

CS for EHB 2929

1 THE STATE SENATE
2 Thursday, April 6, 2006

3 Committee Substitute for
4 ENGROSSED
5 House Bill No. 2929

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 2929 - By:
7 RICHARDSON, HYMAN, BROWN, COVEY, DENNEY, DeWITT, McCARTER, McMULLEN,
8 MORGAN (Fred), ROAN, SHOEMAKE, TURNER and WALKER of the House and
9 SHURDEN and JUSTICE of the Senate.

10 [agriculture - Feral Swine Control Act - control nuisance
11 by wildlife - deleting requirement - codification -
12 effective date]

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

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

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

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

22 The purpose of the Feral Swine Control Act is to provide
23 aggressive measures to reduce the number of feral swine in Oklahoma.
24 Feral swine are a nonnative invasive species in Oklahoma that is
25 detrimental to the natural resources of Oklahoma and agriculture
26 production, and is a disease risk. As the feral swine population

1 increases the citizens of Oklahoma continue to see increased damage
2 to crops, livestock, and wildlife habitat. As carriers of diseases
3 like brucellosis, pseudorabies, tuberculosis, anthrax, and
4 trichinosis, feral swine pose an increasing health risk to humans,
5 livestock, companion animals, pets, and native wildlife.

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

9 As used in the Feral Swine Control Act:

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

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

16 3. "Owner" means any person with title to the real property or
17 a person that has obtained a right to the possession and use of a
18 certain space, property, or subsurface right for a definite period
19 of time through a contractual lease. In the event a person is
20 permitted to come upon the real property to perform some specific
21 act, including but not limited to hunting, removing feral swine, or
22 fishing, that person has no "lease" but only a "license" to do that
23 act; and

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

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

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

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

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

18 A. During designated deer hunting seasons for primitive
19 firearms and guns as specified in rules promulgated by the
20 Department of Wildlife Conservation, an owner of private property
21 shall not kill or attempt to kill feral swine during daylight hours
22 that is damaging their own property without first obtaining a
23 special permit from the local game warden or other authorized

1 employee of the Department of Wildlife Conservation. The special
2 permit shall allow the owner and one person of lineal or collateral
3 descent to kill feral swine on the owner's property. The special
4 permit shall be provided at no cost.

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

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

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

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

20 B. Feral swine may be killed during the regular deer archery
21 and deer primitive firearms seasons and during the first nine (9)
22 days of the regular deer gun season on the Broken Bow Wildlife
23 Management Area, Honobia Creek Wildlife Management Area, or the

1 Three Rivers Wildlife Management Area, with firearms and methods
2 legal for that deer season.

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

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

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

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

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

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

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

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

3 2. Individual identification of each feral swine; and

4 3. Negative brucellosis and pseudorabies test results.

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

7 C. All live feral swine imported into Oklahoma shall be
8 quarantined and isolated to retest for brucellosis and pseudorabies.

9 The testing shall be conducted between no earlier than thirty (30)
10 days and no later than sixty (60) days following the date of
11 importation, except for feral swine going directly to an approved
12 slaughter facility.

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

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

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

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

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

- 6 1. A licensed sporting facility;
- 7 2. A licensed breeding facility;
- 8 3. A licensed buying station;
- 9 4. A licensed gathering station;
- 10 5. Directly to an approved market or slaughter facility; or
- 11 6. Pursuant to an order issued by the State Veterinarian.

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

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

- 17 1. To refuse an inspection;
- 18 2. To fail to comply with importation, testing, permitting,
19 licensing, or transportation requirements;
- 20 3. To fail to pay any fee, administrative fine, or penalty;
- 21 4. To fail to comply with any Oklahoma Department of
22 Agriculture, Food, and Forestry order; or

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

4 B. Any person that violates the Feral Swine Control Act shall
5 be assessed a penalty or an administrative fine pursuant to Section
6 2-18 of Title 2 of the Oklahoma Statutes.

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

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

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

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

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

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

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

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

15 B. As used in this section:

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

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

1 ~~at large upon public lands or upon private lands in this state shall~~
2 ~~not be considered feral until five (5) calendar days after escaping~~
3 ~~from domestic confinement. If notice is provided to adjacent~~
4 ~~landowners within those five (5) calendar days, the hog shall not be~~
5 ~~considered feral for an additional ten (10) calendar days.~~

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

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

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

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

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

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

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

3 Section 98. All domestic animals shall be restrained by the
4 owner thereof at all times and seasons of the year from running at
5 large in the State of Oklahoma. Damages ~~sustained~~ caused by ~~reason~~
6 ~~of such~~ the domestic animals trespassing upon lands of another shall
7 be recovered in a manner provided by law. For the purpose of this
8 act, domestic animals shall include cattle, horses, swine, sheep,
9 goats, exotic livestock and all other animals not considered wild.
10 The term "domestic animals" shall not include domestic house pets ~~or~~
11 ~~feral hogs~~.

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

14 Section 99. A. Any person who:

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

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

20 3. Knowingly causes a domestic animal to escape confinement,
21 shall be deemed guilty of a misdemeanor and upon conviction thereof
22 shall be punished by a fine of not more than Fifty Dollars (\$50.00)
23 for each offense, or not more than thirty (30) days' imprisonment in

1 the county jail for each offense, or ~~by both such fine and~~
2 ~~imprisonment.~~

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

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

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

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

13 Section 4-135. A. The Department is authorized to issue
14 permits to landowners, lessees or their designated agents and to any
15 entity of state, county or local government to control nuisance or
16 damage by any species of wildlife or feral ~~hogs~~ swine under rules
17 promulgated by the Commission. The permits may be issued without
18 limitation ~~to~~ by statewide season regulations, bag limits or methods
19 of taking. A permitted landowner, lessee or a designated agent of
20 the landowner or lessee may, ~~with a permit,~~ hunt feral ~~hogs~~ swine at
21 night ~~to protect crops from damage by feral hogs.~~ The permit to
22 hunt at night shall be valid for a period of ninety (90) days and
23 may be renewed upon request of the permit holder. Any person who

1 has been convicted of, or ~~plead~~ pled guilty to, a violation of
2 Section 5-203.1 or Section 5-411 of this code within the previous
3 three (3) years shall not be eligible to receive a permit pursuant
4 to this section. The permit can be issued by the local game warden
5 in the county for which the permit is to be used or by the Law
6 Enforcement Division of the Department of Wildlife Conservation.

7 B. Notwithstanding the provisions of Section 1289.13 of Title
8 21 of the Oklahoma Statutes, it shall be lawful for any private
9 landowner or designated employee of such landowner or lessee to have
10 a chamber-loaded firearm on his or her property; provided, however,
11 nothing in this ~~act~~ section shall authorize any convicted felon to
12 carry a firearm.

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

14 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,
15 dated 4-4-06 - DO PASS, As Amended.