

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 369**  
**101ST GENERAL ASSEMBLY**

0855S.04T

2021

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**AN ACT**

To repeal sections 270.170, 270.180, 270.260, 270.270, 270.400, 316.250, 537.346, 537.347, and 537.348, RSMo, and to enact in lieu thereof thirteen new sections relating to land management, 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Section A. Sections 270.170, 270.180, 270.260, 270.270, 270.400, 316.250, 537.346, 537.347, and 537.348, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 253.387, 270.170, 270.180, 270.260, 270.270, 270.400, 316.250, 537.328, 537.346, 537.347, 537.348, 537.354, and 542.525, to read as follows:

**253.387. 1. As provided in Article III, Section 48 of the Constitution of Missouri, the department of natural resources is hereby authorized to acquire by purchase, from funds appropriated or otherwise available to the department, or to acquire by gift, if such gift is unencumbered by any lien or mortgage, the Antioch Cemetery, a historic cemetery wherein is interred freed African-American slaves and their descendants, for the purpose of historic preservation and to inform and educate future generations to the contribution and sacrifice of freed African-American slaves and descendants to their country and to preserve for posterity this historic site located at 2300 Antioch Road, Clinton, Missouri, to be operated and maintained by the division of state parks within the department of natural resources. The cemetery is hereby designated as a state historic site.**

**2. In acquiring this cemetery, which may include both real and personal property, the department shall make adequate provisions for the proper care, maintenance, and**

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.

13 safekeeping of the property. The department may contract for maintenance of the  
14 property.

15 3. The attorney general shall approve the form of the instrument of conveyance.

16 4. Upon acquisition of the property, the department shall allow for burials to  
17 continue in the same manner as they had been conducted prior to acquisition until all  
18 burial plots have been purchased. The department shall charge no more than one hundred  
19 dollars per burial credited to the Antioch cemetery fund established in this section and  
20 shall not be liable for any additional costs associated with any burial. The department  
21 shall not be responsible for active burials.

22 5. (1) There is hereby created in the state treasury the "Antioch Cemetery Fund",  
23 which shall consist of gifts, bequests, and moneys donated or collected under this section.  
24 The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and  
25 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund  
26 and, upon appropriation, moneys in the fund shall be used solely for the administration of  
27 this section.

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

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

270.170. [1.] If any **domestic** swine [~~or sheep~~] shall be found running at large, contrary  
2 to the provisions of this chapter, it shall be lawful for any person on whose premises said swine  
3 [~~or 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  
6 pay such damages; and such owner shall pay such person a reasonable sum for taking up, feeding  
7 and caring for the same, and the actual damages done by said swine [~~or sheep~~]. If such owner  
8 fails to comply with the provisions of this section within three days after receiving such notice,  
9 or if the owner of such swine [~~or sheep~~] be unknown, such swine [~~or sheep~~] shall be disposed  
10 of in the manner provided for in section 270.180.

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.]~~

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

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

270.260. 1. Any person who recklessly or knowingly releases any swine to live in a wild or feral state upon any public land or private land not completely enclosed by a fence capable of containing such animals is guilty of a class A misdemeanor **and may be sentenced to pay a fine up to two thousand dollars**. Each swine so released shall be a separate offense.

2. Every person who has previously been found guilty of violating the provisions of this section, committed on [~~two~~] a separate [~~occasions~~] **occasion** where such offense occurred within ten years of the date of the occurrence of the present offense and who subsequently is found guilty of violating this section shall be guilty of a class E felony. **Each swine so released shall be a separate offense.**

3. Nothing in this section shall be construed to criminalize the accidental escape of domestic swine **or the release into a facility under a department of conservation permit or to hinder the ability to transport domestic swine to market or slaughter.**

4. **Nothing in this section shall be construed to prohibit the right of an individual to farm or raise livestock.**

270.270. 1. (1) Any person possessing or transporting live [~~Russian or European wild bear or wild-caught swine~~] **feral swine, as defined in section 270.400**, on or through public land [~~without a Missouri department of agriculture permit~~] is guilty of a class A misdemeanor.

