

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1516

By: DeWitt

4  
5  
6 AS INTRODUCED

7 An Act relating to agriculture; creating the Feral  
8 Swine Control Act; stating purpose; defining terms;  
9 authorizing removal of feral swine; specifying permit  
10 requirements; requiring special permit under certain  
11 circumstances; requiring licenses and tags under  
12 certain circumstances; providing an exemption;  
13 specifying procedures for certain circumstances;  
14 authorizing the promulgation of rules; establishing  
15 importation requirements; making certain activities  
16 unlawful; providing for penalties; amending 4 O.S.  
17 2001, Sections 85.1, 85.2, 98 and 99, which relate to  
18 estrays and the enclosure of animals; modifying  
19 definitions; modifying procedures; modifying  
20 penalties; amending 29 O.S. 2001, Section 4-135, as  
21 amended by Section 1, Chapter 193, O.S.L. 2004 (29  
22 O.S. Supp. 2006, Section 4-135), which relates to  
23 permits to control nuisance or damage by wildlife;  
24 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 6-601 of Title 2, unless there  
is created a duplication in numbering, reads as follows:

1 Sections 1 through 12 of this act shall be known and may be  
2 cited as the "Feral Swine Control Act".

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6-602 of Title 2, unless there  
5 is created a duplication in numbering, reads as follows:

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

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 6-603 of Title 2, unless there  
18 is created a duplication in numbering, reads as follows:

19 As used in the Feral Swine Control Act:

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

22 2. "Feral swine" means any hog, pig, or swine species (*Sus*  
23 *scrofa*) including, but not limited to, Russian and European wild  
24

1 boar that are running at large, free roaming, or wild upon public or  
2 private lands in this state;

3 3. "Owner" means any person with title to the real property or  
4 a person that has obtained a right to the possession and use of a  
5 certain space, property, or subsurface right for a definite period  
6 of time through a contractual lease. In the event a person is  
7 permitted to come upon the real property to perform some specific  
8 act, including but not limited to hunting, removing feral swine, or  
9 fishing, that person has no "lease" but only a "license" to do that  
10 act; and

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

15 SECTION 4. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6-604 of Title 2, unless there  
17 is created a duplication in numbering, reads as follows:

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

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

1 SECTION 5. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6-605 of Title 2, unless there  
3 is created a duplication in numbering, reads as follows:

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

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

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

20 SECTION 6. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 6-606 of Title 2, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. Feral swine may be taken on lands owned or managed by the  
24 Department of Wildlife Conservation in accordance with rules

1 promulgated pursuant thereto. During established deer hunting  
2 seasons, feral swine may only be removed by legal means of taking  
3 authorized by the Department of Wildlife Conservation for that deer  
4 season unless the provisions of subsection B of this section apply.

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

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

13 SECTION 7. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 6-607 of Title 2, unless there  
15 is created a duplication in numbering, reads as follows:

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

20 B. Rules shall be promulgated pursuant to the Administrative  
21 Procedures Act.

22 SECTION 8. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 6-608 of Title 2, unless there  
24 is created a duplication in numbering, reads as follows:

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

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

6 2. Individual identification of each feral swine; and

7 3. Negative brucellosis and pseudorabies test results.

8 B. A person shall obtain a negative brucellosis and  
9 pseudorabies test within fifteen (15) days prior to entry.

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

16 D. All feral swine in this state that test positive for  
17 brucellosis or pseudorabies shall be immediately sent directly to  
18 slaughter or slaughtered on the premises pursuant to an order issued  
19 by the State Veterinarian.

20 SECTION 9. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 6-609 of Title 2, unless there  
22 is created a duplication in numbering, reads as follows:

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

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

4 C. Live feral swine shall only be transported to the following:

5 1. A licensed sporting facility;

6 2. A licensed breeding facility;

7 3. A licensed buying station;

8 4. A licensed gathering station;

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

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

11 SECTION 10. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 6-610 of Title 2, unless there  
13 is created a duplication in numbering, reads as follows:

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

16 1. To refuse an inspection;

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

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

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

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

1 B. Any person that violates the Feral Swine Control Act shall  
2 be assessed a penalty or an administrative fine pursuant to Section  
3 2-18 of Title 2 of the Oklahoma Statutes.

