

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 2643

By: Wallace

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8 COMMITTEE SUBSTITUTE

9 An Act relating to game and fish; amending 29 O.S.
10 2011, Section 3-105, which relates to powers and
duties of the Director of Wildlife Conservation;
11 updating statutory language; allowing the Director to
authorize the Department to initiate and conduct
12 certain administrative proceedings; authorizing the
Director to issue a final order; authorizing and
13 listing certain sanctions; limiting the amount of
administrative fines and penalties; prohibiting
14 criminal sanctions; allowing for the imposition of
certain costs on certain persons; precluding certain
15 other actions or penalties upon certain compliance;
authorizing the Attorney General to appear and assist
16 in certain actions and hearings; providing for
application of certain provisions of law; and
17 providing an effective date.

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

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

22 Section 3-105. A. Immediately upon ~~the~~ appointment ~~of,~~ the
23 Director, ~~he~~ of the Department of Wildlife Conservation shall become
24 vested with the duties and powers of the management and control of

1 the Department of Wildlife Conservation under ~~such~~ any provisions,
2 orders, and rules ~~and regulations~~ as may be prescribed by the
3 Wildlife Conservation Commission, and in addition thereto shall have
4 the following specific powers and duties:

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

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

18 3. To approve or disapprove and pay all legal claims for
19 services rendered or expenses incurred by rangers and other
20 employees of the Department in accordance with the schedules
21 therefor and the rules ~~and regulation~~ previously adopted by the
22 Commission-;

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

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

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

11 ~~6.~~ 7. To make a complaint and cause proceedings to be commenced
12 against any person for violation of any of the laws for the
13 conservation of wildlife with the sanction of the district attorney
14 of the county in which ~~such~~ the proceedings are brought, and shall
15 not be required to give security for costs. The Director may also
16 appear in behalf of the people in any court of competent
17 jurisdiction in any prosecution for a violation of any of the laws
18 for the protection of wildlife, and may prosecute the same in the
19 same manner and with the same authority as the district attorney of
20 the county where such proceedings are pending in cases where such
21 attorney is unable to be present or refuses to prosecute such case-i

22 ~~7.~~ 8. To make emergency purchases of equipment, materials and
23 supplies under rules ~~and regulations~~ prescribed by the Commission;
24 and

1 9. To authorize the Department to initiate an administrative
2 proceeding against any person as defined in Section 2-128 of this
3 title for violation of any provision of this title or any
4 administrative rule of the Department or Commission. The individual
5 proceeding shall be initiated and conducted in accordance with rules
6 of the Department, OAC 800:1-9-1 through 800:1-9-16. At the
7 conclusion of the individual proceedings and review of the record
8 and proposed finding of fact and conclusions of law, the Director is
9 authorized to issue a final order reflecting the findings of fact
10 made, the conclusions of law reached and specifying the action to be
11 taken. Actions taken may include the imposition of sanctions.
12 Sanctions imposed on an individual may include the revocation or
13 suspension of a license, refusal to renew a license, denial of a
14 license, probation of licensure, confiscation and disposal of
15 wildlife, restitution for wildlife damage and the assessment of an
16 administrative fine or penalty. The amount of any administrative
17 fine or penalty imposed on a person shall not exceed the amount a
18 court is authorized under law to levy against a person for a
19 criminal conviction for the same violation. Actions taken against a
20 person shall not include criminal sanctions or penalties. In
21 addition to other sanctions imposed on a firm, corporation,
22 association or partnership, a final order may include the imposition
23 of costs and expenses including witness fees, travel expenses and
24 reasonable attorney fees. Compliance with the final order,

1 including payment in full of all damages, restitution, fines,
2 penalties and costs, if any, shall be full and complete satisfaction
3 of the violation for which the final order was issued and shall
4 preclude any other civil or criminal action or penalty for the same
5 violation. The Attorney General, in person or by assistant, may
6 appear on behalf of the state in all administrative proceedings and,
7 at the request of the Director, may assist with the prosecution of
8 individual proceedings. The provisions of Section 318 of Title 75
9 of the Oklahoma Statutes shall apply to judicial review of a final
10 order issued pursuant to this paragraph.

11 B. All duties and authority imposed or conferred upon the
12 former Wildlife Conservation Director by any statute, rule or
13 regulation of the Commission are hereby imposed and conferred upon
14 the Director until such time as the Commission or the Legislature
15 shall, by appropriate measure, change such duties or authority
16 imposed by said Commission.

17 SECTION 2. This act shall become effective November 1, 2016.

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