

SECOND REGULAR SESSION

HOUSE BILL NO. 1781

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FITZWATER (144).

5198H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 270.170, 270.270, 270.400, RSMo, section 270.260 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 270.260 as enacted by senate bill no. 795, ninety-fifth general assembly, second regular session, and to enact in lieu thereof four new sections relating to feral hogs, with penalty provisions.

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

Section A. Sections 270.170, 270.270, 270.400, RSMo, section 270.260 as enacted by
2 senate bill no. 491, ninety-seventh general assembly, second regular session, and section 270.260
3 as enacted by senate bill no. 795, ninety-fifth general assembly, second regular session, are
4 repealed and four new sections enacted in lieu thereof, to be known as sections 270.170,
5 270.260, 270.270, and 270.400, to read as follows:

270.170. 1. If any swine or sheep shall be found running at large, contrary to the
2 provisions of this chapter, it shall be lawful for any person on whose premises said swine or
3 sheep shall be found to restrain the same forthwith, and give the owner, if known, notice in
4 writing that such person has restrained said swine or sheep, and the amount of damages such
5 person claims in the premises, and requiring the owner to take said swine or sheep away and pay
6 such damages; and such owner shall pay such person a reasonable sum for taking up, feeding and
7 caring for the same, and the actual damages done by said swine or sheep. If such owner fails to
8 comply with the provisions of this section within three days after receiving such notice, or if the
9 owner of such swine or sheep be unknown, such swine or sheep shall be disposed of in the
10 manner provided for in section 270.180.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 2. Any swine not conspicuously identified by ear tags or other forms of identification
12 that were born in the wild or that lived outside of captivity for a sufficient length of time to be
13 considered wild by nature by hiding from humans or being nocturnal shall be considered feral
14 hogs. [Any person may take or kill such feral hogs on such person's own property] **A**
15 **landowner, landowner's agent, or any person with written permission from a landowner**
16 **may take or kill such feral hogs on such landowner's own property.**

 270.260. 1. Any person who recklessly or knowingly releases any swine to live in a wild
2 or feral state upon any public land or private land not completely enclosed by a fence capable of
3 containing such animals is guilty of a class A misdemeanor **and is punishable upon conviction**
4 **by a fine of one thousand dollars for the first offense, and a fine of ten thousand dollars for**
5 **the second and any subsequent offense. Upon conviction for a first offense, such person**
6 **shall also forfeit any hunting, fishing, or trapping permits currently held and shall not have**
7 **the privilege of obtaining any hunting, fishing, or trapping permits from the department**
8 **of conservation until the expiration of three years from conviction of such offense. Upon**
9 **conviction of a second offense, such person shall permanently forfeit any hunting, fishing,**
10 **or trapping permits currently held and shall not have the privilege of obtaining any**
11 **subsequent hunting, fishing, or trapping permits from the department of conservation.**
12 Each swine so released shall be a separate offense.

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

17 3. Nothing in this section shall be construed to criminalize the accidental escape of
18 domestic swine.

 270.260. 1. Any person who recklessly or knowingly releases any swine to live in a wild
2 or feral state upon any public land or private land not completely enclosed by a fence capable of
3 containing such animals is guilty of a class A misdemeanor **and is punishable upon conviction**
4 **by a fine of one thousand dollars for the first offense, and a fine of ten thousand dollars for**
5 **the second and any subsequent offense. Upon conviction for a first offense, such person**
6 **shall also forfeit any hunting, fishing, or trapping permits currently held and shall not have**
7 **the privilege of obtaining any hunting, fishing, or trapping permits from the department**
8 **of conservation until the expiration of three years from conviction of such offense. Upon**
9 **conviction of a second offense, such person shall permanently forfeit any hunting, fishing,**
10 **or trapping permits currently held and shall not have the privilege of obtaining any**
11 **subsequent hunting, fishing, or trapping permits from the department of conservation.**
12 Each swine so released shall be a separate offense.

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

17 3. Nothing in this section shall be construed to criminalize the accidental escape of
18 domestic swine.

 270.270. 1. Any person possessing or transporting live Russian or European wild boar
2 or wild-caught swine on or through public land [without a Missouri department of agriculture
3 permit] is guilty of a class A misdemeanor **and is punishable upon conviction by a fine of one**
4 **thousand dollars for the first offense, and a fine of ten thousand dollars for the second and**
5 **any subsequent offense. Upon conviction for a first offense, such person shall also forfeit**
6 **any hunting, fishing, or trapping permits currently held and shall not have the privilege**
7 **of obtaining any hunting, fishing, or trapping permits from the department of conservation**
8 **until the expiration of three years from conviction of such offense. Upon conviction of a**
9 **second offense, such person shall permanently forfeit any hunting, fishing, or trapping**
10 **permits currently held and shall not have the privilege of obtaining any subsequent**
11 **hunting, fishing, or trapping permits from the department of conservation.** Each violation
12 of this subsection shall be a separate offense.

13 2. Any law enforcement officer, any agent of the conservation commission, or the state
14 veterinarian is authorized to enforce the provisions of this section, section 270.260, and section
15 270.400.

 270.400. 1. For purposes of this section, the term "feral hog" means any hog, including
2 Russian and European wild boar, that is not conspicuously identified by ear tags or other forms
3 of identification and is roaming freely upon public or private lands without the landowner's
4 permission.

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

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

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

14 5. [The director of the department of agriculture shall promulgate rules for fencing and
15 health standards for Russian and European wild boar and wild-caught swine held alive on private

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

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

24 7.] (1) There is hereby created in the state treasury the "Animal Health Fund", which
25 shall consist of [all fees and] administrative penalties collected by the department of agriculture
26 under this section and section 270.260. The state treasurer shall be custodian of the fund. In
27 accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements.
28 Upon appropriation, moneys in the fund shall be used for the administration of this section and
29 section 270.260.

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

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

35 [8.] 6. Any person who violates subsection 2 of section 270.260 may, in addition to the
36 penalty imposed under section 270.260, be assessed an administrative penalty of up to one
37 thousand dollars per violation. Any person who is assessed an administrative penalty under this
38 section shall be notified in writing of the right to appeal. Such person may request a hearing
39 before the director of the department of agriculture. Such request shall be made in writing no
40 later than thirty days after the date on which the person was notified of the violation of section
41 270.260.

42 [9.] 7. **The director of the department of agriculture may promulgate rules for the**
43 **enforcement of this section.** Any rule or portion of a rule, as that term is defined in section
44 536.010, that is created under the authority delegated in this section shall become effective only
45 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
46 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
47 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
48 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
49 and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

50 [10.] 8. Nothing in this section shall be construed to apply to domestic swine.

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