

SECOND REGULAR SESSION

# HOUSE BILL NO. 1873

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE REIBOLDT.

5433H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 270.170, 270.270, and 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 swine, with penalty provisions.

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

Section A. Sections 270.170, 270.270, and 270.400, RSMo, section 270.260 as enacted  
2 by senate bill no. 491, ninety-seventh general assembly, second regular session, and section  
3 270.260 as enacted by senate bill no. 795, ninety-fifth general assembly, second regular session  
4 are repealed and four new sections enacted in lieu thereof, to be known as sections 270.170,  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 **hog or** swine not conspicuously identified by ear tags or other forms of  
12 identification [that were born in the wild or] that [lived] **lives** outside of captivity for a sufficient  
13 length of time to be considered wild by nature by hiding from humans or being nocturnal **and**  
14 **that is roaming freely upon public or private land without the landowner's permission** shall  
15 be considered feral [hogs] **swine for the purposes of this chapter**. Any person may take or kill  
16 such feral [hogs] **swine** on such person's own property. **Any person except a landowner,**  
17 **landowner's agent, or any person with written permission from a landowner who takes or**  
18 **kills such feral swine is guilty of a class A misdemeanor.**

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

          2. Every person who has previously been found guilty of violating the provisions of this  
6 section, committed on [two] **a separate [occasions] occasion** where such offense occurred within  
7 ten years of the date of the occurrence of the present offense and who subsequently is found  
8 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  
10 domestic swine.

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

          2. Every person who has previously pled guilty to or been found guilty of violating the  
6 provisions of this section, committed on [two] **a separate [occasions] occasion** where such  
7 offense occurred within ten years of the date of the occurrence of the present offense and who  
8 subsequently pleads guilty to or is found guilty of violating this section shall be guilty of a class  
9 D felony.

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

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

          2. Any law enforcement officer, any agent of the conservation commission, or the state  
6 veterinarian is authorized to enforce the provisions of this section, section 270.260, and section  
7 270.400.

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] **swine** roaming freely upon such person's land and  
6 shall not be liable to the owner of the [hog] **swine** for the loss of the [hog] **swine**.

7 [3.] 2. Any person may take or kill a feral [hog] **swine** on public land or private land with  
8 the consent of the landowner; except that, during the firearms deer and turkey hunting season the  
9 regulations of the Missouri wildlife code shall apply. Such person shall not be liable to the  
10 owner of the [hog] **swine** for the loss of such [hog] **swine**.

11 [4.] 3. 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] **swine** with the use of an artificial light. **Any person who violates this**  
14 **subsection shall be guilty of a class A misdemeanor.**

15 [5. The director of the department of agriculture shall promulgate rules for fencing and  
16 health standards for Russian and European wild boar and wild-caught swine held alive on private  
17 land. Any person holding Russian or European wild boar or wild-caught swine on private land  
18 shall annually submit an application to the department for a permit. Any applicant that  
19 successfully meets the requirements under this section as determined by the department and pays  
20 an application fee shall be issued a permit.

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

25 7.] 4. (1) There is hereby created in the state treasury the "Animal Health Fund", which  
26 shall consist of all fees and administrative penalties collected by the department of agriculture  
27 under this section and section 270.260. The state treasurer shall be custodian of the fund. In  
28 accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements.  
29 Upon appropriation, moneys in the fund shall be used for the administration of this section and  
30 section 270.260.

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

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

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37 [8.] 5. Any person who violates subsection 2 of section 270.260 may, in addition to the  
38 penalty imposed under section 270.260, be assessed an administrative penalty of up to one  
39 thousand dollars per violation. Any person who is assessed an administrative penalty under this  
40 section shall be notified in writing of the right to appeal. Such person may request a hearing  
41 before the director of the department of agriculture. Such request shall be made in writing no  
42 later than thirty days after the date on which the person was notified of the violation of section  
43 270.260.

44 [9.] 6. **The director of the department of agriculture may promulgate rules for the**  
45 **enforcement of this section.** Any rule or portion of a rule, as that term is defined in section  
46 536.010, that is created under the authority delegated in this section shall become effective only  
47 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
48 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
49 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove  
50 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority  
51 and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

52 [10.] 7. Nothing in this section shall be construed to apply to domestic swine.

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