

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2024

By: Lepak

AS INTRODUCED

An Act relating to the Oklahoma Department of Agriculture, Food, and Forestry; amending 2 O.S. 2011, Sections 1-2, 1-3, 2-1, 2-3 and 2-4, as last amended by Section 1, Chapter 199, O.S.L. 2018 (2 O.S. Supp. 2018, Section 2-4), which relate to the State Board of Agriculture; clarifying language; modifying definitions; making Board an advisory body; authorizing Governor to appoint Secretary of Agriculture; providing for determination of compensation; modifying powers and duties of the Board; repealing 2 O.S. 2011, Section 2-2, as amended by Section 1, Chapter 7, O.S.L. 2012 (2 O.S. Supp. 2018, Section 2-2), which relates to compensation and meeting of the Board; and providing an effective date.

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

Section 1-2. The ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry shall consist of ~~the State Board of Agriculture,~~ the divisions, and other positions and offices as established by law and by the ~~Board~~ Commissioner of Agriculture.

SECTION 1. AMENDATORY 2 O.S. 2011, Section 1-3, is amended to read as follows:

1 Section 1-3. For the purposes of the Oklahoma Agricultural
2 Code, unless the context indicates otherwise:

3 1. "Authorized agent" means a person who has been authorized by
4 the ~~State Board of Agriculture~~ Commissioner of Agriculture to act on
5 behalf of the ~~Board~~ Oklahoma Department of Agriculture, Food, and
6 Forestry in making investigations, inspections, performing other
7 services, or doing any particular act or acts which have been vested
8 by the Oklahoma Agricultural Code ~~in the Board~~. A written or
9 printed commission signed by the ~~President of the Board~~ Commissioner
10 shall be proof that the holder has lawful authority to act on behalf
11 of the ~~Board~~ Department in implementing the Oklahoma Agricultural
12 Code;

13 2. "Board" means the State Board of Agriculture;

14 3. "Code" means the Oklahoma Agricultural Code;

15 4. "Department" means the Oklahoma Department of Agriculture,
16 Food, and Forestry and its employees, officers, and divisions.

17 Whenever the name "Department of Agriculture" appears in any law,
18 contract or other document, it shall be deemed to refer to the
19 Oklahoma Department of Agriculture, Food, and Forestry;

20 5. "Director" means the Director of a division established in
21 the Oklahoma Department of Agriculture, Food, and Forestry;

22 6. "License" means a written document issued by the ~~Board~~
23 Department granting authority to a person to engage in a business,
24 occupation, or activity;

1 7. "Livestock" or "animals" means any cattle, bison, horses,
2 sheep, goats, asses, mules, swine, domesticated rabbits, and
3 chickens, turkeys, and other domesticated fowl, and any animal or
4 bird in captivity;

5 8. "Permit" means a written document issued by the ~~Board~~
6 Department giving consent for a person to engage in an activity;

7 9. "Person" means the state, any municipality, political
8 subdivision, institution, individual, public or private corporation,
9 partnership, association, firm, company, public trust, joint-stock
10 company, trust, estate, state or federal agency, other governmental
11 entity, or any other legal entity or an agent, employee,
12 representative, assignee or successor thereof;

13 10. ~~"President" means the President of the State Board of~~
14 ~~Agriculture. The President of the State Board of Agriculture shall~~
15 ~~also be designated as the Commissioner of Agriculture;~~

16 ~~11.~~ "Producer" means any person planting, raising, growing, or
17 harvesting agricultural products;

18 ~~12.~~ 11. "Quarantine" means a written document issued by the
19 Board to restrict the movement of animals, birds, plants, or
20 agricultural commodities into or out of a specified area for the
21 control or prevention of diseases or pests; and

22 ~~13.~~ 12. "Stop sale order" or "stop use order" means a written
23 or printed order signed by the ~~President~~ Commissioner or authorized
24 agent of the ~~Board~~ Commissioner, prohibiting the sale, offering for

1 sale, exposure for sale, or use of any agricultural product,
2 article, device, service, or commodity covered by the Oklahoma
3 Agricultural Code.

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

6 Section 2-1. A. 1. The State Board of Agriculture shall be
7 the Board of Agriculture created by Section 31 of Article VI of the
8 Oklahoma Constitution. The Board shall be an advisory body to the
9 Commissioner of Agriculture and shall consist of five (5) members
10 appointed by the Governor, with the advice and consent of the
11 Senate. All duties and powers of the Board shall be transferred to
12 the Commissioner. Any provision in statute that provides to the
13 Board authority that is not advisory in nature shall be deemed to
14 grant the duty or power to the Commissioner. Four ~~of such~~ members
15 shall be appointed from within and represent the agricultural
16 district established by subsection B of this section. One member
17 shall be appointed from the state at large.

