

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1798

By: Roberts (Sean), Coody,
Calvey, Bennett (John),
Faught and Gann of the
House

and

Dahm, Brecheen and
Bergstrom of the Senate

COMMITTEE SUBSTITUTE

An Act relating to game and fish; amending 2 O.S. 2011, Section 6-604, which relates to the removal of feral swine; exempting persons who remove feral swine from the requirement to obtain a license; allowing for use of certain technology; requiring certain notification to game warden; specifying methods for notice; providing for removal of feral swine from certain public lands; amending 29 O.S. 2011, Section 2-138, which relates to the Oklahoma Wildlife Conservation Code; amending definition; amending 29 O.S. 2011, Section 4-135, which relates to permits to control nuisance or damage by wildlife; clarifying statutory language; modifying provisions related to authorized use of firearms for certain purposes; amending 29 O.S. 2011, Section 5-203.1, which relates to headlighting; allowing for headlighting to be used to take feral swine; updating language; repealing 2 O.S. 2011, Section 6-605, which relates to the Feral Swine Control Act; and providing an effective date.

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

1 SECTION 1. AMENDATORY 2 O.S. 2011, Section 6-604, is
2 amended to read as follows:

3 Section 6-604. A. Except as otherwise specified in the Feral
4 Swine Control Act, any person with permission of the private
5 property owner, lessee or occupant of land may remove feral swine
6 from private ~~or public~~ property during daylight hours or at night.
7 Any person who removes feral swine pursuant to this subsection shall
8 not be required to obtain a license or permit to hunt or control
9 wildlife issued by the Department of Wildlife Conservation. Any
10 person who removes or attempts to remove feral swine pursuant to
11 this subsection may use a motor-driven land conveyance to pursue or
12 follow feral swine, may use a vehicle-mounted spotlight or other
13 powerful light also known as a headlight and may use night-vision
14 equipment that uses either image-enhancement technology or thermal-
15 imaging technology. Any person who removes or attempts to remove
16 feral swine at night pursuant to this subsection during deer gun
17 season shall be required to notify the game warden in the county
18 from which the feral swine may be removed. Notification may be made
19 in writing, phone message, email or text.

20 B. Any person who removes feral swine from public property
21 during daylight hours shall be required to obtain a license or
22 permit to hunt or control wildlife issued by the Department of
23 Wildlife Conservation. Any person who intends to kill or attempt to
24 kill feral swine on public property at night shall obtain a permit

1 issued by the Department of Wildlife Conservation pursuant to
2 ~~Section 4-135 of Title 29 of the Oklahoma Statutes~~ and promulgated
3 rules.

4 SECTION 2. AMENDATORY 29 O.S. 2011, Section 2-138, is
5 amended to read as follows:

6 Section 2-138. "Resident" is any individual who has an
7 established bona fide or actual residence in Oklahoma for a period
8 of not less than sixty (60) consecutive days immediately preceding
9 the date the application for a license, permit, stamp, or any other
10 issue of the Department is submitted. The burden of establishing
11 proof of residency shall be on the person claiming residency status.
12 A person holding a valid driver license or permit to operate a motor
13 vehicle shall be deemed to be a resident of the state issuing the
14 license or permit. For a valid Oklahoma driver license to be used
15 as the sole source of proof of residency, it shall have been issued
16 not less than sixty (60) days prior to submission of the
17 application. If a person does not hold a valid Oklahoma driver
18 license, the Department may consider other reliable documentation
19 for establishing proof of residency including, but not limited to,
20 property tax receipts, resident income tax returns, voter
21 registration, motor vehicle or vessel registrations, and other
22 public records documenting residence. Residency status of children
23 under eighteen (18) years of age is presumed to be that of the
24 custodial parent, including a custodial parent when there is a joint

1 custody order and the physical custody of the child is shared by
2 both parents, or legal guardian unless otherwise documented.

3 Ownership or possession of real property in the state by a person
4 residing outside the state shall not qualify the person as a
5 resident. A person shall not be entitled to claim multiple states
6 of residence, except as follows:

7 1. A person who is not otherwise a resident of the state and is
8 a member of the Armed Forces of the United States and is on active
9 duty and permanently assigned to a military installation located in
10 the state shall be eligible to qualify as a resident if the person
11 presents with the license application a certificate of assignment in
12 the state from a commanding officer or designated representative. A
13 spouse or dependent of the person who is not otherwise a resident of
14 the state, is living within the same household and is similarly
15 certified by a commanding officer, shall also be eligible to qualify
16 as a resident;

17 2. The residency of a person shall not terminate upon entering
18 the Armed Forces of the United States. A member of the Armed Forces
19 of the United States on active duty, and any dependents of the
20 member, is presumed to retain residency status in the state for
21 purposes of purchasing any annual license issued by the Department
22 of Wildlife Conservation as long as the member is on active duty as
23 verified by valid military documentation; and
24

1 3. The residency status of any person, excluding a member of
2 the Armed Forces of the United States while on active duty as
3 verified by valid military documentation and any dependents of the
4 member, shall terminate if the person obtains any resident hunting,
5 fishing, trapping license or permit or valid driver license issued
6 by another state.

