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BUREAU OF Agency No. 209.01
LEGISLATIVE RESEARCH

FERAL HOG AIRBORNE ERADICATION RULE MARKUP

I. APPLICATION

A. The Arkansas Livestock and Poultry Commission (Commission) may issue a permit to any person to allow for the shooting of feral hogs from an aircraft if the Commission finds that management of feral hogs by the use of aircraft is necessary to protect or to aid in the administration or protection of land, water, wildlife, livestock, domestic animals, human life, or crops (including but not limited to, timber), and will not have a harmful effect on indigenous species.

B. All applications and supporting documentation shall be filed with, and payment of the permit fee shall be paid to, the Arkansas Department of Agriculture (Department).

C. All applications must include:

~~1. One or more affidavits, containing facts as well as opinion, as to why the permit should be issued for the management of feral hogs by the use of aircraft, including the purpose for which the permit will be used, specifically identifying whether the permit is necessary to protect land, water, wildlife, livestock, domestic animals, crops (including but not limited to, timber), or human life;~~

~~2. An address and adequate description of the land covered by the permit, including approximate acreage;~~

~~3. Unless the applicant is the landowner, an applicant must also submit to the Department a landowner's authorization to manage feral hogs. The landowner's authorization may be submitted by a group of landowners or by an association on behalf of such landowners;~~

~~4. the approximate number of hogs to be managed; and~~

~~5. an An accurate and adequate description of the aircraft used, including aircraft number and the location where the aircraft was used. As defined in 7 U.S.C. § 742j-1(c) "aircraft" means any contrivance used for flight in the air; and~~

~~2. Unless the applicant is the landowner, the applicant must submit to the Department payment of two hundred fifty dollars (\$250.00) for an annual airborne eradication permit.~~

D. No less than three (3) business days prior to any airborne eradication activity, the owner or operator of the aircraft to be used must submit the following information to the Department:

1. One or more affidavits signed by the landowner, containing facts as well as opinion, as to why the permit should be issued for the management of feral hogs by the use of aircraft, including the purpose for which the permit will be used, specifically identifying whether the permit is necessary to protect land, water, wildlife, livestock, domestic animals, crops (including but not limited to, timber), or human life;

2. An address and adequate description of the land covered by the permit, including approximate acreage;

3. Unless the applicant is the landowner, the owner or operator of the aircraft must also submit a landowner's authorization to manage feral hogs. The landowner's authorization may be signed by a group of landowners or by an association on behalf of such landowners;

4. the approximate number of hogs to be managed;

5. Flight Plans including ArcGis based shape files; and

6. Maps with adequate delineation of subject properties, boundaries, and potential hazards.

E. No airborne eradication activity shall occur without prior written approval from the Department.

F. Post activity removal data forms shall be submitted no later than fourteen (14) business days after each airborne eradication activity.

G. The Department may:

1. Require permit holders to report to the Department on the eradication process;
2. Limit the number of feral hogs taken per permit;
3. Limit airborne eradication to certain days or hours or both; and
4. Limit the duration of a permit.

II. PROHIBITED ACTS

A. The permit provided for in this rule is for the purposes stated in the rule and for no other reason. Any act not consistent with this rule or state or federal law shall be grounds for revocation or suspension of the permit, including without limitation:

1. Hunting, killing, or capturing, or attempting to hunt, kill, or capture from an aircraft any animal that is not specifically authorized by a permit issued by the Department;
2. Using an aircraft to manage feral hogs without first obtaining and having in the person's immediate possession a permit and a landowner's authorization for the management of feral hogs by the use of aircraft.
3. Using an aircraft to harass wildlife, exotic animals, or any other animal or bird including engaging in the activity of counting, photographing, relocating, capturing, or hunting wildlife or exotic animals under the authority of a permit.
4. Hunting any animal or bird from an aircraft for sport.
5. Knowingly participating in using an aircraft whether in the aircraft or on the ground for any purpose referred to in this section.

B. The acts prohibited in this section include without limitation, any person who:

1. Pilots or assists in the operation of the aircraft from which another person shoots or shoots at wildlife while airborne, or
2. While on the ground takes or attempts to take any wildlife by any means, aid, or use of an aircraft.

