

THE HOUSE OF REPRESENTATIVES
Thursday, February 26, 2009

Committee Substitute for
House Bill No. 2158

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2158 - By: ARMES of the House.

An Act relating to game and fish; authorizing the Oklahoma Department of Agriculture, Food, and Forestry to issue a management-by-use-of-aircraft permit to certain persons; limiting management to certain animals and certain area; exempting permit from certain limitations; requiring permit to be carried on the aircraft; requiring pilot to maintain certain logs and reports; requiring compliance with certain regulations; providing for submission of applications; making issuance of permit contingent upon certain findings; listing certain information to be included on the permit; making permit valid for certain time period; establishing fee; requiring certain notification to the Oklahoma Department of Agriculture, Food, and Forestry; requiring permit holders to file certain quarterly reports; listing contents of the report; making certain actions unlawful; establishing a penalty; requiring revocation of the permit for certain violations; providing fine for certain penalty; authorizing the district court to grant certain injunctive relief; authorizing the Department or district attorney to bring action in district court for certain violations; defining terms; amending 29 O.S. 2001, Section 5-203.1, which relates to headlighting and other prohibited hunting activities; clarifying statutory language; making an exception for certain persons; directing the Department to promulgate emergency rules; specifying contents of the rules; providing for codification; providing for noncodification; and providing an effective date.

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

- 1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
- 2 Statutes as Section 4-107.2 of Title 29, unless there is created a duplication in
- 3 numbering, reads as follows:

1 A. The Oklahoma Department of Agriculture, Food, and Forestry is authorized to
2 issue a permit to a person who holds a big game commercial hunting area license issued
3 pursuant to Section 4-106 of Title 29 of the Oklahoma Statutes to engage in the
4 management of depredating animals by use of aircraft only on land listed in the
5 commercial hunting area license. The permit may be issued without limitation by
6 statewide season regulations or bag limits. The permit shall be carried in the aircraft
7 when performing management by the use of aircraft.

8 B. A pilot of an aircraft used for the management of depredating animals shall
9 maintain a daily flight log and report. The daily flight log shall be current and available
10 for inspection by employees of the Department at reasonable times. Each permit holder
11 and pilot shall comply with all Federal Aviation Regulations for the specific type of
12 aircraft.

13 C. Applications for a permit shall be submitted to the Department and shall
14 contain all information as required by the Department. The Department may issue a
15 permit if it finds that it will aid in the management of depredating animals. The
16 Department may deny the permit if it finds that it will have a deleterious effect on
17 indigenous species. The permit shall include, but is not limited to, the following
18 information:

- 19 1. The name and address of each authorized person;
- 20 2. A description of the animals and number of animals authorized to be taken;
- 21 3. A description of the area from which the animals are authorized to be taken; and
- 22 4. The issue and expiration date of the permit.

1 D. A permit to manage depredating animals issued pursuant to this section shall be
2 valid for a period of one (1) year from the date of issuance. Permits may be renewed by
3 filing an application for renewal with the Department.

4 E. The annual fee for a permit to manage depredating animals issued pursuant to
5 this section shall be Two Hundred Dollars (\$200.00).

6 F. Not less than twenty-four (24) hours prior to managing depredating animals by
7 use of an aircraft, a permit holder shall notify the Department of the date, time, and area
8 on which management will occur. Notification may be made by telephone, fax, or
9 electronic means, as determined by the Department.

10 G. The holder of a permit to manage depredating animals issued pursuant to this
11 section shall file with the Department within thirty (30) days following the end of each
12 calendar quarter or on termination of the permit, whichever occurs first, a report on a
13 form prescribed by the Department showing:

14 1. The name, address, and permit number of the permit holder;

15 2. The name and address of the pilot and any other person participating in the
16 flights;

17 3. The number and description of the depredating animals managed under the
18 permit;

19 4. The types of depredating animals authorized to be managed under the permit;

20 5. Dates and times of authorized flights; and

21 6. Any other information required by the Department.

1 H. It shall be unlawful for a person issued a permit to manage depredating animals
2 pursuant to this section to:

3 1. Hunt, shoot, shoot at, kill, or attempt to kill from an aircraft any wildlife,
4 domesticated animal, or livestock other than the depredating animals authorized by the
5 permit;

6 2. Intentionally disturb, haze, or buzz any wildlife, domesticated animal, or
7 livestock by the use of an aircraft other than the depredating animals authorized by the
8 permit; or

9 3. Take or attempt to take any depredating animal for any purpose other than is
10 necessary for the protection of land, water, wildlife, livestock, domesticated animals,
11 human life, or crops.

12 I. During designated deer hunting seasons for guns as specified in rules
13 promulgated by the Department of Wildlife Conservation, it shall be unlawful to take or
14 attempt to take depredating animals without first obtaining a special permit from the
15 local game warden or other authorized employee of the Department of Wildlife
16 Conservation.

17 J. 1. Any person convicted of violating the provisions of this section shall be
18 punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One
19 Thousand Five Hundred Dollars (\$1,500.00), or by imprisonment in the county jail not to
20 exceed sixty (60) days, or by both such fine and imprisonment. Any person convicted of
21 violating the provisions of this section shall have the permit issued pursuant to this

1 section revoked. No new permit shall be issued for a period of six (6) months from and
2 after the date on which the revocation order becomes effective.

