

EHB 2158

THE STATE SENATE
Monday, April 6, 2009

ENGROSSED

House Bill No. 2158

As Amended

ENGROSSED HOUSE BILL NO. 2158 - By: Armes of the House and Schulz of the Senate.

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
2 in the Oklahoma Statutes as Section 4-107.2 of Title 29, unless
3 there is created a duplication in numbering, reads as follows:

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

13 B. A pilot of an aircraft used for the management of
14 depredating animals shall maintain a daily flight log and report.
15 The daily flight log shall be current and available for inspection
16 by employees of the Department at reasonable times. Each permit
17 holder and pilot shall comply with all Federal Aviation Regulations
18 for the specific type of aircraft.

19 C. Applications for a permit shall be submitted to the
20 Department and shall contain all information as required by the
21 Department. The Department may issue a permit if it finds that it
22 will aid in the management of depredating animals. The Department
23 may deny the permit if it finds that it will have a deleterious

1 effect on indigenous species. The permit shall include, but is not
2 limited to, the following information:

3 1. The name and address of each authorized person;

4 2. A description of the animals and number of animals
5 authorized to be taken;

6 3. A description of the area from which the animals are
7 authorized to be taken; and

8 4. The issue and expiration date of the permit.

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

13 E. The annual fee for a permit to manage depredating animals
14 issued pursuant to this section shall be Two Hundred Dollars
15 (\$200.00).

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

21 G. The holder of a permit to manage depredating animals issued
22 pursuant to this section shall file with the Department within
23 thirty (30) days following the end of each calendar quarter or on

1 termination of the permit, whichever occurs first, a report on a
2 form prescribed by the Department showing:

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

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

6 3. The number and description of the depredating animals
7 managed under the permit;

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

10 5. Dates and times of authorized flights; and

11 6. Any other information required by the Department.

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

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

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

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

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

7 J. 1. Any person convicted of violating the provisions of this
8 section shall be punished by a fine of not less than Five Hundred
9 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars
10 (\$1,500.00), or by imprisonment in the county jail not to exceed
11 sixty (60) days, or by both such fine and imprisonment. Any person
12 convicted of violating the provisions of this section shall have the
13 permit issued pursuant to this section revoked. No new permit shall
14 be issued for a period of six (6) months from and after the date on
15 which the revocation order becomes effective.

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

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

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

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

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

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

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

20 K. Any person convicted of violating the provisions of Section
21 4-106 of Title 29 of the Oklahoma Statutes shall have the permit
22 issued pursuant to this section revoked. No new permit shall be

1 issued for a period of six (6) months from and after the date on
2 which the revocation order becomes effective.

3 L. As used in this section:

4 1. "Depredating animal" means feral hogs, coyotes, and
5 crossbreeds between coyotes and dogs;

6 2. "Management by the use of aircraft" means to manage
7 depredating animals by counting, photographing, relocating,
8 capturing, or hunting by the use of aircraft; **and**

9 **3. "Aircraft" means non-fixed-wing aircraft.**

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

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

22 B. Any person may use a shotgun, using No. 6 size shot or
23 smaller, longbow, light and a call for the purpose of hunting

1 predatory animals, provided that written permission is obtained from
2 the local game warden for each twenty-four-hour period of hunting.

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

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

21 E. Employees of the ~~State~~ Oklahoma Department of Agriculture,
22 Food, and Forestry Wildlife Services Division and the United States
23 Department of Agriculture Wildlife Services while engaged in

1 wildlife management activities for the protection of agriculture,
2 property, human health and safety and natural resources shall be
3 exempt from the provisions of this section.

4 F. Any person convicted of violating the provisions of this
5 section shall be guilty of a misdemeanor and shall be punished by a
6 fine of not less than Two Hundred Fifty Dollars (\$250.00) for a
7 first offense and not less than Five Hundred Dollars (\$500.00) for a
8 second offense or by imprisonment in the county jail for not less
9 than ten (10) days nor more than one (1) year, or by confiscation
10 pursuant to Section 5-402 of this title or by such fine,
11 imprisonment and confiscation.

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

14 The Oklahoma Department of Agriculture, Food, and Forestry shall
15 promulgate emergency rules to implement Section 1 of this act. The
16 rules shall include the authority to set fees, set application
17 procedures, and any other rules necessary for the administration of
18 Section 1 of this act.

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

20 COMMITTEE REPORT BY: COMMITTEE ON TOURISM & WILDLIFE, dated 4-2-09 -
21 DO PASS, As Amended.