

SENATE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 369
AN ACT

To repeal sections 270.170, 270.180, 270.260, 270.270, 270.400, 537.346, and 537.347, RSMo, and to enact in lieu thereof ten new sections relating to land management, with penalty provisions.

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Section A. Sections 270.170, 270.180, 270.260, 270.270, 270.400, 537.346, and 537.347, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 253.387, 270.170, 270.180, 270.260, 270.270, 270.400, 537.346, 537.347, 537.354, and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.

16 2. In acquiring this cemetery, which may include both
17 real and personal property, the department shall make
18 adequate provisions for the proper care, maintenance, and
19 safekeeping of the property. The department may contract
20 for maintenance of the property.

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

23 4. Upon acquisition of the property, the department
24 shall allow for burials to continue in the same manner as
25 they had been conducted prior to acquisition until all
26 burial plots have been purchased. The department shall
27 charge no more than one hundred dollars per burial credited
28 to the Antioch cemetery fund established in this section and
29 shall not be liable for any additional costs associated with
30 any burial. The department shall not be responsible for
31 active burials.

32 5. (1) There is hereby created in the state treasury
33 the "Antioch Cemetery Fund", which shall consist of gifts,
34 bequests, and moneys donated or collected under this
35 section. The state treasurer shall be custodian of the
36 fund. In accordance with sections 30.170 and 30.180, the
37 state treasurer may approve disbursements. The fund shall
38 be a dedicated fund and, upon appropriation, moneys in the
39 fund shall be used solely for the administration of this
40 section.

41 (2) Notwithstanding the provisions of section 33.080
42 to the contrary, any moneys remaining in the fund at the end
43 of the biennium shall not revert to the credit of the
44 general revenue fund.

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

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.

[2. Any swine not conspicuously identified by ear tags
17 or other forms of identification that were born in the wild
18 or that lived outside of captivity for a sufficient length
19 of time to be considered wild by nature by hiding from
20 humans or being nocturnal shall be considered feral hogs.
21 Any person may take or kill such feral hogs on such person's
22 own property.]
23

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] a receipt therefor; which balance shall be
21 subject to the order of the owner of such swine [or sheep],
22 if called for within twelve months after the sale, but if
23 not called for, the same shall be turned over to the school
24 fund of the county.

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

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

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

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

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

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

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

14 (4) Nothing in this section shall apply to the
15 possession of the offspring of domestic swine that are
16 unintentionally sired by feral swine, as defined in section
17 270.400, and are reported to the state veterinarian within
18 thirty days of birth and within fifteen days before
19 slaughter.

20 2. Any law enforcement officer, any agent of the
21 conservation commission, or the state veterinarian is
22 authorized to enforce the provisions of this section,
23 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 or thermal imagery.

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.

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.

537.347. Except as provided in sections 537.345 to
2 537.348, an owner of land who directly or indirectly invites
3 or permits any person to enter his or her land for
4 recreational use, without charge, whether or not the land is

5 posted, or who directly or indirectly invites or permits any
6 person to enter his or her land for recreational use in
7 compliance with a state-administered recreational access or
8 wildlife management program, does not thereby:

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

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

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

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

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. No owner of land or agent of an owner of land shall
21 be liable for damage, injury, or loss caused by a prescribed
22 burning or the resulting smoke of a prescribed burning
23 unless the owner of land or agent of an owner of land is
24 proven to be negligent.

25 4. No certified prescribed burn manager shall be
26 liable for damage, injury, or loss caused by a prescribed
27 burning or the resulting smoke of a prescribed burning
28 conducted under a prescribed burn plan unless the certified
29 prescribed burn manager is proven to be negligent.

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

34 (1) Property, lands, rights-of-way, or easements owned
35 by a public utility or municipally owned utility;

36 (2) Property, lands, rights-of-way, or easements owned
37 by a rural electric cooperative organized or operating under
38 the provisions of chapter 394, or any corporation organized
39 on a nonprofit or cooperative basis as described in
40 subsection 1 of section 394.200, or any electrical
41 corporation operating under a cooperative business plan as
42 described in subsection 2 of section 393.110; or

43 (3) Property, lands, rights-of-way, or easements
44 appurtenant or incidental to lands controlled by any
45 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.