18 2. The members shall be farmers who have:

19 a. at least five (5) years practical experience during
20 the ten (10) years immediately preceding their
21 appointment, and

22 b. lived on and operated a farm after reaching the age of
23 twenty-one (21) years.

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1 B. For the purpose of appointments to the Board, four
2 agricultural districts are hereby created and shall consist of the
3 following counties:

| 4 DISTRICT | COUNTIES |
|------------|---|
| 5 NO. | |
| 6 1..... | Atoka, Bryan, Choctaw, Coal, Haskell, Hughes, Johnston, 7 Latimer, LeFlore, Marshall, McCurtain, McIntosh, Muskogee, 8 Okfuskee, Okmulgee, Pittsburg, Pontotoc, Pottawatomie, 9 Pushmataha, Seminole and Sequoyah. |
| 10 2..... | Adair, Cherokee, Craig, Creek, Delaware, Kay, Lincoln, 11 Logan, Mayes, Noble, Nowata, Oklahoma, Osage, Ottawa, 12 Pawnee, Payne, Rogers, Tulsa, Wagoner and Washington. |
| 13 3..... | Alfalfa, Beaver, Blaine, Cimarron, Custer, Dewey, Ellis, 14 Garfield, Grant, Harper, Kingfisher, Major, Roger Mills, 15 Texas, Woods and Woodward. |
| 16 4..... | Beckham, Caddo, Canadian, Carter, Cleveland, Comanche, 17 Cotton, Garvin, Grady, Greer, Harmon, Jackson, Jefferson, 18 Kiowa, Love, McClain, Murray, Stephens, Tillman and 19 Washita. |

20 C. One member of the Board shall be appointed from each
21 district.

22 D. 1. On the effective date of this act, each district
23 established by subsection B of this section shall be represented by
24 the current board member position as follows:

- 1 a. the board member position currently representing
2 District 5 shall represent the new District 1,
3 b. the board member position currently representing
4 District 2 shall represent the new District 2,
5 c. the board member position currently representing
6 District 1 shall represent the new District 3, and
7 d. the board member position currently representing
8 District 4 shall represent the new District 4.

9 2. The board member position currently serving District 3 shall
10 be terminated.

11 3. Except as otherwise provided in this subsection, all board
12 members serving on the effective date of this act shall serve the
13 remainder of the term of office to which the board member was
14 originally appointed. Thereafter, successor board members shall be
15 appointed for terms of four (4) years. The at-large member shall
16 serve a term coterminous with that of the Governor.

17 4. In case of vacancy caused by the removal, death,
18 resignation, or disability of any member, the Governor shall appoint
19 a new member from the same district for which a vacancy was vacated
20 to serve for the unexpired term.

21 SECTION 3. AMENDATORY 2 O.S. 2011, Section 2-3, is
22 amended to read as follows:

23 Section 2-3. ~~A. The at-large member appointed by the Governor,~~
24 ~~pursuant to Section 2-1 of this title, shall be the President of the~~

1 ~~State Board~~ Commissioner of Agriculture ~~and~~ shall be appointed by
2 the Governor, with the advice and consent of the Senate. The
3 Commissioner shall serve at the pleasure of the Governor and may be
4 removed or replaced without cause. Compensation for the
5 Commissioner shall be determined pursuant to Section 3601.2 of Title
6 74 of the Oklahoma Statutes.

7 ~~B. The President shall be the executive officer of the Board~~
8 ~~and, in the absence of the Board, shall, subject to approval of the~~
9 ~~Board, perform all of the duties imposed by law.~~

10 ~~C. The Board shall elect a Secretary who shall not be a member~~
11 ~~of the Board. The Board shall fix the duties of the person~~
12 ~~appointed.~~

13 SECTION 4. AMENDATORY 2 O.S. 2011, Section 2-4, as last
14 amended by Section 1, Chapter 20, O.S.L. 2015 (2 O.S. Supp. 2018,
15 Section 2-4), is amended to read as follows:

16 SECTION 5. AMENDATORY 2 O.S. 2011, Section 2-4, as last
17 amended by Section 1, Chapter 199, O.S.L. 2018 (2 O.S. Supp. 2018,
18 Section 2-4), is amended to read as follows:

19 Section 2-4. A. The ~~State Board~~ Commissioner of Agriculture
20 shall have the power to:

21 1. Adopt and prescribe the use of a seal, ~~which shall be in the~~
22 ~~custody of the Secretary of the Board;~~

