

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2929

By: Richardson

COMMITTEE SUBSTITUTE

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.

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, agriculture production, and a disease risk. As the feral swine population

increases the citizens of Oklahoma will continue to see increased damage to crops, livestock, and wildlife habitat. As carriers of diseases like brucellosis, pseudorabies, tuberculosis, bubonic plague, tularemia, anthrax, and trichinosis, feral swine pose an increasing health risk to humans, livestock, 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 starting when the sun rises until 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 upon public or private lands in this state; and

3. "Removal" means to change the location of or 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. No person shall be required to obtain a hunting license to remove feral swine under the following circumstances:

1. The feral swine are located on property owned or leased by that person; and

2. Removal only occurs during daylight hours.

B. Removal of feral swine during daylight hours shall not be limited by season regulations or bag limits.

C. A person shall obtain a permit pursuant to Section 4-135 of Title 29 of the Oklahoma Statutes to remove feral swine at night from the Oklahoma Department of Wildlife Conservation. A permit

shall be issued without limitation by statewide season regulations, bag limits, or methods of taking. The permit shall be valid for a period of ninety (90) days and may be renewed upon request of the permit holder.

D. Any person who has been convicted of, or pled guilty to, a violation of Section 5-203.1 or Section 5-411 of the Oklahoma Wildlife Conservation 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 Oklahoma Department of Wildlife Conservation.

E. Notwithstanding the provisions of Section 1289.13 of Title 21 of the Oklahoma Statutes, it shall be lawful for any person to have a chamber-loaded firearm on the property of that person; provided, however, nothing in the Feral Swine Control Act shall authorize any convicted felon to carry a firearm.

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:

Any person removing feral swine from public property during an established hunting season pursuant to the Oklahoma Wildlife Conservation Code and rules promulgated thereto shall comply with the following:

1. The feral swine shall be taken with weapons and methods authorized by the Oklahoma Department of Wildlife Conservation for that hunting season;

2. The feral swine shall only be taken on lands where the hunter has legal access unless prohibited by the landowner pursuant to the Oklahoma Wildlife Conservation Code; and

3. No person whose hunting license is revoked may remove feral swine during the period of the revocation.

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. The Board of Agriculture, Food, and Forestry may 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 Oklahoma Administrative Procedures Act.

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. A person importing 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;
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 feral swine imported into Oklahoma shall be quarantined and isolated to retest for brucellosis and pseudorabies. The testing shall be conducted between thirty (30) to sixty (60) days following the date of importation, except for feral swine going directly to an approved slaughter facility.

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. The Oklahoma Department of Agriculture, Food, and Forestry shall promulgate rules for the testing and intrastate movement of feral swine.

B. A person shall only transport feral swine in Oklahoma if they are going to one of the following:

1. A licensed hunt facility;
2. A licensed breeding facility;
3. A licensed buying station;
4. A licensed gathering station; or
5. Directly to an approved market or slaughter facility.

C. Feral swine being transported directly to an approved slaughter facility shall be properly sealed by the Department and accompanied by a United States Department of Agriculture, Veterinary Services 1-27 permit.

D. All feral swine in Oklahoma that test positive for brucellosis or pseudorabies shall be sent directly to slaughter.

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. 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, and transportation requirements;
3. To fail to pay any fee, administrative fine, or penalty;
4. To fail to comply with any Board of Agriculture, Food, and Forestry order; or
5. To violate any provision of the 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 an administrative fine or penalty pursuant to Section 2-18 of Title 2 of the Oklahoma Statutes.

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. No person shall willfully release any hog, swine, or pig to live in a wild or feral state upon public or private lands.

B. No person shall willfully violate the importation, testing, 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 or a fine of Two Thousand Dollars (\$2,000.00), or both.

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. Whenever the State Veterinarian finds that an emergency exists requiring immediate action to protect the public health or welfare or to protect the livestock industry, native wildlife, or public health of this state from any animal disease or pest, the State Veterinarian may without notice or hearing issue an order that shall be effective upon issuance, reciting the existence of an emergency and requiring that immediate action be taken to meet the emergency.

B. Any person to whom an order is directed shall comply immediately but may request, within fifteen (15) days after the order is served, an administrative enforcement hearing.

C. The hearing shall be held by the Oklahoma Department of Agriculture, Food, and Forestry within ten (10) days after receipt of the request.

D. On the basis of the hearing record, the Board of Agriculture, Food, and Forestry shall affirm, revoke, or modify the order.

E. Any person aggrieved by the final order may, pursuant to the Oklahoma Administrative Procedures Act, petition for a judicial review of the final order.

F. The appeal, when docketed, shall have priority over all cases pending on the docket, other than criminal.

SECTION 12. 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 13. 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 "estrays", 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 14. 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 15. 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 16. 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 Oklahoma 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 17. This act shall become effective November 1, 2006.

50-2-9390 SAB 02/14/06