SENATE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 301

AN ACT

To repeal sections 270.170, 270.180, 270.260, 270.270, 270.400, 316.250, 528.725, 537.346, and 537.348, RSMo, and to enact in lieu thereof eleven new sections relating to land management, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 270.170, 270.180, 270.260, 270.270, 270.400, 316.250, 528.725, 537.346, and 537.348, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 270.170, 270.180, 270.260, 270.270, 270.400, 316.250, 528.725, 537.346, 537.348, 537.354, and 542.525, to read as follows:

270.170. **[**1.**]** If any domestic swine **[**or sheep**]** shall be found running at large, contrary to the provisions of this chapter, it shall be lawful for any person on 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.

[2. Any swine not conspicuously identified by ear tags or other forms of identification that were born in the wild or that lived outside of captivity for a sufficient length of time to be considered wild by nature by hiding from humans or being nocturnal shall be considered feral hogs. Any person may take or kill such feral hogs on such person's own property.]

270.180. 1. If the owner of any domestic swine [or sheep] taken up under the provisions of this chapter be unknown, after three days' diligent inquiry by the taker-up, or if the owner of any swine [or sheep] taken up under the provisions of this chapter shall not, within three days after receiving notice as provided for in section 270.170, comply with the provisions of this chapter, the taker-up of such swine [or sheep] shall apply to an associate circuit judge of the county for the sale of such swine [or sheep] according to law.

2. Such associate circuit judge, being satisfied that the provisions of this chapter have been complied with, shall order the same to be sold by the sheriff after the expiration of fifteen days, who shall give notice and sell the same in the same manner as personal property may be sold on execution by a sheriff; and after paying the costs of sale, and of taking up and keeping the swine [or sheep], and all damages done by the same, such sheriff shall pay the balance, if there be any, over to the county treasurer, and take his receipt therefor; which balance shall be subject to the order of the owner of such swine [or sheep], if called for within twelve months after the sale, but if not called

for, the same shall be turned over to the school fund of the county.

270.260. 1. (1) Before August 28, 2021, any person who recklessly or knowingly releases any swine to live in a wild or feral state upon any public land or private land not completely enclosed by a fence capable of containing such animals is guilty of a class A misdemeanor. Each swine so released shall be a separate offense.

(2) Beginning on August 28, 2021, any person who recklessly or knowingly releases any swine to live in a wild or feral state upon any public land or private land is guilty of a class E felony.

(3) Each swine so released shall be a separate offense.

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

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

270.270. 1. (1) Before August 28, 2021, any person possessing or transporting live Russian or European wild boar or wild-caught swine on or through public land without a Missouri department of agriculture permit is guilty of a class A misdemeanor.

(2) Beginning on August 28, 2021, any person possessing or transporting live feral swine, as defined in section 270.400, is guilty of a class E felony.

(3) Each violation of this subsection shall be a separate offense.

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

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

(1) "Feral **[**hog**]** swine", any **[**hog, including Russian and European wild boar, that is not conspicuously identified by ear tags or other forms of identification and is roaming freely upon public or private lands without the landowner's permission**]** swine that is born, living, or has lived in the wild, and the offspring of such swine. For purposes of this subdivision, "in the wild" means not confined by humans to pens, houses, or other facilities designed to hold swine and prevent their escape;

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

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

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

4. No person except a landowner or such landowner's agent on such landowner's property shall take, attempt to take, or kill a feral **[**hog**]** swine with the use of an artificial light.

5. **[**The director of the department of agriculture shall promulgate rules for fencing and health standards for

Russian and European wild boar and wild-caught swine held alive on private land. Any person holding Russian or European wild boar or wild-caught swine on private land shall annually submit an application to the department for a permit. Any applicant that successfully meets the requirements under this section as determined by the department and pays an application fee shall be issued a permit.

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

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

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

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

8. Any person who violates subsection 2 of section 270.260 may, in addition to the penalty imposed under

section 270.260, be assessed an administrative penalty of up to one thousand dollars per violation. Any person who is assessed an administrative penalty under this section shall be notified in writing of the right to appeal. Such person may request a hearing before the director of the department of agriculture. Such request shall be made in writing no later than thirty days after the date on which the person was notified of the violation of section 270.260.

9. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

10.] Any person who violates subsection 3 or 4 of this section is guilty of a class A misdemeanor. Each violation of subsection 3 or 4 of this section shall be a separate offense.

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

316.250. 1. This section shall be known and may be cited as "Ethan's Law".

2. Every owner of a for-profit private swimming pool or facility shall maintain adequate insurance coverage in an amount of not less than one million dollars per occurrence for any liability incurred in the event of injury or death of a patron to such swimming pool or facility, including any

liability incurred under paragraph [(b)] (a) of subdivision (3) of section 537.348. Such owners shall be required to register with the department of public safety and provide proof of such insurance coverage at the time of registration and when requested by any state or local governmental agency responsible for the enforcement of this section.

