

SENATE SUBSTITUTE
 FOR
 SENATE COMMITTEE SUBSTITUTE
 FOR
 SENATE BILL NO. 301
 AN ACT

To repeal sections 270.170, 270.180, 270.260, 270.270, 270.400, 316.250, 528.725, 537.346, and 537.348, RSMo, and to enact in lieu thereof eleven new sections relating to land management, with penalty provisions and an emergency clause for a certain section.

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,
 2 270.400, 316.250, 528.725, 537.346, and 537.348, RSMo, are
 3 repealed and eleven new sections enacted in lieu thereof, to be
 4 known as sections 270.170, 270.180, 270.260, 270.270, 270.400,
 5 316.250, 528.725, 537.346, 537.348, 537.354, and 542.525, to
 6 read as follows:

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

14 such notice, or if the owner of such swine [or sheep] be
15 unknown, such swine [or sheep] shall be disposed of in the
16 manner provided for in section 270.180.

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.]

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

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

23 for, the same shall be turned over to the school fund of the
24 county.

270.260. 1. (1) Before August 28, 2021, any person
2 who recklessly or knowingly releases any swine to live in a
3 wild or feral state upon any public land or private land not
4 completely enclosed by a fence capable of containing such
5 animals is guilty of a class A misdemeanor. Each swine so
6 released shall be a separate offense.

7 (2) Beginning on August 28, 2021, any person who
8 recklessly or knowingly releases any swine to live in a wild
9 or feral state upon any public land or private land is
10 guilty of a class E felony.

11 (3) Each swine so released shall be a separate offense.

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

18 3.] Nothing in this section shall be construed to
19 criminalize the accidental escape of domestic swine or the
20 release into a facility under a department of conservation
21 permit.

270.270. 1. (1) Before August 28, 2021, any person
2 possessing or transporting live Russian or European wild
3 boar or wild-caught swine on or through public land without
4 a Missouri department of agriculture permit is guilty of a
5 class A misdemeanor.

6 (2) Beginning on August 28, 2021, any person
7 possessing or transporting live feral swine, as defined in
8 section 270.400, is guilty of a class E felony.

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

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

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

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

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

28 5. [The director of the department of agriculture
29 shall promulgate rules for fencing and health standards for

30 Russian and European wild boar and wild-caught swine held
31 alive on private land. Any person holding Russian or
32 European wild boar or wild-caught swine on private land
33 shall annually submit an application to the department for a
34 permit. Any applicant that successfully meets the
35 requirements under this section as determined by the
36 department and pays an application fee shall be issued a
37 permit.

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

44 7. (1) There is hereby created in the state treasury
45 the "Animal Health Fund", which shall consist of all fees
46 and administrative penalties collected by the department of
47 agriculture under this section and section 270.260. The
48 state treasurer shall be custodian of the fund. In
49 accordance with sections 30.170 and 30.180, the state
50 treasurer may approve disbursements. Upon appropriation,
51 moneys in the fund shall be used for the administration of
52 this section and section 270.260.

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

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

61 8. Any person who violates subsection 2 of section
62 270.260 may, in addition to the penalty imposed under

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

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

83 10.] Any person who violates subsection 3 or 4 of this
84 section is guilty of a class A misdemeanor. Each violation
85 of subsection 3 or 4 of this section shall be a separate
86 offense.

87 6. Nothing in this section shall be construed to apply
88 to the accidental escape of domestic swine.

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

3 2. Every owner of a for-profit private swimming pool
4 or facility shall maintain adequate insurance coverage in an
5 amount of not less than one million dollars per occurrence
6 for any liability incurred in the event of injury or death
7 of a patron to such swimming pool or facility, including any

8 liability incurred under paragraph [(b)] (a) of subdivision
9 (3) of section 537.348. Such owners shall be required to
10 register with the department of public safety and provide
11 proof of such insurance coverage at the time of registration
12 and when requested by any state or local governmental agency
13 responsible for the enforcement of this section.

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

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

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

35 4. Any owner who violates the provisions of this
36 section shall not be permitted to remain in operation until
37 such owner meets the requirements of this section. Any such
38 owner who allows operation of a swimming pool or facility in
39 violation of this section shall be subject to a civil
40 penalty of two hundred fifty dollars per day for each day of

41 continued violation up to a maximum of ten thousand dollars
42 and may be subject to liability for the costs incurred by
43 the state or a political subdivision for enforcing the
44 provisions of this section. In a separate court action, the
45 attorney general may seek reimbursement on behalf of the
46 state and a political subdivision may seek reimbursement on
47 behalf of the political subdivision for costs incurred as a
48 result of enforcing the provisions of this section. For
49 purposes of this section, "each day of the violation" means
50 each day that the swimming pool is operational and open for
51 business and remains in violation of this section. It shall
52 not include days that the swimming pool is not operational
53 and open for business.