III. NOTIFICATION

All applicants shall sign a statement verifying that they understand that the Department will provide immediate notification to the FBI of issuance of the application, and that the permits holders' information will also be provided to federal authorities in an annual report as required by federal law. Information provided to federal authorities may include, without limitation:

1. Personal contact information of the permit holder and landowner;
2. the aircraft number of the aircraft used and the location where the aircraft was used;
3. any and all other information collected or assembled by the Department.

IV. PENALTIES AND AUTHORITY

A. Failure to comply with any of the provisions of this rule may result in administrative penalties as provided by law.

B. Authority. ACA §§ 2-32-501; 2-33-107(a); 2-38-502; 2-38-505.

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S3/31/21

A Bill

HOUSE BILL 1636

5 By: Representative Vaught
6 By: Senator K. Hammer
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING FERAL HOGS; TO
10 AMEND THE DEFINITION OF "FERAL HOG"; TO AMEND THE LAW
11 REGARDING THE CAPTURING AND KILLING OF FERAL HOGS; TO
12 AMEND THE LAW REGARDING TRANSPORTING AND RELEASING
13 FERAL HOGS; TO CLARIFY THE POWERS AND DUTIES OF THE
14 ARKANSAS LIVESTOCK AND POULTRY COMMISSION RELATED TO
15 FERAL HOGS; AND FOR OTHER PURPOSES.
16
17

Subtitle

18 TO AMEND THE LAW REGARDING FERAL HOGS.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

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

26 (2) A "feral hog" is deemed to be a public nuisance and an
27 imminent threat to public health and safety.
28

29 SECTION 2. Arkansas Code § 2-38-502 is amended to read as follows:
30 2-38-502. Capturing and killing feral hogs.

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

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

34 (2) On public land if:

35 (A) Allowed by the landowning entity; and

36 (B) The person possesses a valid Arkansas hunting license



1 and complies with Arkansas hunting rules; or

2 (3) After providing verification that he or she has a valid
3 permit issued under rules established by the Arkansas Livestock and Poultry
4 Commission in accordance with 16 U.S.C. § 742j-1, as it existed on January 1,
5 2019, upon determining that the permit applicant has a bona fide need to kill
6 feral hogs for protection of land, water, wildlife, livestock, domesticated
7 animals, human life, or crops, and not for a recreational hunting purpose.

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

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

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

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

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

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

25
26 SECTION 3. Arkansas Code § 2-38-504 is amended to read as follows:

27 2-38-504. Releasing hogs into the wild.

28 (a) Except as provided in ~~§ 2-38-502(d)~~ subsection (j) of this
29 section, a person who ~~knowingly~~ releases or attempts to release a live hog
30 upon public or private land upon conviction is guilty of an unclassified
31 misdemeanor and is subject to a fine of not less than one thousand dollars
32 (\$1,000) per hog nor more than five thousand dollars (\$5,000) per hog,
33 imprisonment not exceeding ninety (90) days, or a combination of fine and
34 imprisonment.

35 (b) Subsection (a) of this section does not prohibit a person from
36 introducing a domestic hog for farm purposes onto private property enclosed

1 with a fence sufficient under § 2-39-101 et seq. and with permission of the
2 owner or lessee of the property.

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

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

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

13 (A) Shall order the forfeiture and immediate euthanasia of
14 any hog:

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

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

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

23 (2) However:

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

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

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

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

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

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

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

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

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

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

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

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

24
25 SECTION 4. Arkansas Code Title 2, Chapter 38, Subchapter 5, is amended
26 to add an additional section to read as follows:

27 2-38-505. Powers and duties of Arkansas Livestock and Poultry
28 Commission.

29 The Arkansas Livestock and Poultry Commission may:

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

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

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

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

4
5 SECTION 5. Arkansas Code § 19-6-841(c), concerning the use of the
6 Feral Hog Eradication Fund, is amended to read as follows:

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

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11
12 */s/Vaught*

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15 **APPROVED: 4/13/21**