

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 1798

By: Roberts (Sean)

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; 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; 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:

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

Section 6-604. A. Except as otherwise specified in the Feral Swine Control Act, any person with permission of the private property owner or primary operator of land may remove feral swine from private ~~or public~~ property during daylight hours or at night.

1 Any person who removes feral swine pursuant to this section shall
2 not be required to obtain a license or permit to hunt or control
3 wildlife issued by the Department of Wildlife Conservation. Any
4 person who removes or attempts to remove feral swine pursuant to
5 this section may use a motor-driven land conveyance to pursue or
6 follow feral swine, may use a vehicle-mounted spotlight or other
7 powerful light also known as a headlight and may use night-vision
8 equipment that uses either image-enhancement technology or thermal-
9 imaging technology.

10 B. Any person may remove feral swine from public property
11 during daylight hours without being required to obtain a license or
12 permit to hunt or control wildlife issued by the Department of
13 Wildlife Conservation, except during deer gun season. Any person
14 who intends to kill or attempt to kill feral swine on public
15 property at night shall obtain a permit issued by the Department of
16 Wildlife Conservation pursuant to Section 4-135 of Title 29 of the
17 Oklahoma Statutes and promulgated rules.

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

20 Section 2-138. "Resident" is any individual who has an
21 established bona fide or actual residence in Oklahoma for a period
22 of not less than sixty (60) consecutive days immediately preceding
23 the date the application for a license, permit, stamp, or any other
24 issue of the Department is submitted. The burden of establishing

1 proof of residency shall be on the person claiming residency status.
2 A person holding a valid driver license or permit to operate a motor
3 vehicle shall be deemed to be a resident of the state issuing the
4 license or permit. For a valid Oklahoma driver license to be used
5 as the sole source of proof of residency, it shall have been issued
6 not less than sixty (60) days prior to submission of the
7 application. If a person does not hold a valid Oklahoma driver
8 license, the Department may consider other reliable documentation
9 for establishing proof of residency including, but not limited to,
10 property tax receipts, resident income tax returns, voter
11 registration, motor vehicle or vessel registrations, and other
12 public records documenting residence. Residency status of children
13 under eighteen (18) years of age is presumed to be that of the
14 custodial parent, including a custodial parent when there is a joint
15 custody order and the physical custody of the child is shared by
16 both parents, or legal guardian unless otherwise documented.
17 Ownership or possession of real property in the state by a person
18 residing outside the state shall not qualify the person as a
19 resident. A person shall not be entitled to claim multiple states
20 of residence, except as follows:

21 1. A person who is not otherwise a resident of the state and is
22 a member of the Armed Forces of the United States and is on active
23 duty and permanently assigned to a military installation located in
24 the state shall be eligible to qualify as a resident if the person

1 presents with the license application a certificate of assignment in
2 the state from a commanding officer or designated representative. A
3 spouse or dependent of the person who is not otherwise a resident of
4 the state, is living within the same household and is similarly
5 certified by a commanding officer, shall also be eligible to qualify
6 as a resident;

7 2. The residency of a person shall not terminate upon entering
8 the Armed Forces of the United States. A member of the Armed Forces
9 of the United States on active duty, and any dependents of the
10 member, is presumed to retain residency status in the state for
11 purposes of purchasing any annual license issued by the Department
12 of Wildlife Conservation as long as the member is on active duty as
13 verified by valid military documentation; and

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

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

22 Section 4-135. A. The Department of Wildlife Conservation is
23 authorized to issue permits to landowners, lessees, or their
24 designated agents and to any entity of state, county, or local

1 government to control nuisance or damage by any species of wildlife
2 including, but not limited to beaver, coyote, deer, bobcat, raccoon,
3 and crow under rules promulgated by the Oklahoma Wildlife
4 Conservation Commission. The permits may be issued without
5 limitation by statewide season regulations, bag limits or methods of
6 taking. A permitted landowner, lessee or a designated agent of the
7 landowner or lessee may, with a valid permit issued pursuant to this
8 section, control the wildlife specified in this subsection ~~and feral~~
9 ~~swine at night~~ to protect marketable agricultural crops, livestock,
10 or processed feed, seed or other materials used in the production of
11 an agricultural commodity.

12 B. Except as otherwise specified in this ~~subsection~~ section,
13 the permit to hunt at night shall be valid for a period of up to one
14 (1) year from the date the permit was issued. Each landowner,
15 lessee, or designated agent with a valid permit shall be required to
16 have a current agricultural exemption permit issued by the Oklahoma
17 Tax Commission.

18 C. Notwithstanding the provisions of Section 5-203.1 of this
19 title, a landowner, lessee, or designated agent of the landowner or
20 lessee with a valid permit may use a headlight carried on the person
21 while hunting at night. Nothing in this section shall authorize the
22 use of a headlight mounted on a vehicle or the use of a headlight
23 from a public roadway.

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

8 E. Notwithstanding the provisions of Section 1289.13 of Title
9 21 of the Oklahoma Statutes, it shall be lawful for any private
10 landowner or designated employee of the landowner or lessee to have
11 a chamber-loaded firearm on property owned by the landowner, and to
12 use the firearm for the purpose of controlling nuisance or damage by
13 any wildlife or feral swine. Nothing in this section shall
14 authorize any convicted felon to carry a firearm.

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

17 Section 5-203.1 A. No person may attempt to take, take,
18 attempt to catch, catch, attempt to capture, capture, attempt to
19 kill, or kill any deer, feral animal or other wildlife except fish,
20 ~~and~~ frogs and feral swine as provided for in Section 6-604 of Title
21 2 of the Oklahoma Statutes by the use of a vehicle-mounted spotlight
22 or other powerful light at night, by what is commonly known as
23 "headlighting". Provided, however, nothing in this section shall
24 prevent one from possessing a .22 caliber rimfire rifle or .22

1 pistol and a light carried while in pursuit of furbearers with
2 hounds during the legal, open furbearers season, while possessing a
3 valid hunting license.

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

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

12 D. Except as otherwise provided for in this section and except
13 when removing feral swine as provided for in Section 6-604 of Title
14 2 of the Oklahoma Statutes, no person may harass, attempt to
15 capture, capture, attempt to take or take, kill or attempt to kill
16 any wildlife with the aid of any motor-driven land, air or water
17 conveyance. A nonambulatory person may hunt from ~~said~~ the
18 conveyances with written permission of the Director of Wildlife
19 Conservation. A person may hunt from an air conveyance if issued a
20 permit pursuant to Section ~~4~~ 4-107.2 of this ~~act~~ title. Nothing in
21 this section shall prevent the use of motor-driven land or water
22 conveyances for following dogs in the act of hunting, when use is
23 restricted to public roads or waterways. Motor-driven land or water
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1 conveyances may be used on private property for following dogs in
2 the act of hunting with the permission of the landowner or occupant.

3 E. Employees of the Oklahoma Department of Agriculture, Food,
4 and Forestry Wildlife Services Division and the United States
5 Department of Agriculture Wildlife Services while engaged in
6 wildlife management activities for the protection of agriculture,
7 property, human health and safety and natural resources shall be
8 exempt from the provisions of this section.

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

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

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