 Section 3-201. A. All things being equal, veterans of World
10 War II, the Korean, the Vietnam and Persian Gulf Wars shall be
11 appointed as game wardens when vacancies occur.

12 B. All persons appointed game wardens shall be peace officers
13 and have the full powers of peace officers of the State of Oklahoma
14 in the enforcement of the provisions of this Code and are authorized
15 to:

16 1. Enforce all state laws on Department-owned or Department-
17 managed lands;

18 2. Enforce all other laws of this state through coordination
19 and cooperation with other law enforcement officers and law
20 enforcement agencies;

21 3. Make arrests for wildlife conservation violations and
22 nonconservation-related crimes with the same power and authority as
23 sheriffs are vested with and in cooperation with other law
24 enforcement officers and agencies;

1 4. Take into possession any and all protected wildlife, or any
2 part thereof, killed, taken, shipped or in any possession contrary
3 to the law, and the wildlife or parts thereof may be disposed of as
4 determined by the Director or any court of competent jurisdiction;

5 5. Make a complaint and cause proceedings to be commenced
6 against any person for violation of any of the laws for the
7 protection and propagation of wildlife, with the sanction of the
8 prosecuting or district attorney of the county in which the
9 proceedings are brought, and shall not be required to give security
10 for costs;

11 6. Be an authorized agent of the Commission or Department under
12 Section 3-202 of this title in addition to duties as a game warden;
13 and

14 7. Assist in enforcement of the state fire laws, upon request
15 of the Oklahoma Department of Agriculture, Food, and Forestry.

16 C. 1. Pursuant to the provisions of this subsection, a game
17 warden may operate a vehicle owned or leased by the Department upon
18 a roadway during the hours of darkness without lighted headlamps,
19 clearance lamps, or other illuminating devices. As used in this
20 paragraph, "roadway" shall include any street or highway in this
21 state except an interstate highway, a limited access highway, a
22 state trunk highway, or any street or highway within the limits of
23 an incorporated area.

1 2. Pursuant to the provisions of this subsection, a game warden
2 may operate a vessel upon any waters of this state during the hours
3 of darkness without the illuminating devices required by Section
4 4207 of Title 63 of the Oklahoma Statutes.

5 3. A game warden may operate a vehicle or vessel without the
6 illuminating devices specified in this subsection only if the
7 operation:

8 a. is made in the performance of the duties of the game
9 warden pursuant to the provisions of the Code, and

10 b. (1) will aid in the accomplishment of a lawful arrest
11 for any violation of the Oklahoma Wildlife Code
12 or any rule or regulation promulgated thereto, or

13 (2) will aid in ascertaining whether a violation of
14 the Oklahoma Wildlife Conservation Code or any
15 rule or regulation promulgated thereto has been
16 or is about to be committed.

17 D. Any person who refuses to stop a vehicle or boat when
18 requested to do so by a game warden in the performance of the duties
19 of the game warden is guilty of a misdemeanor and upon conviction is
20 punishable by a fine of not less than One Hundred Dollars (\$100.00)
21 nor more than Five Hundred Dollars (\$500.00).

22 E. Any game warden who solicits or accepts any bribe or money
23 or other thing of value in connection with the performance of duty
24 as a game warden shall be guilty of a felony and, upon conviction,

1 shall be sentenced to a term not less than two (2) years nor more
2 than seven (7) years in the custody of the Department of Corrections
3 and shall be summarily removed from office.

4 SECTION 10. AMENDATORY 29 O.S. 2011, Section 7-204, is
5 amended to read as follows:

6 Section 7-204. All wildlife found in this state is the property
7 of ~~the state~~ the people of the State of Oklahoma, and the authority
8 to manage all wildlife is pursuant to the Oklahoma Legislature.

9 SECTION 11. REPEALER 29 O.S. 2011, Section 3-313, as
10 amended by Section 119, Chapter 304, O.S.L. 2012 (29 O.S. Supp.
11 2017, Section 3-313), is hereby repealed.

12 SECTION 12. This act shall become effective November 1, 2018.

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