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THE STATE SENATE
Thursday, February 19, 2009

Committee Substitute for
Senate Bill No. 278

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 278 - By: Schulz of the Senate and Jackson 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; providing for codification; providing for noncodification; 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 12-100 of Title 2, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

6 D. A permit to manage depredating animals issued pursuant to
7 this section shall be valid for a period of no more than one (1)
8 year from the date of issuance. Permits may be renewed by filing an
9 application for renewal with the Department.

10 E. The annual fee for a permit to manage depredating animals
11 issued pursuant to this section shall be Two Hundred Dollars
12 (\$200.00).

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

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

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

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

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

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

7 5. Dates and times of authorized flights; and

8 6. Any other information required by the Department.

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

11 1. Hunt, shoot, shoot at, kill, or attempt to kill from an
12 aircraft any wildlife, domesticated animals, or livestock other than
13 the depredating animals authorized by the permit;

14 2. Intentionally disturb, haze, or buzz any wildlife,
15 livestock, or domesticated animals by the use of an aircraft other
16 than the depredating animals authorized by the permit; or

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

20 I. During designated deer hunting seasons for guns as specified
21 in rules promulgated by the Department of Wildlife Conservation, it
22 shall be unlawful to take or attempt to take depredating animals
23 without first obtaining a special permit from the local game warden

1 or other authorized employee of the Department of Wildlife
2 Conservation.

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

12 2. In addition to the criminal penalties specified by this
13 section, the Oklahoma Department of Agriculture, Food, and Forestry
14 may:

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

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

20 3. A district court may grant injunctive relief to prevent a
21 violation of, or to compel compliance with, any of the provisions of
22 this section or any rule promulgated thereunder or order, license or
23 permit issued pursuant to this section.

1 4. Nothing in this section shall preclude the Oklahoma
2 Department of Agriculture, Food, and Forestry from seeking penalties
3 in district court in the maximum amount allowed by law.

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

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

17 K. Any person convicted of violating the provisions of Section
18 4-106 of Title 29 of the Oklahoma Statutes shall have the aerial
19 permit revoked. No new permit shall be issued for a period of six
20 (6) months from and after the date on which the revocation order
21 becomes effective.

22 L. As used in this section:

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

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

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

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

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

22 C. It shall be illegal to hunt from a boat with a firearm from
23 sunset until one-half (1/2) hour before sunrise. This shall not

1 pertain to hunting of waterfowl enroute from bank to blind with
2 unloaded shotguns.

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

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

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

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

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON TOURISM & WILDLIFE, dated 2-12-09
18 - DO PASS, As Amended and Coauthored.