- 1 2. Promulgate rules necessary, expedient, or appropriate to the
2 performance, enforcement, or carrying out of any of the purposes,
3 objectives, or provisions of the Oklahoma Agricultural Code;
- 4 3. Initiate and prosecute administrative, civil, or criminal
5 actions and proceedings necessary under the Oklahoma Agricultural
6 Code;
- 7 4. Appoint authorized agents to make inspections or
8 investigations and to perform other services for ~~the Board or~~ any
9 division of the Oklahoma Department of Agriculture, Food, and
10 Forestry;
- 11 5. Consolidate any of the divisions established by the Oklahoma
12 Agricultural Code, transfer any of the functions or activities to
13 another division, place additional functions or activities in a
14 division, establish new divisions, and create new or additional
15 positions in the Department, when conducive to a more efficient
16 administration and enforcement of laws pertaining to agriculture;
- 17 6. Sell, exchange, or dispose of property;
- 18 7. Have jurisdiction over all matters affecting animal
19 industry, animal health, and animal quarantine;
- 20 8. Issue stop-sale and stop-use orders and quarantines;
- 21 9. Employ, appoint, or contract and fix the duties and
22 compensation of the director of each division of the Department and
23 other personnel, either on a full-time, part-time, or contractual
24 basis, ~~as deemed necessary by the Board;~~

- 1 10. Fix the qualifications of the personnel in the Department;
- 2 11. Accept and use grants of money and other property from any
- 3 source;
- 4 12. Advise, consult, cooperate, and enter into agreements or
- 5 contracts with persons as defined in the Oklahoma Agricultural Code;
- 6 13. Coordinate with the federal government and other states on
- 7 matters pertaining to agriculture;
- 8 14. Revoke, suspend, or deny for up to one (1) year, any
- 9 license, permit, or charter issued by the ~~Board~~ Department if the
- 10 ~~Board~~ Department finds any violations of the Oklahoma Agricultural
- 11 Code or any rule of the ~~Board~~ Department;
- 12 15. Adopt a master plan and promulgate rules for the protection
- 13 of state-owned and private forestry, grazing, and other lands from
- 14 damage by fire and for suppressing fires on lands. In carrying out
- 15 the master plan the ~~Board~~ Department is authorized to enter into
- 16 contractual agreements with the federal government, local political
- 17 subdivisions of the state, individuals, private organizations,
- 18 companies, and corporations for protection and for the suppression
- 19 of fires and to expend funds as available for these services. To
- 20 effectuate the purposes of the Oklahoma Agricultural Code, the ~~Board~~
- 21 Department is authorized to enter into contractual agreements with
- 22 private landowners for the protection and suppression of fires,
- 23 provided that the private landowners reimburse the ~~Board~~ Department
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1 for actual expenses incurred in the protection and suppression of
2 fires on privately owned lands;

3 16. Have jurisdiction over all matters affecting agriculture as
4 contained and set out in the Oklahoma Agricultural Code, which have
5 not been expressly delegated to another state or federal agency and
6 be responsible for fully implementing and enforcing the laws and
7 rules within its jurisdictional areas of environmental
8 responsibility.

9 a. The Department of Environmental Quality shall have
10 environmental jurisdiction over:

11 (1) commercial manufacturers of fertilizers, grain
12 and feed products, and chemicals, and over
13 manufacturing of food and kindred products,
14 tobacco, paper, lumber, wood, textile mill, and
15 other agricultural products,

16 (2) slaughterhouses, but not including feedlots at
17 these facilities, and

18 (3) aquaculture and fish hatcheries, including, but
19 not limited to, discharges of pollutants and
20 storm water to waters of the state, surface
21 impoundments and land application of wastes and
22 sludge, and other pollution originating at these
23 facilities.

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1 b. Facilities storing grain, feed, seed, fertilizer, and
2 agricultural chemicals that are required by federal
3 National Pollutant Discharge Elimination System
4 (NPDES) regulations to obtain a permit for storm water
5 discharges shall only be subject to the jurisdiction
6 of the Department of Environmental Quality with
7 respect to storm water discharges;

8 17. Have jurisdiction over all matters affecting the
9 importation, health, and quarantining of exotic livestock;

10 18. Prescribe forms of application, certification, licenses,
11 charters, and other forms and blanks as may be necessary to carry
12 out the provisions of the Oklahoma Agricultural Code;

13 19. Stagger throughout the year the renewal dates for any
14 licenses or permits issued by the Department pursuant to the
15 provisions of the Oklahoma Agricultural Code by notifying licensees
16 in writing of the expiration and renewal date being assigned to the
17 licensee and permittee and by making an appropriate adjustment in
18 the fee charged for the license or permit;

