

FIRST REGULAR SESSION

SENATE BILL NO. 236

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

1027S.011

ADRIANE D. CROUSE, Secretary

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2 270.400, RSMo, are repealed and four new sections enacted in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

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

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

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

13 3.] Nothing in this section shall be construed to
14 criminalize the accidental escape of domestic swine **or**
15 **release into facility under permit with the Missouri**
16 **department of conservation.**

 270.270. 1. Any person possessing or transporting
2 live [Russian or European wild boar or wild-caught swine on
3 or through public land without a Missouri department of
4 agriculture permit] **feral swine as defined in section**
5 **270.400** is guilty of a class A misdemeanor. Each violation
6 of this subsection shall be a separate offense.

7 2. Any law enforcement officer, any agent of the
8 conservation commission, or the state veterinarian is

9 authorized to enforce the provisions of this section,
10 section 270.260, and section 270.400.

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

3 (1) ["Feral hog", any hog, including Russian and
4 European wild boar, that is not conspicuously identified by
5 ear tags or other forms of identification and is roaming
6 freely upon public or private lands without the landowner's
7 permission;] **"Feral swine", any swine that is either born,
8 living, or has lived in the wild, including its offspring.
9 For the purposes of this subdivision, "in the wild" means
10 not confined by human to pens, houses, or other facilities
11 designed to hold swine and 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
19 landowner; except that, during the firearms deer and turkey
20 hunting season, the regulations of the Missouri wildlife
21 code shall apply. Such person shall not be liable to the
22 owner of the [hog] **swine** for the loss of such [hog] **swine**.

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

27 5. [The director of the department of agriculture
28 shall promulgate rules for fencing and health standards for
29 Russian and European wild boar and wild-caught swine held
30 alive on private land. Any person holding Russian or

31 European wild boar or wild-caught swine on private land
32 shall annually submit an application to the department for a
33 permit. Any applicant that successfully meets the
34 requirements under this section as determined by the
35 department and pays an application fee shall be issued a
36 permit.] **Any person violating subsections 3 and 4 of this**
37 **section is guilty of a class A misdemeanor. Each violation**
38 **of these subsections shall be a separate offense.**

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

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

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

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

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

72 9. Any rule or portion of a rule, as that term is
73 defined in section 536.010, that is created under the
74 authority delegated in this section shall become effective
75 only if it complies with and is subject to all of the
76 provisions of chapter 536 and, if applicable, section
77 536.028. This section and chapter 536 are nonseverable and
78 if any of the powers vested with the general assembly
79 pursuant to chapter 536 to review, to delay the effective
80 date, or to disapprove and annul a rule are subsequently
81 held unconstitutional, then the grant of rulemaking
82 authority and any rule proposed or adopted after August 28,
83 2010, shall be invalid and void.

84 10.] Nothing in this section shall be construed to
85 apply to **the accidental escape of** domestic swine.

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