

1 State of Arkansas *As Engrossed: H3/8/13 H3/21/13 H3/25/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

HOUSE BILL 1478

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

11

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## For An Act To Be Entitled

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

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## Subtitle

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

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

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

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2-38-501. Definition.

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As used in this subchapter:

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(1)(A) "Feral hog" means ~~any hog of the species *Sus scrofa* an~~

34

animal or hybrid animal of either the family Suidae, including without

35

limitation a wild hog, a Russian or European wild boar, and Old World swine,

36

or the family Tayassuidae, including without limitation peccary, javelina,



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

3 ~~(A) That is not enclosed with a fence sufficient under §~~  
4 ~~2-39-101 et seq.; and~~

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

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

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

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

11 (a) Five (5) calendar days; or

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

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

20 ~~(3) (2) A "feral hog" is deemed to be domestic livestock a~~  
21 public nuisance.

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

24 2-38-502. Hunting Capturing and killing feral hogs.

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

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

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

33 (i) Allowed by the landowner; and

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

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

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

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

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

7 (1) Killed; or

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

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

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

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

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

22  
 23 SECTION 3. Arkansas Code § 2-38-504 is amended to read as follows:

24 2-38-504. Releasing hogs into the wild.

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

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

1 exceeding thirty (30) days, or both.

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

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

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

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

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

14 (c) The hog-hunting facility and operation are  
15 certified by the commission as a terminal facility, as defined in § 2-38-  
16 502(c).

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

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

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

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

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

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

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

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

7           (2) However:

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

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

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

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

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28   /s/McCrary  
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