

FIRST REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS NOS. 205, 323 & 549
91ST GENERAL ASSEMBLY

Reported from the Committee on Conservation, State Parks and Mining, February 8, 2001, with recommendation that the House Committee Substitute for House Bills Nos. 205, 323 & 549 Do Pass.

Taken up for Perfection on February 15, 2001.

House Committee Substitute for House Bills Nos. 205, 323 & 549 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

0868L.02P

AN ACT

To repeal sections 252.043, 254.020, 254.040 and 270.170, RSMo 2000, relating to the conservation commission, and to enact in lieu thereof nine new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 252.043, 254.020, 254.040 and 270.170, RSMo 2000, are repealed
2 and nine new sections enacted in lieu thereof, to be known as sections 252.035, 252.038,
3 252.043, 254.020, 254.040, 254.225, 270.170, 270.260 and 270.400, to read as follows:

**252.035. The Department of Conservation shall provide financial responsibility for
2 verifiable damage caused by wild elk reintroduced to the state as part of any experimental
3 reintroduction program by the Department. Financial responsibility shall include but not
4 be limited to:**

5 **(1) The value of crops and pasture damaged or destroyed by wild elk;**

6 **(2) Indemnification of losses suffered by livestock producers as a result of disease
7 spread from wild elk;**

8 **(3) The value of fencing and other private property damaged by wild elk; and**

9 **(4) Damages incurred to motor vehicles when such vehicles are involved in a
10 collision with a wild elk.**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

252.038. 1. In addition to the penalties provided in section 252.040, any person convicted of taking, killing, possessing or disposing of a deer in violation of methods, seasons and limits as defined and permitted by commission rules and regulations, shall be required to provide restitution to the state in an amount as follows:

(1) For each antlered deer with a certified Boone & Crockett score of at least one hundred points and not more than one hundred twenty-five points, one thousand five hundred dollars;

(2) For each antlered deer with a certified Boone & Crockett score of at least one hundred twenty-five points and not more than one hundred fifty points, three thousand dollars;

(3) For each antlered deer with a certified Boone & Crockett score of at least one hundred fifty points and not more than one hundred seventy points, five thousand five hundred dollars;

(4) For each antlered deer with a certified Boone & Crockett score of one hundred seventy points or more, seven thousand five hundred dollars.

2. Moneys collected pursuant to this section shall be deposited in the state treasury to the credit of the conservation commission pursuant to section 252.050.

3. Moneys collected pursuant to this section shall be considered as restitution to the citizens of the state and shall not be considered penalties, forfeitures or fines for the purposes of article IX, section 7 of the Constitution of Missouri.

4. The commission may allocate up to twenty-five percent of the moneys collected pursuant to this section for grants to promote antipoaching activities.

5. A resident landowner, as defined by the commission, shall not be required to provide restitution to the state pursuant to this section for the taking, killing, possessing or disposing of a deer in violation of commission rules and regulations on such landowner's property, provided that no part of such deer is removed from such property.

252.043. 1. The commission may suspend, revoke or deny a hunting permit or privilege for a maximum of five years when a person, while hunting, inflicts injury by firearm or other weapon to another person who is mistaken for game. No suspension, revocation or denial shall occur until an opportunity has been afforded for a hearing before the commission. Any person who is determined by the commission to have inflicted injury by firearm or other weapon shall be required to successfully complete a department-approved hunter safety course before his or her hunting permit or privilege shall be restored. The commission's proceeding shall be a contested case pursuant to chapter 536, RSMo, and any person aggrieved by a final decision shall be entitled to judicial review as provided in chapter 536, RSMo.

2. If any person fails to appear at a hearing or fails to pay a fine imposed for any

11 **violation of section 252.040, the court shall notify the commission of such person's actions**
12 **for the commission's consideration of the suspension, revocation or denial of such person's**
13 **permit or privilege to pursue, take, kill, possess or dispose of wildlife.**

254.020. As used in this chapter, the following words [shall have the following
2 meanings] **mean:**

3 (1) [The word "commission" shall mean] **"Best management practices", forest**
4 **management practices, as defined by the commission, that ensure protection of water**
5 **quality;**

6 (2) **"Commission"**, the conservation commission of Missouri upon which[, by the terms
7 hereof impressed,] are vested the responsibilities for the administration [hereof in conformity]
8 **of this chapter in conformance** with sections 40 to 46 of article IV of the Constitution of
9 Missouri; and the words "rules and regulations" shall mean those made by the commission
10 pursuant thereto;