(2) **Every person who has previously been found guilty of violating the provisions of this section, committed on a separate occasion where such offense occurred within ten years of the date of the occurrence of the present offense and who subsequently is found guilty of violating this section shall be guilty of a class E felony.**

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

9           **(4) Nothing in this section shall apply to the possession of the offspring of domestic**  
10 **swine that are unintentionally sired by feral swine, as defined in section 270.400, and are**  
11 **reported to the state veterinarian within thirty days of birth and within fifteen days before**  
12 **slaughter.**

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 following terms mean:

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

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

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

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

16           4. No person except a landowner or such landowner's agent on such landowner's property  
17 shall take, attempt to take, or kill a feral [hog] swine with the use of an artificial light **or thermal**  
18 **imagery.**

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

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

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

35 ~~(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys~~  
36 ~~remaining in the fund at the end of the biennium shall not revert to the credit of the general~~  
37 ~~revenue fund.~~

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

40 ~~8. Any person who violates subsection 2 of section 270.260 may, in addition to the~~  
41 ~~penalty imposed under section 270.260, be assessed an administrative penalty of up to one~~  
42 ~~thousand dollars per violation. Any person who is assessed an administrative penalty under this~~  
43 ~~section shall be notified in writing of the right to appeal. Such person may request a hearing~~  
44 ~~before the director of the department of agriculture. Such request shall be made in writing no~~  
45 ~~later than thirty days after the date on which the person was notified of the violation of section~~  
46 ~~270.260.~~

47 ~~9. Any rule or portion of a rule, as that term is defined in section 536.010, that is created~~  
48 ~~under the authority delegated in this section shall become effective only if it complies with and~~  
49 ~~is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section~~  
50 ~~and chapter 536 are nonseverable and if any of the powers vested with the general assembly~~  
51 ~~pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule~~  
52 ~~are subsequently held unconstitutional, then the grant of rulemaking authority and any rule~~  
53 ~~proposed or adopted after August 28, 2010, shall be invalid and void.~~

54 ~~10.] Any person who violates subsection 3 or 4 of this section is guilty of a class A~~  
55 ~~misdemeanor. Each violation of subsection 3 or 4 of this section shall be a separate offense.~~

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

316.250. 1. This section shall be known and may be cited as "Ethan's Law".

2 2. Every owner of a for-profit private swimming pool or facility shall maintain adequate  
3 insurance coverage in an amount of not less than one million dollars per occurrence for any  
4 liability incurred in the event of injury or death of a patron to such swimming pool or facility,  
5 including any liability incurred under paragraph [(b)] (a) of subdivision (3) of section 537.348.  
6 Such owners shall be required to register with the department of public safety and provide proof

7 of such insurance coverage at the time of registration and when requested by any state or local  
8 governmental agency responsible for the enforcement of this section.

9 3. As used in this section, the following terms shall mean:

10 (1) "Owner", the owner of the land, including but not limited to a lessee, tenant,  
11 mortgagee in possession and the person in charge of the land on which a swimming pool is  
12 located;

13 (2) "Swimming pool or facility", any for-profit privately owned tank or body of water  
14 with a capacity of less than five hundred patrons which charges a fee per admission and is used  
15 and maintained for swimming or bathing purposes which has a maximum depth of greater than  
16 twenty-four inches. "Swimming pool or facility" shall include, but not be limited to, a swimming  
17 pool on lands in connection with the operation of any type of for-profit privately owned  
18 amusement or recreational park. "Swimming pool or facility" does not include a swimming pool  
19 or facility owned by a hotel, motel, public or governmental body, agency, or authority, a naturally  
20 occurring body of water or stream, or a body of water established by a person or persons and  
21 used for watering livestock, irrigation, or storm water management.

22 4. Any owner who violates the provisions of this section shall not be permitted to remain  
23 in operation until such owner meets the requirements of this section. Any such owner who  
24 allows operation of a swimming pool or facility in violation of this section shall be subject to a  
25 civil penalty of two hundred fifty dollars per day for each day of continued violation up to a  
26 maximum of ten thousand dollars and may be subject to liability for the costs incurred by the  
27 state or a political subdivision for enforcing the provisions of this section. In a separate court  
28 action, the attorney general may seek reimbursement on behalf of the state and a political  
29 subdivision may seek reimbursement on behalf of the political subdivision for costs incurred as  
30 a result of enforcing the provisions of this section. For purposes of this section, "each day of the  
31 violation" means each day that the swimming pool is operational and open for business and  
32 remains in violation of this section. It shall not include days that the swimming pool is not  
33 operational and open for business.

34 5. In addition, any owner who intentionally violates the provisions of this section is  
35 guilty of a class A misdemeanor. It shall be the duty of each prosecuting attorney and circuit  
36 attorney in their respective jurisdictions to commence any criminal actions under this section,  
37 and the attorney general shall have concurrent original jurisdiction to commence such criminal  
38 actions throughout the state where such violations have occurred.

