

SECOND REGULAR SESSION

# SENATE BILL NO. 617

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4923S.02I

## AN ACT

To repeal sections 270.170, 270.270, 270.400, RSMo, section 270.260 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 270.260 as enacted by senate bill no. 795, ninety-fifth general assembly, second regular session, and to enact in lieu thereof four new sections relating to feral hogs, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 270.170, 270.270, 270.400, RSMo, section 270.260 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 270.260 as enacted by senate bill no. 795, ninety-fifth general assembly, second regular session, are repealed and four new sections enacted in lieu thereof, to be known as sections 270.170, 270.260, 270.270, and 270.400, to read as follows:

270.170. 1. If any swine or sheep shall be found running at large, contrary to the provisions of this chapter, it shall be lawful for any person whose premises said swine or sheep shall be found to restrain the same forthwith, and give the owner, if known, notice in writing that such person has restrained said swine or sheep, and the amount of damages such person claims in the premises, and requiring the owner to take said swine or sheep away and pay such damages; and such owner shall pay such person a reasonable sum for taking up, feeding and caring for the same, and the actual damages done by said swine or sheep. If such owner fails to comply with the provisions of this section within three days after receiving such notice, or if the owner of such swine or sheep be unknown, such swine or sheep shall be disposed of in the manner provided for in section 270.180.

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

13           2. Any swine not conspicuously identified by ear tags or other forms of  
14 identification that were born in the wild or that lived outside of captivity for a  
15 sufficient length of time to be considered wild by nature by hiding from humans  
16 or being nocturnal shall be considered feral hogs. [Any person may take or kill  
17 such feral hogs on such person's own property] **A landowner, landowner's**  
18 **agent, or any person with written permission from a landowner may**  
19 **take or kill such feral hogs on such landowner's own property.**

270.260. 1. Any person who recklessly or knowingly releases any swine  
2 to live in a wild or feral state upon any public land or private land not completely  
3 enclosed by a fence capable of containing such animals is guilty of a class A  
4 misdemeanor **and is punishable upon conviction by a fine of one**  
5 **thousand dollars for the first offense, and a fine of ten thousand dollars**  
6 **for the second and any subsequent offense. Upon conviction for a first**  
7 **offense, such person shall also forfeit any hunting, fishing, or trapping**  
8 **permits currently held and shall not have the privilege of obtaining any**  
9 **hunting, fishing, or trapping permits from the department of**  
10 **conservation until the expiration of three years from conviction of such**  
11 **offense. Upon conviction of a second offense, such person shall**  
12 **permanently forfeit any hunting, fishing, or trapping permits currently**  
13 **held and shall not have the privilege of obtaining any subsequent**  
14 **hunting, fishing, or trapping permits from the department of**  
15 **conservation.** Each swine so released shall be a separate offense.

16           2. Every person who has previously been found guilty of violating the  
17 provisions of this section, committed on two separate occasions where such offense  
18 occurred within ten years of the date of the occurrence of the present offense and  
19 who subsequently is found guilty of violating this section shall be guilty of a class  
20 E felony.

21           3. Nothing in this section shall be construed to criminalize the accidental  
22 escape of domestic swine.

270.260. 1. Any person who recklessly or knowingly releases any swine  
2 to live in a wild or feral state upon any public land or private land not completely  
3 enclosed by a fence capable of containing such animals is guilty of a class A  
4 misdemeanor **and is punishable upon conviction by a fine of one**  
5 **thousand dollars for the first offense, and a fine of ten thousand dollars**  
6 **for the second and any subsequent offense. Upon conviction for a first**  
7 **offense, such person shall also forfeit any hunting, fishing, or trapping**

8 **permits currently held and shall not have the privilege of obtaining any**  
9 **hunting, fishing, or trapping permits from the department of**  
10 **conservation until the expiration of three years from conviction of such**  
11 **offense. Upon conviction of a second offense, such person shall**  
12 **permanently forfeit any hunting, fishing, or trapping permits currently**  
13 **held and shall not have the privilege of obtaining any subsequent**  
14 **hunting, fishing, or trapping permits from the department of**  
15 **conservation.** Each swine so released shall be a separate offense.

16 2. Every person who has previously pled guilty to or been found guilty of  
17 violating the provisions of this section, committed on two separate occasions  
18 where such offense occurred within ten years of the date of the occurrence of the  
19 present offense and who subsequently pleads guilty to or is found guilty of  
20 violating this section shall be guilty of a class D felony.

21 3. Nothing in this section shall be construed to criminalize the accidental  
22 escape of domestic swine.

