

Stricken language would be deleted from and underlined language would be added to present law.
Act 1104 of the Regular Session

State of Arkansas *As Engrossed: H3/8/13 H3/21/13 H3/25/13*
89th General Assembly
Regular Session, 2013

A Bill

HOUSE BILL 1478

By: Representatives McCrary, Baltz, Barnett, Branscum, Carnine, Cozart, Dale, Deffenbaugh, D. Douglas, J. Edwards, Eubanks, Farrer, Gillam, Hillman, Holcomb, Jean, Jett, Lampkin, Leding, Lenderman, Linck, Magie, Nickels, B. Overbey, Perry, Ratliff, T. Thompson, Wardlaw, B. Wilkins, Wren
By: Senators Rapert, Burnett, Caldwell, E. Cheatham, L. Chesterfield, Files, J. Hendren, Hester, Holland, K. Ingram, Irvin, J. Key, B. King, B. Pierce, D. Sanders, G. Stubblefield, Teague, E. Williams, J. Woods, D. Wyatt

For An Act To Be Entitled

AN ACT CONCERNING FERAL HOGS; TO AMEND THE DEFINITION OF "FERAL HOG"; TO REGULATE THE CAPTURING, KILLING, AND TRANSPORTING OF FERAL HOGS; TO INCREASE THE PENALTIES FOR RELEASING HOGS INTO THE WILD; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE DEFINITION OF "FERAL HOG"; TO REGULATE THE CAPTURING, KILLING, AND TRANSPORTING OF FERAL HOGS; AND TO INCREASE THE PENALTIES FOR RELEASING HOGS INTO THE WILD.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 2-38-501 is amended to read as follows:
2-38-501. Definition.

As used in this subchapter:

(1)(A) "Feral hog" means ~~any hog of the species *Sus scrofa* an~~ animal or hybrid animal of either the family Suidae, including without limitation a wild hog, a Russian or European wild boar, and Old World swine, or the family Tayassuidae, including without limitation peccary, javelina,



and New World swine, that is or has been roaming freely upon public land or private land;

~~(A) That is not enclosed with a fence sufficient under § 2-39-101 et seq.; and~~

~~(B) Without the landowner's permission;~~

(B) "Feral hog" includes a hog that is not conspicuously identified as required under §§ 2-34-101 and 2-34-102.

~~(2)(A) (C) "Feral hog" does not include a:~~

(i) A stray domestic hog that has escaped from domestic confinement for less than five;

(a) Five (5) calendar days; or

~~(B) If (b) Fifteen (15) calendar days if the owner of the stray domestic hog provides notice of the escape to all adjacent landowners within the first five (5) calendar days of the escape, the stray domestic hog is not considered a "feral hog" for an additional ten (10) calendar days following the initial five-day period; and; or~~

(ii) A hog held by a zoo accredited by the Association of Zoos and Aquariums or by the designated caretakers of the University of Arkansas mascot; and

~~(3) (2) A "feral hog" is deemed to be *domestic livestock a public nuisance.*~~

SECTION 2. Arkansas Code § 2-38-502 is amended to read as follows:

2-38-502. Hunting Capturing and killing feral hogs.

~~Notwithstanding any provision of this chapter, any (a) A person may take capture and or kill a feral hog except that only as follows:~~

~~(1) A feral hog taken on public property during any established hunting season must be taken with a weapon and method allowed for that hunting season On private land if the person is the landowner or lessee or has the permission of the landowner or lessee; and~~

~~(2)(A) A feral hog may be taken on any land where the hunter has legal access unless prohibited by the landowner On public land if:~~

(i) Allowed by the landowner; and

(ii) The person possesses a valid Arkansas hunting license and complies with Arkansas hunting regulations.

(B) However, a certified law enforcement officer or a

public employee engaged in the performance of his or her official duties is exempt from the requirement under subdivision (a)(2)(A) of this section; and.

~~(3)~~ (b) No A person whose hunting license is revoked may shall not take or kill a feral hog during the period of the revocation.

(c) A feral hog captured by any means in accordance with subsection (a) of this section shall be immediately:

(1) Killed; or

(2)(A) Permanently identified by eartag approved by the Arkansas Livestock and Poultry Commission and transported to a terminal facility that is certified by the commission.