39 6. The department of public safety shall implement and, with the assistance of local law  
40 enforcement agencies, enforce the provisions of this section.

41 7. An insurance company providing insurance coverage under this section shall notify  
42 the department of public safety if any owner of a swimming pool or facility as defined in this

43 section terminates, cancels, or fails to renew such coverage. The department may utilize local  
44 law enforcement agencies to enforce the provisions of this section.

**537.328. 1. As used in this section, the following terms mean:**

- 2           **(1) "Camping", all aspects of visiting, staying at, using, and leaving a private**  
3 **campground, including lodging of all types;**
- 4           **(2) "Inherent risks of camping", those dangers, hazards, or conditions that are an**  
5 **integral part of camping including, but not limited to, the following:**
- 6           **(a) Features of the natural world, such as trees, tree stumps, naturally occurring**  
7 **infectious agents, roots, brush, rocks, mud, sand, standing and moving water, and soil;**
- 8           **(b) Uneven and unpredictable terrain;**
- 9           **(c) Natural bodies of water and accessories permitting the use of natural bodies of**  
10 **water, including piers, docks, swimming and aquatic sports, or recreation facilities or**  
11 **areas;**
- 12           **(d) A lack of lighting, including lighting at campsites;**
- 13           **(e) Campfires contained in or outside a fire pit or an enclosure provided by the**  
14 **private campground, bonfires, grass or brush fires, wildfires, and forest fires;**
- 15           **(f) Weather and weather-related events;**
- 16           **(g) Insects, birds, and other wildlife;**
- 17           **(h) Animals of other campers or visitors that cause injury, unless the private**  
18 **campground owner or an employee or officer of the private campground owner has**  
19 **accepted responsibility for care of the animal;**
- 20           **(i) A violation of safety rules or a disregard for signs or other methods of**  
21 **communicating warnings;**
- 22           **(j) Another camper or visitor at the private campground acting in a negligent**  
23 **manner, if the private campground owner or an employee or officer of the private**  
24 **campground owner is not involved;**
- 25           **(k) Actions by a camper or visitor that exceed his or her physical limitations or**  
26 **abilities;**
- 27           **(l) Actions by a camper or visitor involving climbing, rappeling, caving,**  
28 **mountaineering, or any other related activity;**
- 29           **(m) Damage caused by fireworks from a camper, visitor, or offsite entity not**  
30 **authorized by the private campground owner or employee or officer of a private**  
31 **campground owner; and**
- 32           **(n) Any person coming onto the campsite not reported to the private campground**  
33 **owner or an employee or officer of the private campground owner;**





69 **a person or any property damage resulting from the inherent risks of**  
 70 **camping under the Revised Statutes of Missouri."**

537.346. 1. Except as provided in sections 537.345 to 537.348, and section 537.351, an  
 2 owner of land owes no duty of care to any person who enters on the land without charge to keep  
 3 his **or her** land safe for recreational use or to give any general or specific warning with respect  
 4 to any natural or artificial condition, structure, or personal property thereon.

5 **2. No owner of land shall be liable for injuries of a trespasser occurring on his or**  
 6 **her residential area or noncovered land, as those terms are defined in section 537.348, if**  
 7 **such area or land is adjacent to a park, as defined in section 253.010, or a trail, as defined**  
 8 **in section 258.100, if such trespasser is accessing or accessed the owner's property from the**  
 9 **adjacent park or trail.**

537.347. Except as provided in sections 537.345 to 537.348, an owner of land who  
 2 directly or indirectly invites or permits any person to enter his or her land for recreational use,  
 3 without charge, whether or not the land is posted, or who directly or indirectly invites or permits  
 4 any person to enter his or her land for recreational use in compliance with a state-administered  
 5 recreational access **or wildlife management** program, does not thereby:

6 (1) Extend any assurance that the premises are safe for any purpose;

7 (2) Confer upon such person the status of an invitee, or any other status requiring of the  
 8 owner a duty of special or reasonable care;

9 (3) Assume responsibility for or incur liability for any injury to such person or property  
 10 caused by any natural or artificial condition, structure or personal property on the premises; or

11 (4) Assume responsibility for any damage or injury to any other person or property  
 12 caused by an act or omission of such person.

