

HCS SB 824 -- ANIMALS AND AGRICULTURE

SPONSOR: Clemens (Brown, 149)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Emerging Issues in Animal Agriculture by a vote of 9 to 3.

This substitute changes the laws regarding animals and agriculture.

DISEASED ANIMALS (Sections 267.565 and 267.600, RSMo)

The substitute specifies that any animal or bird under investigation by the State Veterinarian for carrying a toxin must not be removed from the premises until certain specified actions have taken place. The State Veterinarian will be authorized to choose the method of eradication of the toxin and may implement a holding period restricting the movement of any animal or bird under investigation for the presence of a toxin. Once an investigation is completed, the animal or bird must be released from the holding period or must be permanently quarantined by the State Veterinarian or his or her representative.

MISSOURI ANIMAL CARE ADVISORY COMMITTEE (Section 267.810)

The Missouri Animal Care Advisory Committee is established within the Department of Agriculture to review and make recommendations on the welfare of poultry, livestock, and licensed dog breeding facilities in this state. The 19-member committee will include the chairs of the Senate Agriculture Committee and the House of Representatives Agriculture Committee as nonvoting members.

The committee must review the animal care practices related to poultry, livestock, and licensed dog breeding facilities and, when necessary, make recommendations to the General Assembly. When reviewing these practices, the committee must consider:

- (1) The health and husbandry of poultry, livestock, and dogs at licensed breeding facilities;
- (2) Generally accepted farm management practices;
- (3) Generally accepted veterinary standards and practices;
- (4) The economic impact on poultry and livestock farmers, licensed dog breeders, consumers, and the affected sector as a whole; and
- (5) Species specific animal care guidelines established by the respective national poultry, livestock, and licensed dog breeders

organizations.

The committee must review national species specific animal care guidelines once every five years.

WILD AND FERAL SWINE (Sections 270.260, 270.270, and 270.400)

The substitute changes the laws regarding wild or feral swine. The Director of the Department of Agriculture must establish rules regarding the fencing and health standards for Russian and European wild boars or wild-caught swine held alive on private land. Any person holding these swine on private land must annually obtain a permit from the department. The capture and possession of feral hogs on public land and the transport of live Russian and European wild boars or wild-caught swine through or on public land without a permit is prohibited. The transport of live Russian and European wild boars or wild-caught swine for any purpose other than to slaughter or to move to another farm requires a permit from the department unless the transporter is issued an exemption permit by the department. Any person in violation of these provisions will be guilty of a class A misdemeanor and may be assessed an administrative penalty of up to \$1,000 per violation.

Any person who recklessly or knowingly releases any swine on public or private land to live in a wild or feral state without adequate fencing will be guilty of a class A misdemeanor and will be subject to an administrative penalty of \$1,000 for each swine released for the first offense. Anyone who has previously pled guilty to or been found guilty of violating this provision on two separate occasions within 10 years of the first violation will be guilty of a class D felony and may be assessed an administrative penalty of up to \$1,000 per violation.

The Animal Health Fund is created which will consist of all fees and administrative penalties collected by the department under these provisions. Moneys appropriated from the fund must be used to administer these provisions.

These provisions do not apply to domestic swine.

LICENSURE AND REGULATION OF ANIMAL CARE FACILITIES (Sections 273.327 and 273.329)

The substitute changes the laws regarding the Animal Care Facilities Act. The substitute:

(1) Removes the exemption for animal shelters from the required annual licensure fee; and

(2) Prohibits the Department of Agriculture from retaining, contracting with, or otherwise utilizing the services of the personnel of any nonprofit organization for the purpose of inspecting or licensing a shelter, pound, kennel, breeder, pet shop, or any animal care facility subject to the provisions of the act.

NONPROFIT COOPERATIVE MARKETING ASSOCIATIONS (Section 274.180)

The substitute specifies that each nonprofit cooperative marketing association must pay a \$10 annual fee in lieu of all franchise or license or corporation or other taxes, taxes, state sales taxes, or charges upon reserves held by it members.

