

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S3/31/21
A Bill

HOUSE BILL 1636

By: Representative Vaught
By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO AMEND THE LAW REGARDING FERAL HOGS; TO AMEND THE DEFINITION OF "FERAL HOG"; TO AMEND THE LAW REGARDING THE CAPTURING AND KILLING OF FERAL HOGS; TO AMEND THE LAW REGARDING TRANSPORTING AND RELEASING FERAL HOGS; TO CLARIFY THE POWERS AND DUTIES OF THE ARKANSAS LIVESTOCK AND POULTRY COMMISSION RELATED TO FERAL HOGS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW REGARDING FERAL HOGS.

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

SECTION 1. Arkansas Code § 2-38-501(2), concerning definitions related to feral hogs, is amended to read as follows:

(2) A "feral hog" is deemed to be a public nuisance and an imminent threat to public health and safety.

SECTION 2. Arkansas Code § 2-38-502 is amended to read as follows:
2-38-502. Capturing and killing feral hogs.

(a) A person may capture or kill a feral hog only as follows:

(1) On private land if the person is the landowner or lessee or has the permission of the landowner or lessee;

(2) On public land if:

(A) Allowed by the landowning entity; and

(B) The person possesses a valid Arkansas hunting license



and complies with Arkansas hunting rules; or

(3) After providing verification that he or she has a valid permit issued under rules established by the Arkansas Livestock and Poultry Commission in accordance with 16 U.S.C. § 742j-1, as it existed on January 1, 2019, upon determining that the permit applicant has a bona fide need to kill feral hogs for protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, and not for a recreational hunting purpose.

(b) A person whose hunting license is revoked shall not ~~take or kill~~ participate in the taking or killing of a feral hog during the period of the revocation, except on his or her own property.

(c)(1) A feral hog captured by any means under subsection (a) of this section shall be immediately killed.

(2) If a feral hog is captured on private property and not moved from the private property on which the feral hog is taken, the landowner or lessee is not required to kill the feral hog immediately.

~~(d)(1) A feral hog may be released into the wild only when the commission authorizes an employee of a state or federal agency to capture or release a feral hog, or both, for tracking or research purposes and with permission of the owner or lessee of the property.~~

~~(2) Feral hogs that are captured for the purpose of tracking or research shall be killed upon completion of the tracking or research project.~~

~~(e)~~(d) A certified law enforcement officer or a public employee engaged in the performance of his or her official duties is exempt from the requirements under subdivisions (a)(2) and (3) of this section.

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

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

(a) Except as provided in ~~§ 2-38-502(d)~~ subsection (j) of this section, a person who ~~knowingly~~ releases or attempts to release a live hog upon public or private land 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, imprisonment not exceeding ninety (90) days, or a combination of fine and imprisonment.

(b) Subsection (a) of this section does not prohibit a person from 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.

(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 may 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:

~~(i) that~~ That was the basis of a conviction under this section; or

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

~~(C)(B) May order the forfeiture of any seized equipment~~ seized under this section.

(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.

(g) A certified law enforcement officer may write a citation for a violation under this section.

(h)(1) Fines and administrative penalties collected under this ~~section~~ subchapter shall be deposited into the Feral Hog Eradication Fund that is designated as special revenues for the ~~Arkansas Natural Resources Commission~~ Department of Agriculture.

(2) The funds designated under subdivision (h)(1) of this section are to be used for eradication efforts to eliminate feral hogs.

(i) This section does not apply to the purchase, sale, receipt, possession, import, or transportation of a live feral hog that serves as a mascot for an institution of higher education.

(j)(1) A feral hog may be released into the wild only:

(A) When the department authorizes an employee of a state or federal agency to capture or release, or both, a feral hog for tracking or research purposes; and

(B) With permission of the owner of the property upon which the feral hog is to be released.

(2) A feral hog that is captured for the purpose of tracking or research shall be euthanized upon completion of the tracking or research.

SECTION 4. Arkansas Code Title 2, Chapter 38, Subchapter 5, is amended to add an additional section to read as follows:

2-38-505. Powers and duties of Arkansas Livestock and Poultry Commission.

The Arkansas Livestock and Poultry Commission may:

(1) Make, modify, and enforce the rules and orders the commission deems necessary to effectively carry out this subchapter;

(2) Establish and collect reasonable fees to administer and enforce § 2-38-502(a)(3); and

(3)(A) Impose administrative penalties not to exceed one thousand dollars (\$1,000) per feral hog against a person who violates this subchapter or a rule adopted by the commission under this subchapter.

(B) The imposition of administrative penalties shall be conducted under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 5. Arkansas Code § 19-6-841(c), concerning the use of the Feral Hog Eradication Fund, is amended to read as follows:

(c) The fund shall be used by the ~~Arkansas Natural Resources Commission~~ Department of Agriculture for expenses associated with the eradication efforts to eliminate feral hogs.

/s/Vaught

APPROVED: 4/13/21