19 20. Establish and collect fees for licenses, permits, charters,
20 and services provided. The fees shall be promulgated in accordance
21 with the Administrative Procedures Act and shall be fair and
22 equitable to all parties concerned;

23 21. Establish planting and harvesting seasons for the purpose
24 of meeting the maximum driving and on-duty time exemptions set forth

1 in the National Highway System Designation Act of 1995. The ~~Board~~
2 Department shall notify the United States Secretary of
3 Transportation of the seasons;

4 22. Fix and adopt official standards for grading and
5 classifying any agricultural commodity, meat, or meat product
6 prepared, produced, or distributed in Oklahoma;

7 23. Promulgate rules, make investigations, and conduct hearings
8 for the purpose of making inspection compulsory on any agricultural
9 commodity and designate the shipping points where compulsory
10 inspection applies;

11 24. Inspect agricultural commodities, at any time, upon request
12 of any financially interested party or when necessary and to issue
13 certificates showing the quality and condition of the commodities at
14 the time of the inspection;

15 25. Grade meat or meat products upon the request of any packing
16 plant in Oklahoma. The packing plant shall be required to pay the
17 cost of services, including the compensation and expenses of
18 personnel employed to perform the actual grading;

19 26. Apply to the district court for a temporary or permanent
20 injunction or any other remedy restraining any person from violating
21 the Oklahoma Agricultural Code;

22 27. Extend and implement the powers and provisions granted by
23 the Oklahoma Agricultural Code to all programs administered by the
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1 Department regardless of whether the statutes creating the program
2 are codified in this title;

3 28. Increase its efforts to ensure the safety and quality of
4 food and food products for wholesalers and retail sales in this
5 state and shall include, but not be limited to, inspections of
6 retailers and wholesalers to ensure compliance with all federal and
7 state certification standards;

8 29. Exercise all incidental powers which are necessary and
9 proper to implement and administer the purposes of the Oklahoma
10 Agricultural Code;

11 30. Accept upon behalf of the Department any gift or donation
12 of property, including but not limited to monetary gifts;

13 31. Promulgate rules regarding prescribed burning and smoke
14 management;

15 32. Enter into written leases or lease-purchase agreements to
16 acquire equipment, furnishings, supplies and other items necessary
17 for the operation of the Oklahoma Department of Agriculture, Food,
18 and Forestry Agriculture Laboratory;

19 33. Exercise all incidental powers and promulgate rules,
20 procedures and forms which are necessary and proper to implement,
21 administer and enforce the Oklahoma Scrap Metal Dealers Act;

22 34. Promulgate rules to ensure state control of any federal
23 program relating to on-farm fruit and vegetable production
24 inspections and regulation;

1 35. Develop a pollinator protection plan to promote the health
2 of and mitigate the risks to honeybees and other managed
3 pollinators; and

4 36. Issue certificates of free sale for any products or items
5 within the jurisdiction of the Oklahoma Department of Agriculture,
6 Food, and Forestry.

7 B. 1. If upon inspection or investigation, or whenever the
8 Oklahoma Department of Agriculture, Food, and Forestry determines
9 that there are reasonable grounds to believe that any person is in
10 violation of any part of the Oklahoma Environmental Quality Code
11 which is the responsibility and jurisdiction of the Oklahoma
12 Department of Agriculture, Food, and Forestry, any rule promulgated
13 by the ~~State Board of Agriculture~~ Department, or of any order,
14 permit, certificate, registration, charter, or license issued by the
15 ~~Board~~ Department, the Department may give written notice to the
16 alleged violator of the specific violation and of the alleged
17 violator's duty to correct the violation immediately or within a set
18 time period or both and that the failure to do so shall result in
19 administrative fines or penalties.

20 2. Whenever the Department finds that an emergency exists
21 requiring immediate action to protect the public health, welfare, or
22 the environment, the ~~President of the State Board of Agriculture~~
23 Commissioner may without notice or hearing issue an order, effective
24 upon issuance, reciting the existence of an emergency and requiring

1 that action be taken as specified in the order to meet the
2 emergency. Any person to whom an order is directed shall comply
3 immediately but may request an administrative enforcement hearing
4 within fifteen (15) days after the order is served. The hearing
5 shall be held by the Department within ten (10) days after receipt
6 of the request. On the basis of the hearing record, the ~~President~~
7 ~~of the Board~~ Commissioner shall sustain or modify the original
8 order.

9 SECTION 6. REPEALER 2 O.S. 2011, Section 2-2, as amended
10 by Section 1, Chapter 7, O.S.L. 2012 (2 O.S. Supp. 2018, Section 2-
11 2), is hereby repealed.

12 SECTION 7. This act shall become effective November 1, 2019.

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14 57-1-5155 LRB 12/26/18

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