11 [(2)] (3) **"Conservation commission fund"** [as used in this chapter, shall mean], only the
12 moneys arising from the additional sales and use taxes provided for in section 43(a) of article IV
13 of the Constitution of Missouri;

14 [(3)] (4) **"Forest croplands"** [shall mean], those lands devoted exclusively to growing
15 wood and timber, except for such other uses as shall be approved by the commission by
16 regulations and which are tendered to the commission by any person and accepted and classified
17 by the commission as such; and the commission shall prescribe the terms and conditions of such
18 tender, acceptance and classification;

19 [(4)] (5) **"Person"**, any individual, male or female,
20 singular or plural, of whatever age[, and this term]. **The term person** shall include and refer to
21 any owner, grantee, lessee, licensee, permittee, firm, association, copartnership, corporation,
22 municipality or county, as the context may require;

23 (6) **"Precommercial forestry activities", proper forest management activities, as**
24 **defined by the commission, that do not generate an immediate profit for the landowner;**

25 [(5)] (7) **"State forester"**, the administrative head
26 of the state forestry program;

27 (8) **"Sustainable forestry principles", forest management activities, as defined by**
28 **the commission, that ensure efficient use and continued availability of forest resources.**

254.040. 1. Any person desiring to have lands designated as forest croplands shall
2 submit an application [therefor] to the state forester on [form or] forms [to be] provided by the
3 commission. The state forester [will] **shall** make or cause to be made an examination of the
4 lands covered by [said] **such** application and shall forward a copy of [same] **such application,**
5 together with his **or her** recommendations, to the commission. If the commission [approve and

6 classify] **approves and classifies such** lands as forest croplands, they shall be subject to the
7 provisions of this chapter and [such] rules and regulations **promulgated pursuant to this**
8 **chapter.**

9 2. If the commission [refuse so] **refuses** to accept and classify [said] **such** lands, the
10 applicant may appeal [from] the decision of the commission to the circuit court in which such
11 lands, or major part [thereof] **of such lands**, are located and the decision of the circuit court in
12 all such matters shall be final.

13 3. No application **to designate lands as forest croplands** shall be accepted for a tract
14 of land containing less than twenty acres; and no such land shall be classified for tax relief if the
15 value thereof shall exceed one hundred twenty-five dollars per acre or a greater value as set by
16 regulation of the commission.

17 **4. No application for the cost-share incentive program established in section**
18 **254.225 shall be accepted for lands designated as forest croplands.**

254.225. 1. The commission may administer a forest landowner cost-share
2 **incentive program to promote sustainable forestry on private lands. Such program may**
3 **provide reimbursement cost share for up to fifty percent of the cost of precommercial**
4 **forestry activities on eligible lands. Eligible forestry activities shall be carried out in**
5 **accordance with best management practices and sustainable forestry principles.**

6 **2. Any forest landowner may submit a program application to the state forester on**
7 **forms provided by the commission. Application procedures and acceptance criteria shall**
8 **be specified by the commission.**

9 **3. No application for such program shall be accepted for a tract of land containing**
10 **less than forty acres. The total amount of incentives provided to any person shall not**
11 **exceed five thousand dollars in any calendar year.**

 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 [he] such person has restrained said swine or sheep, and the amount of damages [he]**
5 **such person claims in the premises, and requiring the owner to take said swine or sheep away**
6 **and pay such damages; and such owner shall pay such person a reasonable sum for taking up,**
7 **feeding and caring for the same, and the actual damages done by said swine or sheep. If such**
8 **owner fails to comply with the provisions of this section within three days after receiving such**
9 **notice, 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**
12 **identification and born in the wild or that lived outside of captivity for a sufficient length**

13 of time to be wild by nature by hiding from humans or being nocturnal shall be considered
14 feral hogs. Any person may take or kill such feral hogs on such person's own property.

270.260. Any person who knowingly releases any swine to live in a wild or feral
2 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. Each swine so released shall
4 be a separate offense.

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

5 2. A person may kill a feral hog roaming freely upon such person's land and shall
6 not be 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
8 consent of the landowner; except that, during the firearms deer and turkey hunting season
9 the regulations of the Missouri Wildlife Code shall apply. Such person shall not be liable
10 to the owner of the hog for the loss of such hog.

11 4. No person except a landowner or such landowner's agent on such landowner's
12 property shall take or kill a feral hog with the use of an artificial light.