

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1798

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

7
8 and

Dahm and Brecheen of the
Senate

10
11 COMMITTEE SUBSTITUTE

12 An Act relating to game and fish; amending 2 O.S.
13 2011, Section 6-604, which relates to the removal of
14 feral swine; exempting persons who remove feral swine
15 from the requirement to obtain a license; allowing
16 for use of certain technology; amending 29 O.S. 2011,
17 Section 2-138, which relates to the Oklahoma Wildlife
18 Conservation Code; amending definition; amending 29
19 O.S. 2011, Section 4-135, which relates to permits to
20 control nuisance or damage by wildlife; clarifying
21 statutory language; amending 29 O.S. 2011, Section 5-
22 203.1, which relates to headlighting; allowing for
23 headlighting to be used to take feral swine; updating
24 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:

1 Section 6-604. A. Except as otherwise specified in the Feral
2 Swine Control Act, any person with permission of the private
3 property owner or primary operator of land may remove feral swine
4 from private ~~or public~~ property during daylight hours or at night.
5 Any person who removes feral swine pursuant to this section shall
6 not be required to obtain a license or permit to hunt or control
7 wildlife issued by the Department of Wildlife Conservation. Any
8 person who removes or attempts to remove feral swine pursuant to
9 this section may use a motor-driven land conveyance to pursue or
10 follow feral swine, may use a vehicle-mounted spotlight or other
11 powerful light also known as a headlight and may use night-vision
12 equipment that uses either image-enhancement technology or thermal-
13 imaging technology.

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

22 SECTION 2. AMENDATORY 29 O.S. 2011, Section 2-138, is
23 amended to read as follows:
24

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

1 resident. A person shall not be entitled to claim multiple states
2 of residence, except as follows:

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

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

20 3. The residency status of any person, excluding a member of
21 the Armed Forces of the United States while on active duty as
22 verified by valid military documentation and any dependents of the
23 member, shall terminate if the person obtains any resident hunting,
24

1 fishing, trapping license or permit or valid driver license issued
2 by another state.

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

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

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

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

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

14 E. Notwithstanding the provisions of Section 1289.13 of Title
15 21 of the Oklahoma Statutes, it shall be lawful for any private
16 landowner or designated employee of the landowner or lessee to have
17 a chamber-loaded firearm on property owned by the landowner, and to
18 use the firearm for the purpose of controlling nuisance or damage by
19 any wildlife or feral swine. Nothing in this section shall
20 authorize any convicted felon to carry a firearm.

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

23 Section 5-203.1 A. No person may attempt to take, take,
24 attempt to catch, catch, attempt to capture, capture, attempt to

1 kill, or kill any deer, feral animal or other wildlife except fish,
2 ~~and~~ frogs and feral swine as provided for in Section 6-604 of Title
3 2 of the Oklahoma Statutes by the use of a vehicle-mounted spotlight
4 or other powerful light at night, by what is commonly known as
5 "headlighting". Provided, however, nothing in this section shall
6 prevent one from possessing a .22 caliber rimfire rifle or .22
7 pistol and a light carried while in pursuit of furbearers with
8 hounds during the legal, open furbearers season, while possessing a
9 valid hunting license.

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

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

18 D. Except as otherwise provided for in this section and except
19 when removing feral swine as provided for in Section 6-604 of Title
20 2 of the Oklahoma Statutes, no person may harass, attempt to
21 capture, capture, attempt to take or take, kill or attempt to kill
22 any wildlife with the aid of any motor-driven land, air or water
23 conveyance. A nonambulatory person may hunt from ~~said~~ the
24 conveyances with written permission of the Director of Wildlife

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

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

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

22 SECTION 5. REPEALER 2 O.S. 2011, Section 6-605, is
23 hereby repealed.
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SECTION 6. This act shall become effective November 1, 2017.

COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT OVERSIGHT AND
ACCOUNTABILITY, dated 03/02/2017 - DO PASS, As Amended and
Coauthored.