(B) A feral hog that is transported to a terminal facility under subdivision (c)(2)(A) of this section is exempt from any requirements for disease testing established by the commission.

(C) The commission shall adopt regulations for the issuance of a certification permit for a terminal facility and the requirements for inspection of a terminal facility.

(D) As used in this subsection, "terminal facility" means a facility for the containment of domestic and feral hogs that requires that a hog be killed before leaving the facility.

(E) A feral hog shall not be released into the wild under any circumstances.

SECTION 3. Arkansas Code § 2-38-504 is amended to read as follows:

2-38-504. Releasing hogs into the wild.

(a) A person who knowingly releases or attempts to release a live hog to live in a wild or feral state upon public land or private land is in violation of this section upon conviction is guilty of an unclassified felony and is subject to a fine of not less than one thousand dollars (\$1,000) per hog nor more than five thousand dollars (\$5,000) per hog or imprisonment not to exceed two (2) years, or both.

(b)(1) A person who violates this section is guilty of a violation and upon conviction is subject to a fine of one thousand dollars (\$1,000) for each hog released knowingly releases or attempts to release a live hog on private property upon conviction is guilty of an unclassified misdemeanor and is subject to a fine of not less than one thousand dollars (\$1,000) per hog nor more than five thousand dollars (\$5,000) per hog or imprisonment not

exceeding thirty (30) days, or both.

(2) However, subdivision (b)(1) of this section does not prohibit a person from:

(A) Introducing a domestic hog for farm purposes onto private property enclosed with a fence sufficient under § 2-39-101 et seq. and with permission of the owner or lessee of the property; or

(B)(i) Continuing to operate a hog-hunting facility established before the effective date of this act if:

(a) The hog-hunting facility and operation meet the requirements imposed by the Arkansas Livestock and Poultry Commission for animal identification, transportation, and quarantine;

(b) The hog-hunting facility and operation are subject to periodic inspections by the commission; and

(c) The hog-hunting facility and operation are certified by the commission as a terminal facility, as defined in § 2-38-502(c).

(ii) An owner or operator of a hog-hunting facility that is in operation before the effective date of this act that does not meet the requirements stated in subdivision (b)(2)(B)(i) of this section is prohibited from purchasing or transporting a live feral hog under this subchapter.

(iii) Except as provided in subdivision (b)(2)(B)(i) of this section, a person is prohibited from establishing or operating a business in which one (1) or more feral hogs are placed in one (1) or more fenced enclosures, regardless of the size of the enclosure, for the purpose of conducting a hog-hunting operation.

(c) A person who knowingly purchases, sells, offers for sale, receives, possesses, imports, distributes, or transports a live feral hog upon conviction is guilty of an unclassified misdemeanor and is subject to a fine of one thousand dollars (\$1,000) per hog or imprisonment not exceeding thirty (30) days, or both.

(d) Upon the arrest of a person under this section, the arresting law enforcement officer shall seize and take custody of any hog in the possession of the arrested person and may seize any equipment used in furtherance of the violation, including without limitation a motor vehicle, trailer, and trap.

(e)(1) A court having competent jurisdiction:

(A) Shall order the forfeiture and immediate euthanasia of any hog that was the basis of a conviction under this section;

(B) May order the forfeiture and immediate euthanasia of a hog before a conviction if the court determines that the hog poses an imminent risk to public health or safety; and

(C) May order the forfeiture of any seized equipment.

(2) However:

(A) A conveyance used by any person as a common carrier is not subject to forfeiture under this subsection unless it appears that the owner or other person in charge of the conveyance was a consenting party or privy to the commission or attempt to commit the violation;

(B) Equipment is not subject to forfeiture under this subsection by reason of any act or omission established by the owner of the equipment to have been committed or omitted without his or her knowledge or consent and without the knowledge or consent of any person having possession, care, or control of the equipment with the owner's permission; and

(C) A forfeiture of equipment encumbered by a security interest is subject to the security interest of the secured party if the secured party neither had knowledge of nor consented to the use of the equipment in the commission or attempt to commit the violation.

(f) In addition to the fines, penalties, and forfeitures imposed under this section, a court may require the defendant to make restitution to the state or any of its political subdivisions for transporting, housing, feeding, euthanizing, and disposing of any hog forfeited under this section.

/s/McCrary

APPROVED: 04/11/2013