ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 2929

By: Richardson, Hyman, Brown, Covey, Denney, DeWitt, McCarter, McMullen, Morgan (Fred), Roan, Shoemake, Turner and Walker of the House

and

Shurden and Justice of the Senate

An Act relating to agriculture; creating the Feral Swine Control Act; stating purpose; defining terms; specifying license and permit requirements; authorizing removal of feral swine; authorizing the promulgation of rules; establishing importation requirements; making certain activities unlawful; providing for penalties; providing for emergency orders of the State Veterinarian; amending 4 O.S. 2001, Sections 85.1, 85.2, 98 and 99, which relate to estrays and the enclosure of animals; modifying definitions; modifying procedures; modifying penalties; amending 29 O.S. 2001, Section 4-135, as amended by Section 1, Chapter 193, O.S.L. 2004 (29 O.S. Supp. 2005, Section 4-135), which relates to permits to control nuisance or damage by wildlife; deleting requirement for hunting feral hogs at night; providing for codification; and providing an effective date.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"[agriculture - Feral Swine Control Act - control nuisance by wildlife – deleting requirement – codification - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-500 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Feral Swine Control Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-501 of Title 2, unless there is created a duplication in numbering, reads as follows:

The purpose of the Feral Swine Control Act is to provide aggressive measures to reduce the number of feral swine in Oklahoma. Feral swine are a nonnative invasive species in Oklahoma that is detrimental to the natural resources of Oklahoma and agriculture production, and is a disease risk. As the feral swine population increases the citizens of Oklahoma continue to see increased damage to crops, livestock, and wildlife habitat. As carriers of diseases like brucellosis, pseudorabies, tuberculosis, anthrax, and trichinosis, feral swine pose an increasing health risk to humans, livestock, companion animals, pets, and native wildlife.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-502 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in the Feral Swine Control Act:

1. "Daylight" means the period of time beginning when the sun rises and ending when the sun sets;

2. "Feral swine" means any hog, pig, or swine species (Sus scrofa) including, but not limited to, Russian and European wild boar that are running at large, free roaming, or wild upon public or private lands in this state;

3. "Owner" means any person with title to the real property or a person that has obtained a right to the possession and use of a certain space, property, or subsurface right for a definite period of time through a contractual lease. In the event a person is permitted to come upon the real property to perform some specific act, including but not limited to hunting, removing feral swine, or

fishing, that person has no “lease” but only a “license” to do that act; and

4. “Remove” means to change the location of, eliminate, or attempt to eliminate feral swine by a variety of methods including, but not limited to, hunting, killing, taking, trapping, and catching.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-503 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise specified in the Feral Swine Control Act, any person with permission of the owner may remove feral swine from private or public property during daylight hours.

B. Any person who intends to kill or attempt to kill feral swine at night shall obtain a permit issued by the Department of Wildlife Conservation pursuant to Section 4-135 of Title 29 of the Oklahoma Statutes and promulgated rules.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-504 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. During designated deer hunting seasons for primitive firearms and guns as specified in rules promulgated by the Department of Wildlife Conservation, an owner of private property shall not kill or attempt to kill feral swine during daylight hours that is damaging their own property without first obtaining a special permit from the local game warden or other authorized employee of the Department of Wildlife Conservation. The special permit shall allow the owner and one person of lineal or collateral descent to kill feral swine on the owner’s property. The special permit shall be provided at no cost.

B. All other persons shall be required to obtain licenses and tags as required by the Oklahoma Wildlife Conservation Code and rules promulgated thereto.

C. Any person with a valid license to hunt deer is exempt from the requirements of this section during the appropriate licensed season.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-505 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Feral swine may be taken on lands owned or managed by the Department of Wildlife Conservation in accordance with rules promulgated thereto. During established deer hunting seasons, feral swine may only be removed by legal means of taking authorized by the Department of Wildlife Conservation for that deer season unless the provisions of subsection B of this section apply.

B. Feral swine may be killed during the regular deer archery and deer primitive firearms seasons and during the first nine (9) days of the regular deer gun season on the Broken Bow Wildlife Management Area, Honobia Creek Wildlife Management Area, or the Three Rivers Wildlife Management Area, with firearms and methods legal for that deer season.