270.270. 1. Any person possessing or transporting live Russian or  
2 European wild boar or wild-caught swine on or through public land [without a  
3 Missouri department of agriculture permit] is guilty of a class A misdemeanor  
4 **and is punishable upon conviction by a fine of one thousand dollars for**  
5 **the first offense, and a fine of ten thousand dollars for the second and**  
6 **any subsequent offense. Upon conviction for a first offense, such**  
7 **person shall also forfeit any hunting, fishing, or trapping permits**  
8 **currently held and shall not have the privilege of obtaining any**  
9 **hunting, fishing, or trapping permits from the department of**  
10 **conservation until the expiration of three years from conviction of such**  
11 **offense. Upon conviction of a second offense, such person shall**  
12 **permanently forfeit any hunting, fishing, or trapping permits currently**  
13 **held and shall not have the privilege of obtaining any subsequent**  
14 **hunting, fishing, or trapping permits from the department of**  
15 **conservation.** Each violation of this subsection shall be a separate offense.

16 2. Any law enforcement officer, any agent of the conservation commission,  
17 or the state veterinarian is authorized to enforce the provisions of this section,  
18 section 270.260, and section 270.400.

270.400. 1. For purposes of this section, the term "feral hog" means any  
2 hog, including Russian and European wild boar, that is not conspicuously  
3 identified by ear tags or other forms of identification and is roaming freely upon

4 public or private lands without the landowner's permission.

5 2. A person may kill a feral hog roaming freely upon such person's land  
6 and shall not be liable to the owner of the hog for the loss of the hog.

7 3. Any person may take or kill a feral hog on public land or private land  
8 with the consent of the landowner; except that, during the firearms deer and  
9 turkey hunting season the regulations of the Missouri wildlife code shall  
10 apply. Such person shall not be liable to the owner of the hog for the loss of such  
11 hog.

12 4. No person except a landowner [or such], landowner's agent, **or any**  
13 **person with written permission from a landowner** on such landowner's  
14 property shall take, attempt to take, or kill a feral hog with the use of an  
15 artificial light.

16 5. [The director of the department of agriculture shall promulgate rules  
17 for fencing and health standards for Russian and European wild boar and wild-  
18 caught swine held alive on private land. Any person holding Russian or  
19 European wild boar or wild-caught swine on private land shall annually submit  
20 an application to the department for a permit. Any applicant that successfully  
21 meets the requirements under this section as determined by the department and  
22 pays an application fee shall be issued a permit.

23 6. Russian and European wild boar and wild-caught swine may move only  
24 from a farm to a farm or directly to slaughter or to a slaughter-only market. The  
25 department shall promulgate rules for exemption permits and a fee structure to  
26 offset the actual and necessary costs incurred to enforce the provisions of this  
27 section.

28 7.] (1) There is hereby created in the state treasury the "Animal Health  
29 Fund", which shall consist of [all fees and] administrative penalties collected by  
30 the department of agriculture under this section and section 270.260. The state  
31 treasurer shall be custodian of the fund. In accordance with sections 30.170 and  
32 30.180, the state treasurer may approve disbursements. Upon appropriation,  
33 moneys in the fund shall be used for the administration of this section and  
34 section 270.260.

35 (2) Notwithstanding the provisions of section 33.080 to the contrary, any  
36 moneys remaining in the fund at the end of the biennium shall not revert to the  
37 credit of the general revenue fund.

38 (3) The state treasurer shall invest moneys in the fund in the same  
39 manner as other funds are invested. Any interest and moneys earned on such

40 investments shall be credited to the fund.

41 [8.] 6. Any person who violates subsection 2 of section 270.260 may, in  
42 addition to the penalty imposed under section 270.260, be assessed an  
43 administrative penalty of up to one thousand dollars per violation. Any person  
44 who is assessed an administrative penalty under this section shall be notified in  
45 writing of the right to appeal. Such person may request a hearing before the  
46 director of the department of agriculture. Such request shall be made in writing  
47 no later than thirty days after the date on which the person was notified of the  
48 violation of section 270.260.

49 [9.] 7. **The director of the department of agriculture may**  
50 **promulgate rules for the enforcement of this section.** Any rule or portion  
51 of a rule, as that term is defined in section 536.010, that is created under the  
52 authority delegated in this section shall become effective only if it complies with  
53 and is subject to all of the provisions of chapter 536 and, if applicable, section  
54 536.028. This section and chapter 536 are nonseverable and if any of the powers  
55 vested with the general assembly pursuant to chapter 536 to review, to delay the  
56 effective date, or to disapprove and annul a rule are subsequently held  
57 unconstitutional, then the grant of rulemaking authority and any rule proposed  
58 or adopted after August 28, 2010, shall be invalid and void.

59 [10.] 8. Nothing in this section shall be construed to apply to domestic  
60 swine.

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