

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/21/13

A Bill

HOUSE BILL 1919

5 By: Representative Lenderman
6

For An Act To Be Entitled

8 AN ACT CONCERNING FERAL HOGS; TO AMEND THE DEFINITION
9 OF "FERAL HOG"; TO REGULATE CERTAIN ACTIVITIES
10 RELATED TO FERAL HOGS; TO INCREASE THE PENALTIES FOR
11 RELEASING A HOG INTO THE WILD; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO REGULATE CERTAIN ACTIVITIES RELATED TO
16 FERAL HOGS; TO INCREASE THE PENALTIES FOR
17 RELEASING A HOG INTO THE WILD.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 2-38-501 is amended to read as follows:
24 2-38-501. Definition.

25 As used in this subchapter:

26 (1)(A) "Feral hog" means ~~any hog of the species *Sus scrofa* an~~
27 animal or hybrid animal of either the family Suidae, including without
28 limitation a wild hog, a Russian or European wild boar, and Old World swine,
29 or the family Tayassuidae, including without limitation peccary, javelina,
30 and New World swine, that is or has been roaming freely upon public land or
31 private land~~+~~

32 ~~(A) That is not enclosed with a fence sufficient under §~~
33 ~~2-39-101 et seq.; and~~

34 ~~(B) Without the landowner's permission~~+~~.~~

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



1 ~~(2)(A)~~ (C) “Feral hog” does not include a:

2 (i) A stray domestic hog that has escaped from

3 domestic confinement for less than ~~five~~;

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

5 ~~(B) If (b) Fifteen (15) calendar days if the~~

6 owner of the stray domestic hog provides notice of the escape to all adjacent

7 landowners within the first five (5) calendar days of the escape, ~~the stray~~

8 ~~domestic hog is not considered a “feral hog” for an additional ten (10)~~

9 ~~calendar days following the initial five day period; and; or~~

10 (ii) A hog held by a zoo accredited by the

11 Association of Zoos and Aquariums or by the designated caretakers of the

12 University of Arkansas mascot; and

13 ~~(3)~~ (2) A “feral hog” is deemed to be ~~domestic livestock a~~

14 public nuisance.

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

17 2-38-502. Hunting, capturing, and killing feral hogs.

18 ~~Notwithstanding any provision of this chapter, any (a) A~~ person may

19 ~~take capture and or~~ kill a feral hog ~~except that~~ only as follows:

20 (1) ~~A feral hog taken on~~ On public property during any

21 established hunting season ~~must be~~ if the feral hog is taken with a weapon

22 and method allowed for that hunting season;

23 (2) On private land if the person is the landowner or lessee or

24 has the permission of the landowner or lessee; and

25 ~~(2) (3)(A)(i)~~ ~~A feral hog may be taken on~~ On any land where the

26 hunter has legal access unless prohibited by the landowner; or

27 (ii) On public land if:

28 (a) Allowed by the landowner; and

29 (b) The person possesses a valid Arkansas

30 hunting license and complies with Arkansas hunting regulations.

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

32 public employee engaged in the performance of his or her official duties is

33 exempt from the requirement under subdivision (a)(3)(A) of this section; and.

34 ~~(3) (b)~~ No A person whose hunting license is revoked ~~may~~ shall not

35 take or kill a feral hog during the period of the revocation.

36 (c) A feral hog captured by any means in accordance with subsection

1 (a) of this section shall be immediately either:

2 (1) Killed; or

3 (2)(A) Permanently identified by an official premise
4 identification by official eartag, tattoo, or other device that is approved
5 by and obtained from the Arkansas Livestock and Poultry Commission and
6 transported to a quarantine facility that is certified by the commission to
7 be tested for pseudorabies and brucellosis.

8 (B) If the test results for a feral hog quarantined and
9 tested under this subsection are:

10 (i) Negative, the feral hog may be released into an
11 enclosure; or

12 (ii) Positive, the feral hog shall be killed
13 immediately and its carcass disposed of as prescribed by the commission.

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

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

18 2-38-504. Releasing hogs into the wild.

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

25 (b)(1) A person who ~~violates this section~~ is ~~guilty of a violation and~~
26 ~~upon conviction is subject to a fine of one thousand dollars (\$1,000) for~~
27 ~~each hog released~~ knowingly releases or attempts to release a live hog on
28 private property upon conviction is guilty of an unclassified misdemeanor and
29 is subject to a fine of not less than one thousand dollars (\$1,000) per hog
30 nor more than five thousand dollars (\$5,000) per hog or imprisonment not
31 exceeding thirty (30) days, or both.

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

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

1 (B)(i) Feral hog for hunting purposes onto private
2 property enclosed with a fence sufficient under § 2-39-101 et seq. and with
3 permission of the owner or lessee of the property.

4 (ii)(a) However, subdivision (b)(2)(B)(i) of this
5 section applies only to allow a person operating a hunting facility before
6 the effective date of this act to continue his or her operation if:

7 (1) The hunting facility and operation
8 meet the requirements imposed by the Arkansas Livestock and Poultry
9 Commission for animal identification, transportation, health, and quarantine;

10 (2) The owner or operator of the hunting
11 facility files a description of the hunting facility and operation with the
12 commission;

13 (3) The hunting facility and operation
14 are subject to periodic inspections by the commission; and

15 (4) The hunting facility and operation
16 are certified by the commission as having adequate quarantine facilities.

17 (b) An owner or operator of a 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)(ii)(a) of this section is
20 prohibited from purchasing or transporting a live feral hog under this
21 subchapter.

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

27 (c) Except as provided in § 2-38-502(c)(2)(B)(i), a person who
28 knowingly purchases, sells, offers for sale, receives, possesses, imports,
29 distributes, or transports a live feral hog upon conviction is guilty of an
30 unclassified misdemeanor and is subject to a fine of one thousand dollars
31 (\$1,000) per feral hog or imprisonment not exceeding thirty (30) days, or
32 both.

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

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

2 (A) Shall order the forfeiture and immediate disposition
3 under § 2-38-502(c) of any hog that was the basis of a conviction under this
4 section;

5 (B) May order the forfeiture and immediate disposition
6 under § 2-38-502(c) of a hog before a conviction if the court determines that
7 the hog poses an imminent risk to public health or safety; and

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

9 (2) However:

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

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

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

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

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28 */s/Lenderman*
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