3 2. In addition to the criminal penalties specified by this section, the Department
4 may:

5 a. assess an administrative penalty of not more than Ten Thousand
6 Dollars (\$10,000.00) per day of noncompliance, or

7 b. bring an action for injunctive relief granted by a district court.

8 3. A district court may grant injunctive relief to prevent a violation of, or to compel
9 compliance with, any of the provisions of this section or any rule promulgated pursuant
10 to this section, or order, license or permit issued pursuant to this section.

11 4. Nothing in this section shall preclude the Department from seeking penalties in
12 district court in the maximum amount allowed by law.

13 5. Any person assessed an administrative penalty may be required to pay, in
14 addition to the penalty amount and interest, attorney fees and costs associated with the
15 collection of the penalties.

16 6. The Department or the district attorney of the appropriate district of Oklahoma
17 may bring an action in district court for the criminal prosecution of a violation by any
18 person of a provision of this section or any rule promulgated pursuant to this section, or
19 order, license or permit issued pursuant to this section. The assessment of penalties in
20 an administrative enforcement proceeding shall not prevent the subsequent assessment
21 by a court of the maximum criminal penalties for violations of this section.

1 K. Any person convicted of violating the provisions of Section 4-106 of Title 29 of
2 the Oklahoma Statutes shall have the permit issued pursuant to this section revoked.
3 No new permit shall be issued for a period of six (6) months from and after the date on
4 which the revocation order becomes effective.

5 L. As used in this section:

6 1. "Depredating animal" means feral hogs, coyotes, and crossbreeds between
7 coyotes and dogs; and

8 2. "Management by the use of aircraft" means to manage depredating animals by
9 counting, photographing, relocating, capturing, or hunting by the use of aircraft.

10 SECTION 2. AMENDATORY 29 O.S. 2001, Section 5-203.1, is amended to
11 read as follows:

12 Section 5-203.1 A. No person may attempt to take, take, attempt to catch, catch,
13 attempt to capture, capture, attempt to kill, or kill any deer, feral animal or other
14 wildlife except fish and frogs by the use of a vehicle mounted spotlight or other powerful
15 light at night, by what is commonly known as "headlighting". Provided, however,
16 nothing in this section shall prevent one from possessing a .22 caliber rimfire rifle or .22
17 pistol and a light carried ~~on his or her person~~ while in pursuit of furbearers with hounds
18 during the legal, open furbearers season, while possessing a valid hunting license.

19 B. Any person may use a shotgun, using No. 6 size shot or smaller, longbow, light
20 and a call for the purpose of hunting predatory animals, provided that written
21 permission is obtained from the local game warden for each twenty-four-hour period of
22 hunting.

1 C. It shall be illegal to hunt from a boat with a firearm from sunset until one-half
2 (1/2) hour before sunrise. This shall not pertain to hunting of waterfowl enroute from
3 bank to blind with unloaded shotguns.

4 D. ~~No~~ Except as otherwise provided for in this section, no person may harass,
5 attempt to capture, capture, attempt to take or take, kill or attempt to kill any wildlife
6 with the aid of any motor-driven land, air or water conveyance, ~~except a~~ A
7 nonambulatory person may hunt from said conveyances with written permission of the
8 Director of Wildlife Conservation. ~~Provided, however, nothing in this Code~~ A person may
9 hunt from an air conveyance if issued a permit pursuant to Section 1 of this act. Nothing
10 in this section shall prevent the use of motor-driven land or water conveyances for
11 following dogs in the act of hunting, when use of ~~said conveyances~~ is restricted to public
12 roads or waterways. ~~Said~~ Motor-driven land or water conveyances may be used on
13 private property for following dogs in the act of hunting with the ~~landowner's or~~
14 ~~occupant's~~ permission of the landowner or occupant.

15 E. Employees of the ~~State~~ Oklahoma Department of Agriculture, Food, and
16 Forestry Wildlife Services Division and the United States Department of Agriculture
17 Wildlife Services while engaged in wildlife management activities for the protection of
18 agriculture, property, human health and safety and natural resources shall be exempt
19 from the provisions of this section.

20 F. Any person convicted of violating the provisions of this section shall be guilty of
21 a misdemeanor and shall be punished by a fine of not less than Two Hundred Fifty
22 Dollars (\$250.00) for a first offense and not less than Five Hundred Dollars (\$500.00) for

1 a second offense or by imprisonment in the county jail for not less than ten (10) days nor
2 more than one (1) year, or by confiscation pursuant to Section 5-402 of this title or by
3 such fine, imprisonment and confiscation.

4 SECTION 3. NEW LAW A new section of law not to be codified in the
5 Oklahoma Statutes reads as follows:

6 The Oklahoma Department of Agriculture, Food, and Forestry shall promulgate
7 emergency rules to implement Section 1 of this act. The rules shall include the authority
8 to set fees, set application procedures, and any other rules necessary for the
9 administration of Section 1 of this act.

10 SECTION 4. This act shall become effective November 1, 2009.

11 COMMITTEE REPORT BY: COMMITTEE ON WILDLIFE, dated 02-25-09 - DO PASS,
12 As Amended.