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H.B. 503
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Peterson and Jones

Jeff Grim, Research Analyst

SUMMARY

Department of Natural Resources: wild boar and feral swine

- Adds certain prohibitions to the wildlife law related to wild boar and feral swine, including prohibitions against:
 - Importing, transporting, or possessing live wild boar or feral swine;
 - Releasing wild boar or feral swine into the wild or expanding the range of a wild boar or feral swine by introducing the wild boar or feral swine to a new location; and
 - Purposely feeding a wild boar or feral swine.
- Requires a person who knows or has reason to know that wild boar or feral swine are present on public or private property to report that fact to the Division of Wildlife.
- Establishes a process by which a person or the person's agent may immediately eradicate wild boar and feral swine on the person's property without a hunting license if the person or the person's agent notifies the Division and follows Division instructions.

Department of Agriculture: feeding swine

- Eliminates the required annual license to feed treated garbage to swine and, instead, prohibits feeding any garbage to swine, included treated garbage.
- Prohibits a person from bringing into Ohio a swine that has been fed garbage or treated garbage.
- Retains the current definition of garbage, which generally includes all waste material derived in whole or in part from the meat of any animal.
- Revises the definition of "treated garbage," which generally is edible garbage that has been heated and boiled in accordance with certain specifications, to remove a reference to individuals licensed to feed treated garbage to swine.

- Authorizes the Director to investigate violations of the above prohibitions and make inquiries into any alleged violation as are necessary to secure compliance with the law governing garbage-fed swine and orders issued under it.
- Allows the Director of Agriculture to assess a civil penalty against a person who violates the bill's prohibitions regarding garbage-fed swine.
- Establishes the amounts of the civil penalties as follows:
 - For a first violation, up to \$500;
 - For each subsequent violation, up to \$1,000.

DETAILED ANALYSIS

Department of Natural Resources: wild boar and feral swine

Current law authorizes the ODNR Division of Wildlife to regulate wild boar as a game quadruped. Those regulations allow the hunting of wild boar year round with a hunting license. In addition, a person may possess and sell wild boar under a noncommercial or commercial propagating license and hunt wild boar in a game preserve. The bill modifies these regulations, defines what constitutes a wild boar, and expands the references to wild boar to include feral swine.

Definitional changes

The bill defines a wild boar or feral swine to mean either of the following:

- Members of the family Suidae, including both of the following:
 - Wild pig, wild hog, feral hog, and feral pig; and
 - Old world swine, razorbacks, European wild boar, and Russian wild boar, and any hybrids or crossbreeds of those animals.
- Members of the family Tayassuidae, including collared peccary and javelina, and any hybrids or crossbreeds of members of the family Tayassuidea.¹

The bill removes wild boar from the existing definition of “game quadruped,” but adds wild boar and feral swine to the definition of “wild quadruped.” According to a representative of the Division of Wildlife, these definitional changes do both of the following:

1. Regarding the removal of wild boar from the definition of “game quadrupeds,” eliminates a person’s ability to hold, possess, and sell wild boar under an existing noncommercial or commercial propagating license and reinforces the idea that wild boar and feral swine

¹ R.C. 1531.01(HHH).

cannot be hunted in a game preserve or in the wild (unless otherwise authorized under the bill);²

2. Regarding the addition of wild boar and feral swine to the definition of “wild quadrupeds,” maintains the Division of Wildlife’s authority to regulate wild boar and feral swine in the wild.

By virtue of these definitional changes, the bill also removes wild boar from the definition of “game.”³

Prohibitions regarding feral swine and wild boar

The bill establishes the following prohibitions regarding feral swine and wild boar:⁴

| Prohibitions regarding feral swine and wild boar | | |
|---|------------------|--------------------------|
| Prohibition | Mental state | Criminal penalty |
| Transporting or possessing live wild boar or feral swine | Strict liability | First degree misdemeanor |
| Releasing wild boar or feral swine into the wild or importing wild boar or feral swine into Ohio | Strict liability | Fifth degree felony |
| Expanding the range of a wild boar or feral swine by introducing the wild boar or feral swine to a new location | Strict liability | First degree misdemeanor |
| Allowing a swine that is under the ownership or possession of the person to live in a feral state | Strict liability | First degree misdemeanor |
| Except as otherwise provided in the bill (see “ Notification and eradication ,” below), hunting, trapping, or killing a wild boar or feral swine or assisting in the | Strict liability | First degree misdemeanor |

² R.C. 1533.71, not in the bill, requires any person desiring to engage in the business of raising and selling game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in a wholly enclosed preserve of which the person is the owner or lessee, or to have game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals in captivity to apply to the Division of Wildlife for a commercial propagating license, noncommercial propagating license, or captive white-tailed deer propagation license.

³ Phone conversation with the Department of Natural Resources, April 29, 2024. R.C. 1531.01(R), (U), and (V) and 1533.01.