54 5. In addition, any owner who intentionally violates
55 the provisions of this section is guilty of a class A
56 misdemeanor. It shall be the duty of each prosecuting
57 attorney and circuit attorney in their respective
58 jurisdictions to commence any criminal actions under this
59 section, and the attorney general shall have concurrent
60 original jurisdiction to commence such criminal actions
61 throughout the state where such violations have occurred.

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

65 7. An insurance company providing insurance coverage
66 under this section shall notify the department of public
67 safety if any owner of a swimming pool or facility as
68 defined in this section terminates, cancels, or fails to
69 renew such coverage. The department may utilize local law
70 enforcement agencies to enforce the provisions of this
71 section.

528.725. 1. If any cotenant has requested partition
2 by sale, after the determination of value under section

3 528.720, the court shall send notice to the parties that any
4 cotenant, except a cotenant that requested partition by
5 sale, may buy all the interests of the cotenants that
6 requested partition by sale.

7 2. No later than forty-five days after the notice is
8 sent under subsection 1 of this section, any cotenant,
9 except a cotenant that requested partition by sale, may give
10 notice to the court that it elects to buy all the interests
11 of the cotenants that requested partition by sale.

12 3. The purchase price for each of the interests of a
13 cotenant that requested partition by sale is the value of
14 the entire parcel determined under section 528.720
15 multiplied by the cotenant's fractional ownership of the
16 entire parcel.

17 4. After expiration of the period in subsection 2 of
18 this section, the following rules shall apply:

19 (1) If only one cotenant elects to buy all the
20 interests of the cotenants that requested partition by sale,
21 the court shall notify all the parties of that fact;

22 (2) If more than one cotenant elects to buy all the
23 interests of the cotenants that requested partition by sale,
24 the court shall allocate the right to buy those interests
25 among the electing cotenants based on each electing
26 cotenant's existing fractional ownership of the entire
27 parcel divided by the total existing fractional ownership of
28 all cotenants electing to buy and send notice to all the
29 parties of that fact and of the price to be paid by each
30 electing cotenant;

31 (3) If no cotenant elects to buy all the interests of
32 the cotenants that requested partition by sale, the court
33 shall send notice to all the parties of that fact and
34 resolve the partition action under subsection 1 or 2 of
35 section 528.730.

36 5. If the court sends notice to the parties under
37 subdivision (1) or (2) of subsection 4 of this section, the
38 court shall set a date, no sooner than sixty days after the
39 date the notice was sent, by which electing cotenants shall
40 pay their apportioned price into the court. After this
41 date, the following rules shall apply:

42 (1) If all electing cotenants timely pay their
43 apportioned price into court, the court shall issue an order
44 reallocating all the interests of the cotenants and disburse
45 the amounts held by the court to the persons entitled to
46 them;

47 (2) If no electing cotenant timely pays its
48 apportioned price, the court shall resolve the partition
49 action under subsection 1 or 2 of section 528.730 as if the
50 interests of the cotenants that requested partition by sale
51 were not purchased; or

52 (3) If one or more but not all of the electing
53 cotenants fail to pay their apportioned price on time, the
54 court, on motion, shall give notice to the electing
55 cotenants that paid their apportioned price of the interest
56 remaining and the price for all that interest.

57 6. No later than twenty days after the court gives
58 notice under subdivision (3) of subsection 5 of this
59 section, any cotenant that paid may elect to purchase all of
60 the remaining interest by paying the entire price into the
61 court. After the twenty-day period, the following rules
62 shall apply:

63 (1) If only one cotenant pays the entire price for the
64 remaining interest, the court shall issue an order
65 reallocating the remaining interest to that cotenant. The
66 court shall promptly issue an order reallocating the
67 interests of all of the cotenants and disburse the amounts
68 held by the court to the persons entitled to such amounts;

69 (2) If no cotenant pays the entire price for the
70 remaining interest, the court shall resolve the partition
71 action under subsection 1 or 2 of section 528.730 as if the
72 interests of the cotenants that requested partition by sale
73 were not purchased; or

74 (3) If more than one cotenant pays the entire price
75 for the remaining interest, the court shall reapportion the
76 remaining interest among those paying cotenants based on
77 each paying cotenant's original fractional ownership of the
78 entire parcel divided by the total original fractional
79 ownership of all cotenants that paid the entire price for
80 the remaining interest. The court shall promptly issue an
81 order reallocating all of the cotenants' interests, disburse
82 the amounts held by the court to the persons entitled to
83 such amounts, and promptly refund any excess payment held by
84 the court.