BLASTING SAFETY (Sections 319.306 and 319.321)

Individuals using explosives along with a well screen cleaning device for the purpose of unblocking clogged agricultural irrigation well screens located within the Southeast Missouri Regional Water District are added to the list of individuals who are exempt from the requirement to obtain a blaster's license.

PRIVATE NUISANCE DAMAGES (Sections 537.296)

The allowable amount of damages for a private nuisance is limited as follows:

(1) If the nuisance is permanent, compensatory damages must be measured by the reduction in the fair market value of the claimant's property but may not exceed the fair market value of the property;

(2) If the nuisance is temporary, compensatory damages must be measured by the diminution in the fair rental value of the property which resulted from the nuisance; and

(3) No damages will be awarded for annoyance, discomfort, sickness, emotional distress, or similar claims for a private nuisance.

If the claim for injury or damages to a person is asserted in the same proceeding as a claim for damage to the claimant's property caused by a private nuisance, liability for the injury or damage must be determined on the basis of applicable principles of tort law independent of whether the defendant's use of the property is found to constitute a nuisance.

AGRITOURISM PROMOTION ACT (Sections 537.850 - 537.862)

The Agritourism Promotion Act is established which allows for the

registration of any person who is engaged in a business which provides agritourism activities in Missouri. The substitute:

(1) Defines "agritourism activity" as any activity which allows the general public for recreational, entertainment, or educational purposes to view or enjoy rural activities including, but not limited to, farming and ranching activities or historic, cultural, or natural attractions;

(2) Defines "inherent risks of a registered agritourism activity" as dangers or conditions which are an integral part of an agritourism activity including the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others;

(3) Allows any person to register his or her agritourism activity with the Director of the Department of Agriculture. The registration must contain a description of the agritourism activity he or she intends to conduct and the location where the activity will be conducted;

(4) Specifies that the registration is for a period of two years and a fee of up to \$100 may be imposed on an applicant to cover the actual administrative costs associated with the registration;

(5) Requires the department to maintain and make available to the public a list of all registered agritourism operators, the registered agritourism activities conducted by each operator, and the registered agritourism location;

(6) Requires the department to promote and publicize registered agritourism operators, activities, and locations by promoting and encouraging tourism;

(7) Requires every registered agritourism location to post and maintain signage which contains a specific warning notice that there is no liability for certain injuries or the death of a participant in a registered agritourism activity;

(8) Specifies that any participant is assuming certain inherent risks when participating in an agritourism activity;

(9) Specifies that a registered agritourism operator is not liable for an injury to or the death of a participant resulting from the inherent risks of agritourism activities if the warning is posted as required unless the injury to the participant was by willful or wanton conduct or the operator failed to make dangerous conditions known to a participant and the condition resulted in an injury;

(10) Specifies that the operator has an affirmative defense to liability if the injured person deliberately disregarded conspicuously posted signs, verbal instructions, or other warnings regarding safety measures during the activity or if any equipment, animals, or appliances used by the injured person during the activity were used in a manner or for a purpose other than that for which a reasonable person should have known they were intended; and

(11) Creates the Agritourism Fee Fund consisting of registration fees and moneys appropriated to the fund to be used solely for the administration of the provisions of the act.

The substitute contains an emergency clause for the provisions regarding nonprofit cooperative marketing associations.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$98,600 in FY 2011, \$95,000 in FY 2012, and \$95,000 in FY 2013. Estimated Income on Other State Funds of Unknown in FY 2011, FY 2012, and FY 2013.

PROPONENTS: Supporters say that the State Veterinarian needs the authority to hold an animal that may have ingested a toxin to identify the toxin ingested and to determine the appropriate treatment or protocol regarding the disposition of the animal.

Testifying for the bill were Senator Clemens; Department of Agriculture; and Missouri Veterinary Medical Association.

OPPONENTS: There was no opposition voiced to the committee.