7 SECTION 3. AMENDATORY 29 O.S. 2011, Section 4-135, is
8 amended to read as follows:

9 Section 4-135. A. The Department of Wildlife Conservation is
10 authorized to issue permits to landowners, lessees, or their
11 designated agents and to any entity of state, county, or local
12 government to control nuisance or damage by any species of wildlife
13 including, but not limited to beaver, coyote, deer, bobcat, raccoon,
14 and crow under rules promulgated by the Oklahoma Wildlife
15 Conservation Commission. The permits may be issued without
16 limitation by statewide season regulations, bag limits or methods of
17 taking. A permitted landowner, lessee or a designated agent of the
18 landowner or lessee may, with a valid permit issued pursuant to this
19 section, control the wildlife specified in this subsection ~~and feral~~
20 ~~swine at night~~ to protect marketable agricultural crops, livestock,
21 or processed feed, seed or other materials used in the production of
22 an agricultural commodity.

23 B. Except as otherwise specified in this ~~subsection~~ section,
24 the permit to hunt at night shall be valid for a period of up to one

1 (1) year from the date the permit was issued. Each landowner,
2 lessee, or designated agent with a valid permit shall be required to
3 have a current agricultural exemption permit issued by the Oklahoma
4 Tax Commission.

5 C. Notwithstanding the provisions of Section 5-203.1 of this
6 title, a landowner, lessee, or designated agent of the landowner or
7 lessee with a valid permit may use a headlight carried on the person
8 while hunting at night. Nothing in this section shall authorize the
9 use of a headlight mounted on a vehicle or the use of a headlight
10 from a public roadway.

11 D. Any person who has been convicted of, or pled guilty to, a
12 violation of Section 5-203.1 or Section 5-411 of this title within
13 the previous three (3) years shall not be eligible to receive a
14 permit pursuant to this section. The permit ~~can~~ may be issued by
15 the local game warden in the county for which the permit is to be
16 used or by the Law Enforcement Division of the Department of
17 Wildlife Conservation.

18 ~~E. Notwithstanding the provisions of Section 1289.13 of Title~~
19 ~~21 of the Oklahoma Statutes, it shall be lawful for any private~~
20 ~~landowner or designated employee of the landowner or lessee to have~~
21 ~~a chamber-loaded firearm on property owned by the landowner, and to~~
22 ~~use the firearm for the purpose of controlling nuisance or damage by~~
23 ~~any wildlife or feral swine. Nothing in this section shall~~
24 ~~authorize any convicted felon to carry a firearm.~~

1 SECTION 4. AMENDATORY 29 O.S. 2011, Section 5-203.1, is
2 amended to read as follows:

3 Section 5-203.1. A. No person may attempt to take, take,
4 attempt to catch, catch, attempt to capture, capture, attempt to
5 kill, or kill any deer, feral animal or other wildlife except fish,
6 ~~and frogs~~ and feral swine as provided for in Section 6-604 of Title
7 2 of the Oklahoma Statutes by the use of a vehicle mounted spotlight
8 or other powerful light at night, by what is commonly known as
9 "headlighting". Provided, however, nothing in this section shall
10 prevent one from possessing a .22 caliber rimfire rifle or .22
11 pistol and a light carried while in pursuit of furbearers with
12 hounds during the legal, open furbearers season, while possessing a
13 valid hunting license.

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

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

22 D. Except as otherwise provided for in this section and except
23 when removing feral swine as provided for in Section 6-604 of Title
24 2 of the Oklahoma Statutes, no person may harass, attempt to

1 capture, capture, attempt to take or take, kill or attempt to kill
2 any wildlife with the aid of any motor-driven land, air or water
3 conveyance. A nonambulatory person may hunt from ~~said~~ the
4 conveyances with written permission of the Director of Wildlife
5 Conservation. A person may hunt from an air conveyance if issued a
6 permit pursuant to Section ~~4~~ 4-107.2 of this ~~act~~ title. Nothing in
7 this section shall prevent the use of motor-driven land or water
8 conveyances for following dogs in the act of hunting, when use is
9 restricted to public roads or waterways. Motor-driven land or water
10 conveyances may be used on private property for following dogs in
11 the act of hunting with the permission of the landowner or occupant.

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

18 F. Any person convicted of violating the provisions of this
19 section shall be guilty of a misdemeanor and shall be punished by a
20 fine of not less than Two Hundred Fifty Dollars (\$250.00) for a
21 first offense and not less than Five Hundred Dollars (\$500.00) for a
22 second offense or by imprisonment in the county jail for not less
23 than ten (10) days nor more than one (1) year, or by confiscation
24

1 pursuant to Section 5-402 of this title or by such fine,
2 imprisonment and confiscation.

3 SECTION 5. REPEALER 2 O.S. 2011, Section 6-605, is
4 hereby repealed.

5 SECTION 6. This act shall become effective November 1, 2017.

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