85 7. No later than forty-five days after the court sends
86 notice to the parties under subsection 1 of this section,
87 any cotenant entitled to buy an interest under this section
88 may request the court to authorize the sale as part of the
89 pending action of the interests of cotenants named as
90 defendants and served with the complaint but that did not
91 appear in the action.

92 8. If the court receives a timely request under
93 subsection 7 of this section, the court, after hearing, may
94 deny the request or authorize the requested additional sale
95 on such terms as the court determines are fair and
96 reasonable, subject to the following limitations:

97 (1) A sale authorized under this subsection may occur
98 only after the purchase prices for all interests subject to
99 sale under subsections 1 to 6 of this section have been paid
100 into court and those interests have been reallocated among

101 the cotenants as provided in subsections 1 to 6 of this
102 section; and

103 (2) The purchase price for the interest of a
104 nonappearing cotenant is based on the court's determination
105 of value under section 528.720.

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

8 2. No owner of land shall be liable for injuries of a
9 trespasser occurring on his or her residential area or
10 noncovered land, as those terms are defined in section
11 537.348, if such area or land is adjacent to a park, as
12 defined in section 253.010, or a trail, as defined in
13 section 258.100, if such trespasser is accessing or accessed
14 the owner's property from the adjacent park or trail.

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

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

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

13 (3) Injuries occurring on or in:

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

16 (b)] Any swimming pool. "Swimming pool" means a pool
17 or tank, especially an artificial pool or tank, intended and
18 adapted for swimming and held out as a swimming pool;

19 [(c)] (b) Any residential area. "Residential area" as
20 used [herein] in this section means [a tract of land of one
21 acre or less predominately used for residential purposes, or
22 a tract of land of any size used for multifamily residential
23 services] land used for residential purposes in an area in
24 which housing predominates, as opposed to industrial and
25 commercial areas, and any land used for farming or
26 agricultural purposes; or

27 [(d)] (c) Any noncovered land. "Noncovered land" as
28 used [herein] in this section means any portion of any land,
29 the surface of which portion is actually used primarily for
30 commercial, industrial, mining or manufacturing purposes;
31 provided, however, that use of any portion of any land
32 primarily for agricultural, grazing, forestry, conservation,
33 natural area, owner's recreation or similar or related uses
34 or purposes shall not under any circumstances be deemed to
35 be use of such portion for commercial, industrial, mining or
36 manufacturing purposes.

537.354. 1. This section shall be known and may be
2 cited as the "Prescribed 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
5 permission from a landowner to participate in a prescribed
6 burning on the landowner's property;

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

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

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

20 3. Prescribed burning is a land management tool that
21 benefits the safety of the public, the environment, and the
22 economy of the state of Missouri.

23 4. No owner of land or agent of an owner of land shall
24 be liable for damage, injury, or loss caused by a prescribed
25 burning or the resulting smoke of a prescribed burning
26 conducted in accordance with a prescribed burn plan unless
27 the owner of land or agent of an owner of land is proven to
28 be negligent.

29 5. No certified prescribed burn manager shall be
30 liable for damage, injury, or loss caused by a prescribed
31 burning or the resulting smoke of a prescribed burning
32 conducted in accordance with a prescribed burn plan unless
33 the certified prescribed burn manager is proven to be
34 negligent.

35 6. The provisions of subsections 4 and 5 of this
36 section shall not apply to any of the following:

37 (1) Any property, land, right-of-way, or easement
38 owned by a public utility or a municipally-owned utility;

39 (2) Any property, land, right-of-way, or easement
40 owned by any rural electric cooperative organized or
41 operating pursuant to the provisions of chapter 394, any
42 corporation organized on a nonprofit or cooperative basis as

43 described in subsection 1 of section 394.200, or any
44 electrical corporation operating under a cooperative
45 business plan as described in subsection 2 of section
46 393.110; and

47 (3) Any property, land, right-of-way, or easement
48 appurtenant or incidental to lands controlled by any
49 railroad.

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

Section B. Because of the need to ensure the equitable
2 disposition of family property, the repeal and reenactment
3 of section 528.725 of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace,
5 and safety, and is hereby declared to be an emergency act
6 within the meaning of the constitution, and the repeal and
7 reenactment of section 528.725 of this act shall be in full
8 force and effect upon its passage and approval.