

An Act

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

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

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

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

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

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

~~B. Any person convicted of violating the provisions of this section shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not less than ten (10) days nor more than one (1) year, or by both such fine and imprisonment.~~

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

Section 5-402. A. Any person convicted of violating any provision of Section 5-203 and Sections 5-401 through 5-410 of this

title, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). Any person convicted of violating any provision of Sections 5-411 and 5-412 of this title, shall be punished by a fine not less than ~~Five Hundred Dollars (\$500.00)~~ Seven Hundred Fifty Dollars (\$750.00) nor more than ~~One Thousand Dollars (\$1,000.00)~~ One Thousand Two Hundred Fifty Dollars (\$1,250.00) or by imprisonment in the county jail for not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment.

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

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

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

~~3. 5-412 of this title.~~

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

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

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

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

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

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

Section 7-207. A. When ~~a habitual wildlife violator, as defined by Section 62 of this act,~~ a person is convicted of a wildlife offense which involves a species of wildlife listed in Section 5-411 of this title or a species referenced in Section 5-412 of this title and involves the unlawful possession, taking or killing of deer, turkey, elk, or antelope the wildlife from an unlawful hunt, chase, trap, capture, shooting, killing or slaughter, netting, shocking, or poisoning, by any means, the court, in addition to the execution of sentence in whole or in part, shall order the convicted defendant to provide restitution to the Oklahoma Department of Wildlife Conservation.

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

E. B. When a person is convicted of a wildlife offense which involves any species of wildlife other than those listed or referenced in Sections 5-411 and 5-412 of this title and involves the unlawful possession, taking or killing of the wildlife from an unlawful hunt, chase, trap, capture, shooting, killing or slaughter, netting, shocking, or poisoning, by any means, the court, in addition to the execution of sentence in whole or in part, shall order the convicted defendant to provide restitution to the Oklahoma Department of Wildlife Conservation. The amount of restitution shall be not less than Ten Dollars (\$10.00) nor more than Five Thousand Dollars (\$5,000.00) depending on the species, the type of specimen and the value of that animal to the wildlife resources of the state. The Department of Wildlife Conservation shall provide the court with a recommendation on the replacement cost. The court shall also take into consideration any previous convictions for violations of any fish and wildlife laws or regulations by the offender.

C. One hundred percent (100%) of the amount of restitution shall be forfeited to the Oklahoma Department of Wildlife Conservation in the event of a guilty plea or a conviction.

SECTION 5. REPEALER 29 O.S. 2001, Section 1002, as amended by Section 1, Chapter 302, O.S.L. 2005 (29 O.S. Supp. 2009, Section 1002), is hereby repealed.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 17th day of February, 2010.



Presiding Officer of the House of Representatives

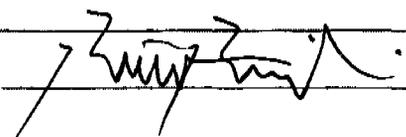
Passed the Senate the 6th day of April, 2010.



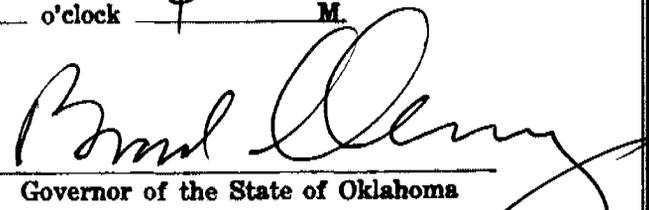
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 7th
day of April, 2010,
at 3:52 o'clock P M.

By: 

Approved by the Governor of the State of Oklahoma the 12th day of
April, 2010, at 6:45 o'clock P M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this
13th day of April, 2010,
at 7:15 o'clock P. M.

By: 