C. No person whose hunting license is revoked may remove feral swine during the time the license is revoked.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-506 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture is authorized to promulgate rules necessary, expedient, or appropriate for the performance, enforcement, or carrying out of any of the purposes, objectives, or provisions of the Feral Swine Control Act, including the establishment of fees.

B. All fees shall be fair and equitable to all parties concerned.

C. Rules shall be promulgated pursuant to the Administrative Procedures Act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-507 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Any person importing live feral swine into Oklahoma shall be accompanied by a Certificate of Veterinary Inspection signed by an accredited veterinarian that contains the following:

1. A written entry permit approved by the State Veterinarian or chief animal health official of the state of origin;

2. Individual identification of each feral swine; and

3. Negative brucellosis and pseudorabies test results.

B. A person shall obtain a negative brucellosis and pseudorabies test within thirty (30) days prior to entry.

C. All live feral swine imported into Oklahoma shall be quarantined and isolated to retest for brucellosis and pseudorabies. The testing shall be conducted between no earlier than thirty (30) days and no later than sixty (60) days following the date of importation, except for feral swine going directly to an approved slaughter facility.

D. All feral swine in Oklahoma that test positive for brucellosis or pseudorabies shall be immediately sent directly to slaughter or slaughtered on the premise pursuant to an order issued by the State Veterinarian.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-508 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The State Board of Agriculture shall promulgate rules for the testing and intrastate movement of live feral swine.

B. All persons that transport live feral swine in Oklahoma shall be required to obtain a transporter license from the Oklahoma Department of Agriculture, Food, and Forestry.

C. In Oklahoma live feral swine shall only be transported to the following:

1. A licensed sporting facility;

2. A licensed breeding facility;

3. A licensed buying station;

4. A licensed gathering station;

5. Directly to an approved market or slaughter facility; or

6. Pursuant to an order issued by the State Veterinarian.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-509 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful and a violation of the Feral Swine Control Act for any person:

1. To refuse an inspection;

2. To fail to comply with importation, testing, permitting, licensing, or transportation requirements;

3. To fail to pay any fee, administrative fine, or penalty;

4. To fail to comply with any Oklahoma Department of Agriculture, Food, and Forestry order; or

5. To violate any provision of the Oklahoma Feral Swine Control Act, Oklahoma Agricultural Code, or Oklahoma Wildlife Conservation Code.

B. Any person that violates the Feral Swine Control Act shall be assessed a penalty or an administrative fine pursuant to Section 2-18 of Title 2 of the Oklahoma Statutes.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-510 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. No person shall intentionally or knowingly release or engage in, sponsor, instigate, assist, or profit from the release of any hog, boar, swine, or pig to live in a wild or feral state upon public or private lands, except for release into a licensed sporting facility pursuant to the Feral Swine Control Act.

B. No person shall knowingly or intentionally violate the importation, testing, permitting, licensing, and transportation requirements contained in the Feral Swine Control Act and rules promulgated thereto.

C. Any person violating the provisions of this section is guilty of a felony and subject to a maximum punishment of two (2) years in prison, a fine of Two Thousand Dollars ($2,000.00), or both.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-511 of Title 2, unless there is created a duplication in numbering, reads as follows:

All feral swine shall be restrained by the owner at all times and seasons of the year from running at large in the State of Oklahoma. Any damages caused by feral swine trespassing upon lands of another shall be recovered in any manner provided by law.

SECTION 13. AMENDATORY 4 O.S. 2001, Section 85.1, is amended to read as follows:

Section 85.1 A. As used in this act, "domestic animals" shall include all domestic animals including, but not limited to, cattle, bison, hogs, sheep, goats, equidae, chickens or other poultry and exotic livestock. The term "domestic animals" shall not include dogs~~,~~ and cats ~~and feral hogs~~.

B. As used in this section~~:~~

~~1. "Exotic~~, "exotic livestock" means commercially raised exotic livestock including animals of the families bovidae, cervidae and antilocapridae or birds of the ratite group~~; and~~

~~2. "Feral hog" means any hogs (Sus Scrofa), including, but not limited to, Russian and European wild boar which are running at large upon public lands or upon private lands in this state whose owner is unknown in the vicinity of the premises where such feral hogs are found. If the owner of a stray hog is known, a hog running at large upon public lands or upon private lands in this state shall~~

~~not be considered feral until five (5) calendar days after escaping from domestic confinement. If notice is provided to adjacent landowners within those five (5) calendar days, the hog shall not be considered feral for an additional ten (10) calendar days~~.

