

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 2952

By: Coody

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to game and fish; amending 29 O.S.
9 2011, Section 4-107.2, as last amended by Section 1,
10 Chapter 264, O.S.L. 2017 (29 O.S. Supp. 2017, Section
11 4-107.2), which relates to management of depredating
12 animals by use of aircraft; eliminating requirement
13 to provide notice prior to managing depredating
14 animals by use of an aircraft; prohibiting Oklahoma
15 Department of Agriculture, Food, and Forestry from
16 requiring notice; modifying definition; and providing
17 an effective date.

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

19 SECTION 1. AMENDATORY 29 O.S. 2011, Section 4-107.2, as
20 last amended by Section 1, Chapter 264, O.S.L. 2017 (29 O.S. Supp.
21 2017, Section 4-107.2), is amended to read as follows:

22 Section 4-107.2 A. The Oklahoma Department of Agriculture,
23 Food, and Forestry is authorized to issue a permit to a person to
24 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.

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

19 C. A pilot of an aircraft used for the management of
20 depredate animals shall maintain a daily flight log and report.
21 The daily flight log shall be current and available for inspection
22 by employees of the Department at reasonable times. The permit
23 shall be carried in the aircraft when performing management by the
24 use of aircraft. Each permit holder, authorized person pursuant to

1 subsection B of this section and pilot shall comply with all Federal
2 Aviation Regulations for the specific type of aircraft. The
3 Department shall not require the pilot to hold a specific type of
4 pilot's license. The Department shall also not require the permit
5 holder or pilot to carry liability insurance.

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

- 15 1. The name and address of the permit holder;
- 16 2. A description of the animals to be taken;
- 17 3. A description of the area from which the animals are
18 authorized to be taken; and
- 19 4. The issue and expiration date of the permit.

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

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1 E. The annual fee for a permit to manage depredating animals
2 issued pursuant to this section shall be Two Hundred Dollars
3 (\$200.00).

4 F. ~~Not less than twenty-four (24) hours~~ The Department shall
5 not require the permit holder or the persons authorized or
6 contracting with the permit holder to provide notice prior to
7 managing depredating animals by use of an aircraft, ~~a permit holder~~
8 ~~shall notify the Department of the date, time, and area on which~~
9 ~~management will occur. Notification may be made by telephone, fax,~~
10 ~~or electronic means, as determined by the Department.~~

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

- 16 1. The name, address, and permit number of the permit holder;
- 17 2. The name and address of the pilot participating in the
18 flights;
- 19 3. The number and description of the depredating animals
20 managed under the permit;
- 21 4. The types of depredating animals authorized to be managed
22 under the permit;
- 23 5. Dates and times of authorized flights; and
- 24 6. Any other information required by the Department.

1 H. It shall be unlawful for a person issued a permit to manage
2 depredating animals pursuant to this section or a person authorized
3 by or contracting with the permit holder pursuant to subsection B of
4 this section to:

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

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

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

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

20 J. 1. Any person convicted of violating the provisions of this
21 section shall be punished by a fine of not less than Five Hundred
22 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars
23 (\$1,500.00), or by imprisonment in the county jail not to exceed
24 sixty (60) days, or by both such fine and imprisonment. Any person

1 convicted of violating the provisions of this section shall have the
2 permit issued pursuant to this section revoked. No new permit shall
3 be issued for a period of six (6) months from and after the date on
4 which the revocation order becomes effective.

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

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

10 b. bring an action for injunctive relief granted by a
11 district court.

12 3. A district court may grant injunctive relief to prevent a
13 violation of, or to compel compliance with, any of the provisions of
14 this section or any rule promulgated pursuant to this section, or
15 order, license or permit issued pursuant to this section.

16 4. Nothing in this section shall preclude the Department from
17 seeking penalties in district court in the maximum amount allowed by
18 law.

19 5. Any person assessed an administrative penalty may be
20 required to pay, in addition to the penalty amount and interest,
21 attorney fees and costs associated with the collection of the
22 penalties.

23 6. The Department or the district attorney of the appropriate
24 district of Oklahoma may bring an action in district court for the

1 criminal prosecution of a violation by any person of a provision of
2 this section or any rule promulgated pursuant to this section, or
3 order, license or permit issued pursuant to this section. The
4 assessment of penalties in an administrative enforcement proceeding
5 shall not prevent the subsequent assessment by a court of the
6 maximum criminal penalties for violations of this section.

7 K. Any person convicted of violating the provisions of Section
8 4-106 of ~~Title 29 of the Oklahoma Statutes~~ this title shall have the
9 permit issued pursuant to this section revoked. No new permit shall
10 be issued for a period of six (6) months from and after the date on
11 which the revocation order becomes effective.

12 L. As used in this section:

13 1. "Depredating animal" means feral hogs, coyotes, and
14 crossbreeds between coyotes and dogs;

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

18 3. "Aircraft" means ~~nonexperimental~~ manned fixed-wing and non-
19 fixed-wing aircraft registered with the Federal Aviation
20 Administration (FAA).

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

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23 56-2-9664 AMM 02/07/18
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