

SECOND REGULAR SESSION

# SENATE BILL NO. 1059

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

Read 1st time February 26, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5640S.011

## AN ACT

To repeal sections 270.170, 270.260, 270.270, and 270.400, RSMo, and to enact in lieu thereof four new sections relating to feral swine, with penalty provisions.

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

Section A. Sections 270.170, 270.260, 270.270, and 270.400, RSMo, are  
2 repealed and four new sections enacted in lieu thereof, to be known as sections  
3 270.170, 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,  
2 contrary to the provisions of this chapter, it shall be lawful for any person on  
3 whose premises said swine or sheep shall be found to restrain the same forthwith,  
4 and give the owner, if known, notice in writing that such person has restrained  
5 said swine or sheep, and the amount of damages such person claims in the  
6 premises, and requiring the owner to take said swine or sheep away and pay such  
7 damages; and such owner shall pay such person a reasonable sum for taking up,  
8 feeding and caring for the same, and the actual damages done by said swine or  
9 sheep. If such owner fails to comply with the provisions of this section within  
10 three days after receiving such notice, or if the owner of such swine or sheep be  
11 unknown, such swine or sheep shall be disposed of in the manner provided for in  
12 section 270.180.

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.]

270.260. 1. Any person who recklessly or knowingly releases any swine

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

2 to live in a wild or feral state upon any public land or private land [not  
3 completely enclosed by a fence capable of containing such animals] is guilty of a  
4 class [A misdemeanor. Each swine so released shall be a separate offense.

5 2. Every person who has previously been found guilty of violating the  
6 provisions of this section, committed on two separate occasions where such offense  
7 occurred within ten years of the date of the occurrence of the present offense and  
8 who subsequently is found guilty of violating this section shall be guilty of a  
9 class] E felony.

10 [3.] 2. Nothing in this section shall be construed to criminalize the  
11 accidental escape of domestic swine **or release into a facility under permit**  
12 **with the Missouri department of conservation.**

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] **feral swine as defined in section**  
4 **270.400** is guilty of a class [A misdemeanor] **E felony**. Each violation of this  
5 subsection shall be a separate offense.

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

270.400. 1. For purposes of this section, the following terms mean:

2 (1) "Feral [hog]", any hog, including Russian and European wild boar, that  
3 is not conspicuously identified by ear tags or other forms of identification and is  
4 roaming freely upon public or private lands without the landowner's permission]  
5 **swine", any swine that is either born, living, or has lived in the wild,**  
6 **including its offspring;**

7 (2) "Landowner's agent", any person who has permission from a landowner  
8 to be present on the landowner's property.

9 2. A person may kill a feral [hog] **swine** roaming freely upon such  
10 person's land and shall not be liable to the owner of the [hog] **swine** for the loss  
11 of the [hog] **swine**.

12 3. Any person may take or kill a feral [hog] **swine** on public land or  
13 private land with the consent of the landowner; except that, during the firearms  
14 deer and turkey hunting season, the regulations of the Missouri wildlife code  
15 shall apply. Such person shall not be liable to the owner of the [hog] **swine** for  
16 the loss of such [hog] **swine**.

17 4. No person except a landowner or such landowner's agent on such

18 landowner's property shall take, attempt to take, or kill a feral [hog] swine with  
19 the use of an artificial light.

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

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

32 7. (1) There is hereby created in the state treasury the "Animal Health  
33 Fund", which shall consist of all fees and administrative penalties collected by the  
34 department of agriculture under this section and section 270.260. The state  
35 treasurer shall be custodian of the fund. In accordance with sections 30.170 and  
36 30.180, the state treasurer may approve disbursements. Upon appropriation,  
37 moneys in the fund shall be used for the administration of this section and  
38 section 270.260.

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

42 (3) The state treasurer shall invest moneys in the fund in the same  
43 manner as other funds are invested. Any interest and moneys earned on such  
44 investments shall be credited to the fund.

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

53 9. Any rule or portion of a rule, as that term is defined in section 536.010,

54 that is created under the authority delegated in this section shall become effective  
55 only if it complies with and is subject to all of the provisions of chapter 536 and,  
56 if applicable, section 536.028. This section and chapter 536 are nonseverable and  
57 if any of the powers vested with the general assembly pursuant to chapter 536 to  
58 review, to delay the effective date, or to disapprove and annul a rule are  
59 subsequently held unconstitutional, then the grant of rulemaking authority and  
60 any rule proposed or adopted after August 28, 2010, shall be invalid and void.

61 **10.] Any person violating subsections 3 and 4 of this section is**  
62 **guilty of a class A misdemeanor. Each violation of subsection 3 and 4**  
63 **of this section shall be a separate offense.**

64 **6.** Nothing in this section shall be construed to apply to **the accidental**  
65 **escape of** domestic swine.

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Bill

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