⁴ R.C. 1533.731(B)(2), 1533.75, and 1533.99(C) and (H).

| Prohibitions regarding feral swine and wild boar | | |
|---|--------------------------|--------------------------|
| Prohibition | Mental state | Criminal penalty |
| hunting, trapping, or killing of a wild boar or feral swine | | |
| Profiting from the releasing, hunting, trapping, or killing of wild boar or feral swine | Strict liability | First degree misdemeanor |
| Failing to notify the Division of Wildlife in accordance with the bill (see “Notification and eradication,” below) | Strict liability | First degree misdemeanor |
| Feeding a wild boar or feral swine | Purposely | First degree misdemeanor |
| Releasing for hunting or hunting wild boar or feral swine in any wild animal hunting preserve in Ohio | No specific mental state | First degree misdemeanor |

In addition to any other penalty, the court must require any person who is convicted of or pleads guilty to a violation (other than the prohibition governing hunting preserves) to pay the costs incurred by any state or federal agency for the investigation, control, and eradication of wild boar or feral swine that resulted from the violation. Money paid to the Division of Wildlife must be credited to the existing Wildlife Fund.⁵

Notification and eradication

Except as provided in Division of Wildlife rules, the bill requires a person who knows or has reason to believe that a wild boar or feral swine is present on private or public property to notify the Division within 24 hours of the person so knowing or having reason to believe of the wild boar’s or feral swine’s presence. A person includes a property owner, tenant, or person responsible for a property’s management.⁶

Except as provided in Division rules, a person or a person’s agent who encounters wild boar or feral swine on property owned or leased by that person may immediately eradicate the wild boar or feral swine without a hunting license required under current law if the person or agent does both of the following:

1. Notifies the Division as soon as practicable, but within 24 hours after the eradication or attempted eradication of the wild boar or feral swine;

⁵ R.C. 1533.99(C) and (H).

⁶ R.C. 1533.751(A).

2. Follows the instructions provided by the Division, including the handling, preservation for testing, and disposal of any wild boar or feral swine carcass.⁷

Department of Agriculture: Feeding swine

License to feed garbage

The bill eliminates the authorization for licensed individuals to feed treated garbage to swine. Under current law, a person is prohibited from doing either of the following:

1. Feeding garbage to swine. “Garbage” is all waste material derived in whole or in part from the meat of any animal, including fish and poultry, or other animal material, and other refuse of any character that has been associated with such waste material resulting from the handling, preparation, cooking, or consumption of food.
2. Feeding on the person’s premises, or permitting the feeding of, treated garbage to swine without an annual license issued by the Department of Agriculture. “Treated garbage” is any edible garbage for consumption by swine that has been heated at boiling point while being agitated, except in steam cooking equipment, to ensure that the garbage is heated throughout for 30 minutes under the supervision of a license holder.

The bill instead prohibits a person from feeding on the person’s premises, or permitting the feeding of, *all* garbage, whether treated or not, to swine. Consequently, the bill eliminates the required annual license to feed treated garbage to swine, the \$100 annual license fee, and the following:

1. Requirements and procedures regarding the handling of equipment, conveyances, and premises used to feed treated garbage to swine;
2. Requirements regarding the maintenance of records for the disposal of treated and untreated garbage by a license holder;
3. Rulemaking authority for the Director of Agriculture;
4. Enforcement provisions, including criminal penalties for violating the garbage-fed swine law; and
5. A requirement that money collected from license fees be credited to the existing Animal and Consumer Protection Laboratory Fund.

The bill also prohibits a person from bringing into Ohio a swine that has been fed garbage or treated garbage. The bill does not establish any criminal penalties for violating the above prohibitions, but establishes civil penalties for such violations (see “**Civil penalties**,” below).⁸

⁷ R.C. 1533.751(A) and (B).

⁸ R.C. 901.43, 942.01, 942.02; 942.03 to 942.07, repealed; 942.10 to 942.12, repealed; 942.99, repealed; and 4745.01; and Section 4.

Investigative authority

The bill authorizes the Director, upon receipt of a complaint or on the Director's own initiative, to investigate violations of the above prohibitions and make inquiries into any alleged violation as are necessary to secure compliance with the law governing garbage-fed swine and orders issued under it.

With the consent of the owner of a premises, lessee of a premises, or the owner, keeper, or harbinger of a swine that is kept or harbored on a premises, the Director or the Director's authorized representative may enter at all reasonable times on any premises where swine are kept or harbored for the purpose of determining compliance with the bill. If the Director or the Director's authorized representative is denied access to the premises and suspects that the provisions relating to garbage-fed swine are not being complied with, the Director may apply for a search warrant authorizing access from a court of competent jurisdiction. The court must issue the search warrant if there is probable cause. Probable cause may be based on hearsay, provided that there is substantial basis for believing the source is credible and there is factual basis for the information.

Upon entering a premises, the Director or the Director's authorized representative must observe biosecurity measures in order to prevent spreading disease and infecting livestock.⁹

Civil penalties

The bill allows the Director of Agriculture to assess a civil penalty against a person that violates the bill's prohibitions regarding garbage-fed swine. The Director may assess a civil penalty only if the Director affords the person an opportunity for an adjudication hearing under the Administrative Procedure Act. The person may waive the right to an adjudication hearing.

If a person waives an adjudication hearing or if, after an adjudication hearing, the Director determines that a violation has occurred or is occurring, the Director may issue an order requiring compliance and assess a civil penalty. The order and assessment of the civil penalty may be appealed in accordance with Administrative Procedure Act's appeals provisions.

The Director may assess a civil penalty for a violation of the bill's prohibitions regarding garbage-fed swine in the following amounts:

1. For a first violation, up to \$500;
2. For each subsequent violation, up to \$1,000.

Money collected from civil penalties must be credited to the Animal and Consumer Protection Fund.¹⁰ The bill renames the Captive Deer Fund as the Animal and Consumer Protection Fund and makes conforming changes, and requires the Director to use money in the fund to administer the law governing garbage-fed swine.¹¹

⁹ R.C. 942.03 (reenacted).

¹⁰ R.C. 942.04 (reenacted).

¹¹ R.C. 943.23 and 943.26.

HISTORY

| Action | Date |
|------------|----------|
| Introduced | 04-22-24 |