537.348. Nothing in this act shall be construed to create liability, but it does not limit  
 2 liability that otherwise would be incurred by those who use the land of others, or by owners of  
 3 land for:

4 (1) Malicious or grossly negligent failure to guard or warn against a dangerous condition,  
 5 structure, personal property which the owner knew or should have known to be dangerous, or  
 6 negligent failure to guard or warn against an ultrahazardous condition which the owner knew or  
 7 should have known to be dangerous;

8 (2) Injury suffered by a person who has paid a charge for entry to the land; or

9 (3) Injuries occurring on or in:

10 (a) ~~[Any land within the corporate boundaries of any city, municipality, town, or village~~  
 11 ~~in this state;~~

12 ~~——(b)]~~ Any swimming pool. "Swimming pool" means a pool or tank, especially an  
 13 artificial pool or tank, intended and adapted for swimming and held out as a swimming pool;

14           ~~[(e)]~~ (b) Any residential area. "Residential area" as used ~~[herein]~~ **in this section** means  
15 ~~[a tract of land of one acre or less predominately used for residential purposes, or a tract of land~~  
16 ~~of any size used for multifamily residential services]~~ **land used for residential purposes in an**  
17 **area in which housing predominates, as opposed to industrial and commercial areas, and**  
18 **any land used for farming or agricultural purposes; or**

19           ~~[(d)]~~ (c) Any noncovered land. "Noncovered land" as used ~~[herein]~~ **in this section**  
20 means any portion of any land, the surface of which portion is actually used primarily for  
21 commercial, industrial, mining or manufacturing purposes; provided, however, that use of any  
22 portion of any land primarily for agricultural, grazing, forestry, conservation, natural area,  
23 owner's recreation or similar or related uses or purposes shall not under any circumstances be  
24 deemed to be use of such portion for commercial, industrial, mining or manufacturing purposes.

**537.354. 1. This section shall be known and may be cited as the "Prescribed**  
2 **Burning Act".**

3           **2. As used in this section, the following terms mean:**

4           **(1) "Agent of an owner of land", any person who has permission from a landowner**  
5 **to participate in a prescribed burning on the landowner's property;**

6           **(2) "Certified prescribed burn manager", a person who successfully completes a**  
7 **prescribed burn certification program approved by the Missouri department of**  
8 **conservation;**

9           **(3) "Prescribed burn plan", a written plan that is in a format approved by the**  
10 **Missouri department of conservation establishing the conditions and methods to perform**  
11 **a prescribed burning;**

12           **(4) "Prescribed burning", the planned and controlled application of fire to existing**  
13 **vegetative fuels in order to accomplish one or more specific land management objectives**  
14 **including, but not limited to, vegetative fuel reduction, silvicultural treatments, wildlife**  
15 **habitat improvement, and management of grassland and other plant communities.**

16           **3. No owner of land or agent of an owner of land shall be liable for damage, injury,**  
17 **or loss caused by a prescribed burning or the resulting smoke of a prescribed burning**  
18 **unless the owner of land or agent of an owner of land is proven to be negligent.**

19           **4. No certified prescribed burn manager shall be liable for damage, injury, or loss**  
20 **caused by a prescribed burning or the resulting smoke of a prescribed burning conducted**  
21 **under a prescribed burn plan unless the certified prescribed burn manager is proven to**  
22 **be negligent.**

23           **5. The provisions of subsections 3 and 4 of this section shall not apply to any**  
24 **damage, injury, or loss caused by a prescribed burning or the resulting smoke from a**  
25 **prescribed burning to any of the following:**

26           **(1) Property, lands, rights-of-way, or easements owned by a public utility or**  
27 **municipally owned utility;**

28           **(2) Property, lands, rights-of-way, or easements owned by a rural electric**  
29 **cooperative organized or operating under the provisions of chapter 394, or any corporation**  
30 **organized on a nonprofit or cooperative basis as described in subsection 1 of section**  
31 **394.200, or any electrical corporation operating under a cooperative business plan as**  
32 **described in subsection 2 of section 393.110; or**

33           **(3) Property, lands, rights-of-way, or easements appurtenant or incidental to lands**  
34 **controlled by any railroad.**

**542.525. No employee of a state agency or a political subdivision of the state shall**  
2 **place any surveillance camera or game camera on private property without first obtaining**  
3 **consent from the landowner or his or her designee, a search warrant as required by Article**  
4 **I, Section 15 of the Constitution of Missouri or the fourth and fourteenth amendments of**  
5 **the Constitution of the United States, or permission from the highest ranking law**  
6 **enforcement chief or officer of the agency or political subdivision, provided that permission**  
7 **of the highest ranking law enforcement chief or officer of the agency or political**  
8 **subdivision is valid only when the camera is facing a location that is open to public access**  
9 **or use and the camera is located within one hundred feet of the intended surveillance**  
10 **location.**

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