

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2641

By: Wallace

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to game and fish; amending 29 O.S.
10 2011, Section 4-203, which relates to license
11 dealers; authorizing the Director of the Department
12 of Wildlife Conservation to allow license dealers to
13 sell licenses and permits; listing duties of licensed
14 dealers; deleting obsolete language; making a dealer
15 subject to criminal and civil proceeding for failure
16 to remit license fees and penalty; requiring the
17 Department of Wildlife Conservation to give certain
18 written notice, a hearing and issue an order; making
19 the order final and binding; providing for
20 enforcement of the order; establishing penalty for
21 failure to return or pay licenses; precluding certain
22 penalties upon payment of the license fees and
23 penalty; authorizing the Office of the Attorney
24 General to assist in the collection of the debt and
25 penalties; authorizing the Department to audit
26 dealers upon reasonable notice; providing penalty for
27 certain violations; and declaring an emergency.

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

29 SECTION 1. AMENDATORY 29 O.S. 2011, Section 4-203, is
30 amended to read as follows:

1 Section 4-203. A. The Director of the Department of Wildlife
2 Conservation or a designee of the Director may authorize persons as
3 license dealers who may sell state-issued hunting and fishing
4 licenses and special permits to the public in accordance with rules
5 promulgated by the Department.

6 B. In addition to any other provisions of this title, the rules
7 of the Commission or Department or any provisions set forth in any
8 license dealer agreement with the Department, authorized license
9 dealers shall have the duty to:

10 1. Receive the applicable fee for any license or permit prior
11 to selling or distributing the license or permit;

12 2. Remit all license and permit fees received by the license
13 dealer and return all voided licenses or permits to the Department
14 within the time period specified by the Department;

15 3. Not make false statements regarding the license or permit
16 applicant information, license issuance data or any other license
17 data;

18 4. Not issue a license to any person not lawfully entitled to
19 the license;

20 5. Charge the applicant no more than the price of the license
21 or permit as required by statute, rule or by Commission resolution;

22 6. Not exchange license system access information with any
23 person other than the Department since credentials cannot be
24 transferred;

1 7. Be responsible to the Department for payment of all licenses
2 or permits sold or voided by the license dealer; and

3 8. Make timely deposits of money owed to the Department in
4 accordance with the provisions of the license dealer agreement made
5 with the Department and rules established by the Department.

6 Failure to make timely payments and deposits to the Department shall
7 result in the assessment of late payment penalties equal to twice
8 the value of any license or permit sold or voided by the license
9 dealer and not paid for and remitted to the Department.

10 C. Every dealer appointed to issue licenses as provided for in
11 ~~Section 3-202 of Title 29 of the Oklahoma Statutes~~ this title shall
12 be required to issue every license by means of an electronic point
13 of sale system ~~beginning no later than January 1, 2013.~~

14 ~~B. By January 1, 2013, the~~ D. The Wildlife Conservation
15 Commission shall promulgate rules establishing:

- 16 1. The duties of a dealer;
- 17 2. Procedures for issuing licenses and remitting license fees;
- 18 3. A collection fee to be retained by the dealer;
- 19 4. Reporting requirements;
- 20 5. Penalties for any violation of the rules; and
- 21 6. Any other rule deemed necessary by the Commission.

22 E. 1. Failure of a dealer to remit all license fees, any
23 penalty or both the fees and penalty shall subject the dealer to
24 administrative and civil proceedings pursuant to this subsection.

1 2. Upon failure of a dealer to remit the license fees and
2 penalty as required, the Department shall give written notice to the
3 alleged violator specifying the cause of the complaint. The notice
4 shall state the amount of the license fees owed and any penalty
5 assessed by the Department. The notice shall require immediate
6 payment of the debt and penalties or require that the alleged
7 violator appear before the Department at a time and place specified
8 in the notice and answer the charges. The notice shall additionally
9 inform the alleged violator that failure to either pay the debt and
10 penalty as required or to appear at the hearing shall subject the
11 alleged violator to an administrative order which shall be entered
12 on the judgment docket of the district court in a county in which
13 the alleged violator has property and shall be enforced in the same
14 manner as an order of the district court for collection action. The
15 notice shall be served upon the alleged violator in the same manner
16 prescribed for service of summons in a civil action. The Department
17 shall afford the alleged violator an opportunity for a fair hearing
18 within fifteen (15) days of receipt of notice as provided for in
19 this paragraph in accordance with the provisions of the
20 Administrative Procedures Act and rules of the Department. On the
21 basis of evidence produced at the hearing or if the alleged violator
22 fails to appear at the hearing as required, the Department shall
23 make findings of fact and conclusions of law and enter an order
24 thereon. The order of the Department shall become final and binding

1 on all parties unless appealed to the Oklahoma County District Court
2 pursuant to procedures provided for in the Administrative Procedures
3 Act. If an appeal is not made, the order may be entered on the
4 judgment docket of the district court in a county in which the
5 debtor has property and thereafter enforced in the same manner as an
6 order of the district court for collection actions.

7 3. Any dealer who fails to return or pay for licenses shall be
8 guilty of a misdemeanor and shall, upon conviction, be fined not
9 less than Fifty Dollars (\$50.00) nor more than Five Thousand Dollars
10 (\$5,000.00).

11 4. Payment, in full, of the license fees and penalty, pursuant
12 to the provisions of this subsection, shall be full and complete
13 satisfaction of the violation for which the administrative order was
14 issued and shall preclude any other administrative, civil or
15 criminal penalty for the same violation.

16 D. The Office of the Attorney General, at the request of the
17 Director, may assist the Department in the assessment and collection
18 of the debt and penalties pursuant to the provisions of this
19 section.

20 E. Upon reasonable notice, the Department may audit dealers at
21 any time during the fiscal year in accordance with rules promulgated
22 by the Commission.

23 F. Any dealer violating the provisions of this section or any
24 rules promulgated by the Commission or Department pursuant to this

1 section, upon conviction, shall be punished by a fine of not less
2 than One Hundred Dollars (\$100.00) nor more than Five Hundred
3 Dollars (\$500.00). Dealers convicted of violating the provisions of
4 this section shall be relieved of any and all authority as dealers.

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

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10 COMMITTEE REPORT BY: COMMITTEE ON WILDLIFE, dated 02/22/2016 - DO
11 PASS, As Amended.

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