

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 HOUSE BILL 2743

 By: Condit of the House

5 and

6 Boggs of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to game and fish; amending 29 O.S.
11 2011, Section 4-107.2, as amended by Section 1,
12 Chapter 262, O.S.L. 2013 (29 O.S. Supp. 2015, Section
13 4-107.2), which relates to depredating animals by use
14 of aircraft; expanding definition to include certain
15 powered parachutes; and providing an effective date.

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

17 SECTION 1. AMENDATORY 29 O.S. 2011, Section 4-107.2, as
18 amended by Section 1, Chapter 262, O.S.L. 2013 (29 O.S. Supp. 2015,
19 Section 4-107.2), is amended to read as follows:

20 Section 4-107.2 A. The Oklahoma Department of Agriculture,
21 Food, and Forestry is authorized to issue a permit to a person to
22 engage in the management of depredating animals by use of aircraft.
23 The permit may be issued without limitation by statewide season
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1 regulations or bag limits. The permit shall be carried in the
2 aircraft when performing management by the use of aircraft.

3 B. A pilot of an aircraft used for the management of
4 depredating animals shall maintain a daily flight log and report.
5 The daily flight log shall be current and available for inspection
6 by employees of the Department at reasonable times. Each permit
7 holder and pilot shall comply with all Federal Aviation Regulations
8 for the specific type of aircraft.

9 C. Applications for a permit shall be submitted to the
10 Department and shall contain all information as required by the
11 Department. The Department may issue a permit if it finds that it
12 will aid in the management of depredating animals. The Department
13 may deny the permit if it finds that it will have a deleterious
14 effect on indigenous species. The permit shall include, but is not
15 limited to, the following information:

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

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

3 E. The annual fee for a permit to manage depredating animals
4 issued pursuant to this section shall be Two Hundred Dollars
5 (\$200.00).

6 F. Not less than twenty-four (24) hours prior to managing
7 depredating animals by use of an aircraft, a permit holder shall
8 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 and any other person
18 participating in the 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 to:

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

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

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

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

18 J. 1. Any person convicted of violating the provisions of this
19 section shall be punished by a fine of not less than Five Hundred
20 Dollars (\$500.00) nor more than One Thousand Five Hundred Dollars
21 (\$1,500.00), or by imprisonment in the county jail not to exceed
22 sixty (60) days, or by both such fine and imprisonment. Any person
23 convicted of violating the provisions of this section shall have the
24 permit issued pursuant to this section revoked. No new permit shall

1 be issued for a period of six (6) months from and after the date on
2 which the revocation order becomes effective.

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

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

8 b. bring an action for injunctive relief granted by a
9 district court.

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

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

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

21 6. The Department or the district attorney of the appropriate
22 district of Oklahoma may bring an action in district court for the
23 criminal prosecution of a violation by any person of a provision of
24 this section or any rule promulgated pursuant to this section, or

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

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

10 L. As used in this section:

11 1. "Depredating animal" means feral hogs, coyotes, and
12 crossbreeds between coyotes and dogs;

13 2. "Management by the use of aircraft" means to manage
14 depredating animals by counting, photographing, relocating,
15 capturing, or hunting by the use of aircraft; and

16 3. "Aircraft" means nonexperimental manned fixed wing and non-
17 fixed wing aircraft registered with the Federal Aviation
18 Administration (FAA) and powered parachutes that are ultralight
19 vehicles as defined by Title 14, Section 103.1 of the Code of
20 Federal Regulations.

21 SECTION 2. This act shall become effective November 1, 2016.

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23 COMMITTEE REPORT BY: COMMITTEE ON WILDLIFE, dated 02/11/2016 - DO
24 PASS, As Coauthored.