4 SECTION 11. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 6-611 of Title 2, unless there  
6 is created a duplication in numbering, reads as follows:

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

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

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

20 SECTION 12. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 6-612 of Title 2, unless there  
22 is created a duplication in numbering, reads as follows:

23 All feral swine shall be restrained by the owner at all times  
24 and seasons of the year from running at large in this state. Any

1 damages caused by feral swine trespassing upon lands of another  
2 shall be recovered in any manner provided by law.

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

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

10 B. As used in this section:

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

14 ~~2. "Feral hog" means any hogs (Sus Scrofa), including, but not~~  
15 ~~limited to, Russian and European wild boar which are running at~~  
16 ~~large upon public lands or upon private lands in this state whose~~  
17 ~~owner is unknown in the vicinity of the premises where such feral~~  
18 ~~hogs are found. If the owner of a stray hog is known, a hog running~~  
19 ~~at large upon public lands or upon private lands in this state shall~~  
20 ~~not be considered feral until five (5) calendar days after escaping~~  
21 ~~from domestic confinement. If notice is provided to adjacent~~  
22 ~~landowners within those five (5) calendar days, the hog shall not be~~  
23 ~~considered feral for an additional ten (10) calendar days.~~

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

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

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

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

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

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

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

21 Section 98. All domestic animals shall be restrained by the  
22 owner thereof at all times and seasons of the year from running at  
23 large in the State of Oklahoma. Damages ~~sustained~~ caused by reason  
24 ~~of such~~ the domestic animals trespassing upon lands of another shall

1 be recovered in a manner provided by law. For the purpose of this  
2 act, domestic animals shall include cattle, horses, swine, sheep,  
3 goats, exotic livestock and all other animals not considered wild.  
4 The term "domestic animals" shall not include domestic house pets ~~or~~  
5 ~~feral hogs~~.

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

8 Section 99. A. Any person who:

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

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

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

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

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

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

3       SECTION 17.       AMENDATORY       29 O.S. 2001, Section 4-135, as  
4 amended by Section 1, Chapter 193, O.S.L. 2004 (29 O.S. Supp. 2006,  
5 Section 4-135), is amended to read as follows:

6       Section 4-135. A. The Department is authorized to issue  
7 permits to landowners, lessees or their designated agents and to any  
8 entity of state, county or local government to control nuisance or  
9 damage by any species of wildlife or feral ~~hogs~~ swine under rules  
10 promulgated by the Commission. The permits may be issued without  
11 limitation ~~to~~ by statewide season regulations, bag limits or methods  
12 of taking. A permitted landowner, lessee or a designated agent of  
13 the landowner or lessee may, ~~with a permit,~~ hunt feral ~~hogs~~ swine at  
14 night ~~to protect crops from damage by feral hogs~~. The permit to  
15 hunt at night shall be valid for a period of ninety (90) days and  
16 may be renewed upon request of the permit holder. Any person who  
17 has been convicted of, or ~~plead~~ pled guilty to, a violation of  
18 Section 5-203.1 or Section 5-411 of this code within the previous  
19 three (3) years shall not be eligible to receive a permit pursuant  
20 to this section. The permit can be issued by the local game warden  
21 in the county for which the permit is to be used or by the Law  
22 Enforcement Division of the Department of Wildlife Conservation.

23       B. Notwithstanding the provisions of Section 1289.13 of Title  
24 21 of the Oklahoma Statutes, it shall be lawful for any private

1 landowner or designated employee of such landowner or lessee to have  
2 a chamber-loaded firearm on his or her property; provided, however,  
3 nothing in this ~~act~~ section shall authorize any convicted felon to  
4 carry a firearm.

5 SECTION 18. This act shall become effective November 1, 2007.

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