3. As used in this section, the following terms shall mean:

(1) "Owner", the owner of the land, including but not limited to a lessee, tenant, mortgagee in possession and the person in charge of the land on which a swimming pool is located;

(2) "Swimming pool or facility", any for-profit privately owned tank or body of water with a capacity of less than five hundred patrons which charges a fee per admission and is used and maintained for swimming or bathing purposes which has a maximum depth of greater than twenty-four inches. "Swimming pool or facility" shall include, but not be limited to, a swimming pool on lands in connection with the operation of any type of for-profit privately owned amusement or recreational park. "Swimming pool or facility" does not include a swimming pool or facility owned by a hotel, motel, public or governmental body, agency, or authority, a naturally occurring body of water or stream, or a body of water established by a person or persons and used for watering livestock, irrigation, or storm water management.

4. Any owner who violates the provisions of this section shall not be permitted to remain in operation until such owner meets the requirements of this section. Any such owner who allows operation of a swimming pool or facility in violation of this section shall be subject to a civil penalty of two hundred fifty dollars per day for each day of

continued violation up to a maximum of ten thousand dollars and may be subject to liability for the costs incurred by the state or a political subdivision for enforcing the provisions of this section. In a separate court action, the attorney general may seek reimbursement on behalf of the state and a political subdivision may seek reimbursement on behalf of the political subdivision for costs incurred as a result of enforcing the provisions of this section. For purposes of this section, "each day of the violation" means each day that the swimming pool is operational and open for business and remains in violation of this section. It shall not include days that the swimming pool is not operational and open for business.

5. In addition, any owner who intentionally violates the provisions of this section is guilty of a class A misdemeanor. It shall be the duty of each prosecuting attorney and circuit attorney in their respective jurisdictions to commence any criminal actions under this section, and the attorney general shall have concurrent original jurisdiction to commence such criminal actions throughout the state where such violations have occurred.

6. The department of public safety shall implement and, with the assistance of local law enforcement agencies, enforce the provisions of this section.

7. An insurance company providing insurance coverage under this section shall notify the department of public safety if any owner of a swimming pool or facility as defined in this section terminates, cancels, or fails to renew such coverage. The department may utilize local law enforcement agencies to enforce the provisions of this section.

528.725. 1. If any cotenant has requested partition by sale, after the determination of value under section

528.720, the court shall send notice to the parties that any cotenant, except a cotenant that requested partition by sale, may buy all the interests of the cotenants that requested partition by sale.

2. No later than forty-five days after the notice is sent under subsection 1 of this section, any cotenant, except a cotenant that requested partition by sale, may give notice to the court that it elects to buy all the interests of the cotenants that requested partition by sale.

3. The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section 528.720 multiplied by the cotenant's fractional ownership of the entire parcel.

4. After expiration of the period in subsection 2 of this section, the following rules shall apply:

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of that fact;

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy and send notice to all the parties of that fact and of the price to be paid by each electing cotenant;

(3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties of that fact and resolve the partition action under subsection 1 or 2 of section 528.730.

5. If the court sends notice to the parties under subdivision (1) or (2) of subsection 4 of this section, the court shall set a date, no sooner than sixty days after the date the notice was sent, by which electing cotenants shall pay their apportioned price into the court. After this date, the following rules shall apply:

(1) If all electing cotenants timely pay their apportioned price into court, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to them;

(2) If no electing cotenant timely pays its apportioned price, the court shall resolve the partition action under subsection 1 or 2 of section 528.730 as if the interests of the cotenants that requested partition by sale were not purchased; or

(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the court, on motion, shall give notice to the electing cotenants that paid their apportioned price of the interest remaining and the price for all that interest.

6. No later than twenty days after the court gives notice under subdivision (3) of subsection 5 of this section, any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price into the court. After the twenty-day period, the following rules shall apply:

(1) If only one cotenant pays the entire price for the remaining interest, the court shall issue an order reallocating the remaining interest to that cotenant. The court shall promptly issue an order reallocating the interests of all of the cotenants and disburse the amounts held by the court to the persons entitled to such amounts;

(2) If no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under subsection 1 or 2 of section 528.730 as if the interests of the cotenants that requested partition by sale were not purchased; or

(3) If more than one cotenant pays the entire price for the remaining interest, the court shall reapportion the remaining interest among those paying cotenants based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest. The court shall promptly issue an order reallocating all of the cotenants' interests, disburse the amounts held by the court to the persons entitled to such amounts, and promptly refund any excess payment held by the court.

7. No later than forty-five days after the court sends notice to the parties under subsection 1 of this section, any cotenant entitled to buy an interest under this section may request the court to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

8. If the court receives a timely request under subsection 7 of this section, the court, after hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable, subject to the following limitations:

(1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections 1 to 6 of this section have been paid into court and those interests have been reallocated among

the cotenants as provided in subsections 1 to 6 of this section; and

(2) The purchase price for the interest of a nonappearing cotenant is based on the court's determination of value under section 528.720.

