

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 236

101ST GENERAL ASSEMBLY

1027S.02C

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 270.170, 270.180, 270.260, 270.270, and 270.400, RSMo, and to enact in lieu thereof five 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, 270.180, 270.260, 270.270,
2 and 270.400, RSMo, are repealed and five new sections enacted
3 in lieu thereof, to be known as sections 270.170, 270.180,
4 270.260, 270.270, and 270.400, to read as follows:

270.170. [1.] If any **domestic** swine [or sheep] shall
2 be found running at large, contrary to the provisions of
3 this chapter, it shall be lawful for any person on whose
4 premises said swine [or sheep] shall be found to restrain
5 the same forthwith, and give the owner, if known, notice in
6 writing that such person has restrained said swine [or
7 sheep], and the amount of damages such person claims in the
8 premises, and requiring the owner to take said swine [or
9 sheep] away and pay such damages; and such owner shall pay
10 such person a reasonable sum for taking up, feeding and
11 caring for the same, and the actual damages done by said
12 swine [or sheep]. If such owner fails to comply with the
13 provisions of this section within three days after receiving
14 such notice, or if the owner of such swine [or sheep] be
15 unknown, such swine [or sheep] shall be disposed of in the
16 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 5. [The director of the department of agriculture
29 shall promulgate rules for fencing and health standards for
30 Russian and European wild boar and wild-caught swine held
31 alive on private land. Any person holding Russian or
32 European wild boar or wild-caught swine on private land
33 shall annually submit an application to the department for a
34 permit. Any applicant that successfully meets the
35 requirements under this section as determined by the
36 department and pays an application fee shall be issued a
37 permit.

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

44 7. (1) There is hereby created in the state treasury
45 the "Animal Health Fund", which shall consist of all fees
46 and administrative penalties collected by the department of
47 agriculture under this section and section 270.260. The
48 state treasurer shall be custodian of the fund. In
49 accordance with sections 30.170 and 30.180, the state
50 treasurer may approve disbursements. Upon appropriation,
51 moneys in the fund shall be used for the administration of
52 this section and section 270.260.

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

57 (3) The state treasurer shall invest moneys in the
58 fund in the same manner as other funds are invested. Any

59 interest and moneys earned on such investments shall be
60 credited to the fund.

61 8. Any person who violates subsection 2 of section
62 270.260 may, in addition to the penalty imposed under
63 section 270.260, be assessed an administrative penalty of up
64 to one thousand dollars per violation. Any person who is
65 assessed an administrative penalty under this section shall
66 be notified in writing of the right to appeal. Such person
67 may request a hearing before the director of the department
68 of agriculture. Such request shall be made in writing no
69 later than thirty days after the date on which the person
70 was notified of the violation of section 270.260.

71 9. Any rule or portion of a rule, as that term is
72 defined in section 536.010, that is created under the
73 authority delegated in this section shall become effective
74 only if it complies with and is subject to all of the
75 provisions of chapter 536 and, if applicable, section
76 536.028. This section and chapter 536 are nonseverable and
77 if any of the powers vested with the general assembly
78 pursuant to chapter 536 to review, to delay the effective
79 date, or to disapprove and annul a rule are subsequently
80 held unconstitutional, then the grant of rulemaking
81 authority and any rule proposed or adopted after August 28,
82 2010, shall be invalid and void.

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

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

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