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April 10, 2018

ENGROSSED HOUSE
BILL NO. 2952

By: Coody of the House

and

Scott and Brecheen of the
Senate

An Act relating to game and fish; amending 29 O.S. 2011, Section 4-107.2, as last amended by Section 1, Chapter 264, O.S.L. 2017 (29 O.S. Supp. 2017, Section 4-107.2), which relates to management of depredating animals by use of aircraft; modifying definition; and providing an effective date.

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

SECTION 1. AMENDATORY 29 O.S. 2011, Section 4-107.2, as last amended by Section 1, Chapter 264, O.S.L. 2017 (29 O.S. Supp. 2017, Section 4-107.2), is amended to read as follows:

Section 4-107.2. A. The Oklahoma Department of Agriculture, Food, and Forestry is authorized to issue a permit to a person to engage in the management of depredating animals by use of aircraft. The permit may be issued without limitation by statewide season regulations or bag limits.

B. The permit holder may contract with and authorize other persons to engage in the management of depredating animals by use of

1 an aircraft, provided that the permit holder accompanies the
2 authorized person while engaging in the activity and, if engaging in
3 the activity on private property, the authorized person has consent
4 of the landowner. Any person contracting with or authorized by a
5 permit holder pursuant to this subsection shall not be required to
6 have a permit to engage in the management of depredating animals by
7 use of aircraft. If contracting or authorizing other persons to
8 engage in the management of depredating animals by use of an
9 aircraft, the permit holder shall inform the person of the
10 importance of safely keeping his or her aim and fire beneath the
11 horizon. The permit holder shall have the authorized person sign a
12 disclosure stating that the person is aware of the dangers of aiming
13 and shooting over the horizon. The permit holder shall retain a
14 copy of the disclosure for a reasonable period of time. Personnel
15 of the Department of Defense and law enforcement shall not be
16 required to sign a disclosure.

17 C. A pilot of an aircraft used for the management of
18 depredating animals shall maintain a daily flight log and report.
19 The daily flight log shall be current and available for inspection
20 by employees of the Department at reasonable times. The permit
21 shall be carried in the aircraft when performing management by the
22 use of aircraft. Each permit holder, authorized person pursuant to
23 subsection B of this section and pilot shall comply with all Federal
24 Aviation Regulations for the specific type of aircraft. The

1 Department shall not require the pilot to hold a specific type of
2 pilot's license. The Department shall also not require the permit
3 holder or pilot to carry liability insurance.

4 Applications for a permit shall be submitted to the Department
5 and shall contain all information as required by the Department.

6 The Department may issue a permit if it finds that it will aid in
7 the management of depredating animals. The Department may deny the
8 permit if it finds that it will have a deleterious effect on
9 indigenous species. The Department shall not require the names of
10 the persons authorized by or contracting with the permit holder
11 pursuant to subsection B of this section. The permit shall include,
12 but is not limited to, the following information:

13 1. The name and address of the permit holder;

14 2. A description of the animals to be taken;

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

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

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

22 E. The annual fee for a permit to manage depredating animals
23 issued pursuant to this section shall be Two Hundred Dollars
24 (\$200.00).

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

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

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

12 2. The name and address of the pilot participating in the
13 flights;

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

16 4. The types of depredating animals authorized to be managed
17 under the permit;

18 5. Dates and times of authorized flights; and

19 6. Any other information required by the Department.

20 H. It shall be unlawful for a person issued a permit to manage
21 depredating animals pursuant to this section or a person authorized
22 by or contracting with the permit holder pursuant to subsection B of
23 this section to:

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

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

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

10 I. During designated deer hunting seasons from the dates of
11 October 1 through January 15 as specified in rules promulgated by
12 the Department of Wildlife Conservation, it shall be unlawful to
13 take or attempt to take depredating animals without first obtaining
14 a special permit from the local game warden or other authorized
15 employee of the Department of Wildlife Conservation.

16 J. 1. Any person convicted of violating the provisions of this
17 section shall be punished by a fine of not less than Five Hundred
18 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars
19 (\$1,500.00), or by imprisonment in the county jail not to exceed
20 sixty (60) days, or by both such fine and imprisonment. Any person
21 convicted of violating the provisions of this section shall have the
22 permit issued pursuant to this section revoked. No new permit shall
23 be issued for a period of six (6) months from and after the date on
24 which the revocation order becomes effective.

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

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

6 b. bring an action for injunctive relief granted by a
7 district court.

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

12 4. Nothing in this section shall preclude the Department from
13 seeking penalties in district court in the maximum amount allowed by
14 law.

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

19 6. The Department or the district attorney of the appropriate
20 district of Oklahoma may bring an action in district court for the
21 criminal prosecution of a violation by any person of a provision of
22 this section or any rule promulgated pursuant to this section, or
23 order, license or permit issued pursuant to this section. The
24 assessment of penalties in an administrative enforcement proceeding

1 shall not prevent the subsequent assessment by a court of the
2 maximum criminal penalties for violations of this section.

3 K. Any person convicted of violating the provisions of Section
4 4-106 of ~~Title 29 of the Oklahoma Statutes~~ this title shall have the
5 permit issued pursuant to this section revoked. No new permit shall
6 be issued for a period of six (6) months from and after the date on
7 which the revocation order becomes effective.

8 L. As used in this section:

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

11 2. "Management by the use of aircraft" means to manage
12 depredating animals by counting, photographing, relocating,
13 capturing, or hunting with any firearm by the use of aircraft; and

14 3. "Aircraft" means ~~nonexperimental~~ manned fixed-wing and non-
15 fixed-wing aircraft registered with the Federal Aviation
16 Administration (FAA).

17 SECTION 2. This act shall become effective November 1, 2018.

18 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
19 April 10, 2018 - DO PASS
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