537.346. 1. Except as provided in sections 537.345 to 537.348, and section 537.351, an owner of land owes no duty of care to any person who enters on the land without charge to keep his or her land safe for recreational use or to give any general or specific warning with respect to any natural or artificial condition, structure, or personal property thereon.

2. No owner of land shall be liable for injuries of a trespasser occurring on his or her residential area or noncovered land, as those terms are defined in section 537.348, if such area or land is adjacent to a park, as defined in section 253.010, or a trail, as defined in section 258.100, if such trespasser is accessing or accessed the owner's property from the adjacent park or trail.

537.348. Nothing in this act shall be construed to create liability, but it does not limit liability that otherwise would be incurred by those who use the land of others, or by owners of land for:

(1) Malicious or grossly negligent failure to guard or warn against a dangerous condition, structure, personal property which the owner knew or should have known to be dangerous, or negligent failure to guard or warn against an ultrahazardous condition which the owner knew or should have known to be dangerous;

(2) Injury suffered by a person who has paid a charge for entry to the land; or

(3) Injuries occurring on or in:

(a) [Any land within the corporate boundaries of any city, municipality, town, or village in this state;

(b)] Any swimming pool. "Swimming pool" means a pool or tank, especially an artificial pool or tank, intended and adapted for swimming and held out as a swimming pool;

[(c)] (b) Any residential area. "Residential area" as used [herein] in this section means [a tract of land of one acre or less predominately used for residential purposes, or a tract of land of any size used for multifamily residential services] land used for residential purposes in an area in which housing predominates, as opposed to industrial and commercial areas, and any land used for farming or agricultural purposes; or

[(d)] (c) Any noncovered land. "Noncovered land" as used [herein] in this section means any portion of any land, the surface of which portion is actually used primarily for commercial, industrial, mining or manufacturing purposes; provided, however, that use of any portion of any land primarily for agricultural, grazing, forestry, conservation, natural area, owner's recreation or similar or related uses or purposes shall not under any circumstances be deemed to be use of such portion for commercial, industrial, mining or manufacturing purposes.

537.354. 1. This section shall be known and may be cited as the "Prescribed Burning Act".

2. As used in this section, the following terms mean:

(1) "Agent of an owner of land", any person who has permission from a landowner to participate in a prescribed burning on the landowner's property;

(2) "Certified prescribed burn manager", a person who successfully completes a prescribed burn certification program approved by the Missouri department of conservation;

(3) "Prescribed burn plan", a written plan that is in a format approved by the Missouri department of conservation establishing the conditions and methods to perform a prescribed burning;

(4) "Prescribed burning", the planned and controlled application of fire to existing vegetative fuels in order to accomplish one or more specific land management objectives including, but not limited to, vegetative fuel reduction, silvicultural treatments, wildlife habitat improvement, and management of grassland and other plant communities.

3. Prescribed burning is a land management tool that benefits the safety of the public, the environment, and the economy of the state of Missouri.

4. No owner of land or agent of an owner of land shall be liable for damage, injury, or loss caused by a prescribed burning or the resulting smoke of a prescribed burning conducted in accordance with a prescribed burn plan unless the owner of land or agent of an owner of land is proven to be negligent.

5. No certified prescribed burn manager shall be liable for damage, injury, or loss caused by a prescribed burning or the resulting smoke of a prescribed burning conducted in accordance with a prescribed burn plan unless the certified prescribed burn manager is proven to be negligent.

6. The provisions of subsections 4 and 5 of this section shall not apply to any of the following:

(1) Any property, land, right-of-way, or easement owned by a public utility or a municipally-owned utility;

(2) Any property, land, right-of-way, or easement owned by any rural electric cooperative organized or operating pursuant to the provisions of chapter 394, any corporation organized on a nonprofit or cooperative basis as

described in subsection 1 of section 394.200, or any electrical corporation operating under a cooperative business plan as described in subsection 2 of section 393.110; and

(3) Any property, land, right-of-way, or easement appurtenant or incidental to lands controlled by any railroad.

542.525. No employee of a state agency or a political subdivision of the state shall place any surveillance camera or game camera on private property without first obtaining consent from the landowner or his or her designee, a search warrant as required by Article I, Section 15 of the Constitution of Missouri or the fourth and fourteenth amendments of the Constitution of the United States, or permission from the highest ranking law enforcement chief or officer of the agency or political subdivision, provided that permission of the highest ranking law enforcement chief or officer of the agency or political subdivision is valid only when the camera is facing a location that is open to public access or use and the camera is located within one hundred feet of the intended surveillance location.

Section B. Because of the need to ensure the equitable disposition of family property, the repeal and reenactment of section 528.725 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 528.725 of this act shall be in full force and effect upon its passage and approval.