SECTION 14. AMENDATORY 4 O.S. 2001, Section 85.2, is amended to read as follows:

Section 85.2 ~~A.~~ Any domestic animal found running at large upon public or private lands in the State of Oklahoma, whose owner is unknown in the vicinity of the premises where found, shall be known as an "estray", and it shall be unlawful for any person, company or corporation or either of their employees or agents to take up an estray and retain possession of same, except as provided in this act.

~~B. Any person may take and kill feral hogs provided that:~~

~~1. Feral hogs taken on public property during any established hunting season must be taken with weapons and methods authorized by the Department of Wildlife Conservation for that hunting season;~~

~~2. Feral hogs may be taken on any land where the hunter has legal access unless prohibited by the landowner pursuant to the Oklahoma Wildlife Code; and~~

~~3. No person whose hunting license is revoked may take or kill feral hogs during the period of the revocation.~~

SECTION 15. AMENDATORY 4 O.S. 2001, Section 98, is amended to read as follows:

Section 98. All domestic animals shall be restrained by the owner thereof at all times and seasons of the year from running at large in the State of Oklahoma. Damages ~~sustained~~ caused by ~~reason of such~~ the domestic animals trespassing upon lands of another shall be recovered in a manner provided by law. For the purpose of this act, domestic animals shall include cattle, horses, swine, sheep, goats, exotic livestock and all other animals not considered wild.

The term "domestic animals" shall not include domestic house pets ~~or feral hogs~~.

SECTION 16. AMENDATORY 4 O.S. 2001, Section 99, is amended to read as follows:

Section 99. A. Any person who:

1. Willfully omits to keep a domestic animal such person owns or has charge of within a suitable enclosure;

2. Allows the animal to be unrestrained or to run at large, with notice, actual or constructive, that the enclosure within which ~~such~~ the animal is kept is open; or

3. Knowingly causes a domestic animal to escape confinement, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Fifty Dollars ($50.00) for each offense, or not more than thirty (30) days' imprisonment in the county jail for each offense, or ~~by~~ both ~~such fine and imprisonment~~.

B. ~~1. No person shall willfully release any hog to live in a wild or feral state upon public land or upon private land.~~

~~2. Any person who violates this subsection shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed Five Hundred Dollars ($500.00).~~

~~C.~~ For the purpose of this act, the term "domestic animals" shall not include domestic house pets ~~or feral hogs~~.

SECTION 17. AMENDATORY 29 O.S. 2001, Section 4-135, as amended by Section 1, Chapter 193, O.S.L. 2004 (29 O.S. Supp. 2005, Section 4-135), is amended to read as follows:

Section 4-135. A. The Department is authorized to issue permits to landowners, lessees or their designated agents and to any entity of state, county or local government to control nuisance or damage by any species of wildlife or feral ~~hogs~~ swine under rules promulgated by the Commission. The permits may be issued without limitation ~~to~~ by statewide season regulations, bag limits or methods

of taking. A permitted landowner, lessee or a designated agent of the landowner or lessee may~~, with a permit,~~ hunt feral ~~hogs~~ swine at night ~~to protect crops from damage by feral hogs~~. The permit to hunt at night shall be valid for a period of ninety (90) days and may be renewed upon request of the permit holder. Any person who has been convicted of, or ~~plead~~ pled guilty to, a violation of Section 5-203.1 or Section 5-411 of this code within the previous three (3) years shall not be eligible to receive a permit pursuant to this section. The permit can be issued by the local game warden in the county for which the permit is to be used or by the Law Enforcement Division of the Department of Wildlife Conservation.

B. Notwithstanding the provisions of Section 1289.13 of Title 21 of the Oklahoma Statutes, it shall be lawful for any private landowner or designated employee of such landowner or lessee to have a chamber-loaded firearm on his or her property; provided, however, nothing in this ~~act~~ section shall authorize any convicted felon to carry a firearm.

SECTION 18. This act shall become effective November 1, 2006."

Passed the Senate the 12th day of April, 2006.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2006.

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Presiding Officer of the House
of Representatives