

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILLS NOS. 205, 323 & 549

AN ACT

To repeal sections 135.305, 252.040, 252.043, 254.020, 254.040 and 270.170, RSMo 2000, relating to conservation, and to enact in lieu thereof thirteen new sections relating to the same subject, with penalty provisions.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 135.305, 252.040, 252.043, 254.020, 254.040 and 270.170, RSMo 2000, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 135.305, 252.033, 252.034, 252.035, 252.038, 252.040, 252.043, 254.020, 254.040, 254.225, 270.170, 270.260 and 270.400, to read as follows:

135.305. A Missouri wood energy producer shall be eligible for a tax credit on taxes otherwise due under chapter 143, RSMo, except sections 143.191 to 143.261, RSMo, as a production incentive to produce processed wood products in a qualified wood producing facility using Missouri forest product residue. The tax credit to the wood energy producer shall be five dollars per ton of processed material. The credit may be claimed for a period of [five] ten years and is to be a tax credit against the tax otherwise due.

252.033. 1. No person, including members of the

conservation commission, department of conservation, and its employees and agents, shall release elk into the wild in the state of Missouri.

2. Any person who intentionally or through gross negligence releases elk into the wild in violation of this section is guilty of a class A misdemeanor.

252.034. In the event section 252.033 is found by any court to be in conflict with any provisions contained in the Missouri Constitution and is held to be unconstitutional, section 252.035 shall be in full force and effect as of the date of any such final ruling by the court.

252.035. The department of conservation shall be financially responsible for any damage caused by wild elk, including but not limited to:

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

(2) Indemnification of losses suffered by livestock producers as a result of harassment or disease spread from wild elk;

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

(4) Damages incurred to motor vehicles when such vehicles are involved in a collision with a wild elk; and

(5) Any personal injuries sustained due to a vehicle collision with an elk.

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. Seventy-five percent of the 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. Twenty-five percent of the moneys collected pursuant to this section shall be deposited in the state treasury to the credit of the crime victims' compensation fund established in section 595.045, RSMo.

4. 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.

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.

252.040. 1. No wildlife shall be pursued, taken, killed, possessed or disposed of except in the manner, to the extent and at the time or times permitted by such rules and regulations; and any pursuit, taking, killing, possession or disposition thereof, except as permitted by such rules and regulations, are hereby prohibited. Any person violating this section shall be guilty of a class A misdemeanor except that any person violating any of the rules and regulations pertaining to recordkeeping requirements imposed on licensed fur buyers and fur dealers shall be guilty of an infraction and shall be fined not less than ten dollars nor more than one hundred dollars.

2. Wild elk may be destroyed by the landowner or lessor of land when such wild elk have caused any damage to 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 violation of section 252.040, the court shall notify the commission of such person's actions for the commission's consideration of the suspension, revocation or denial of such person's 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 meanings] mean:

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

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

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

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

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

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

[(5) The title "state forester" shall mean] (7) "State forester", the administrative head of the state forestry program;

(8) "Sustainable forestry principles", forest management activities, as defined by 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 submit an application [therefor] to the state forester on [form or] forms [to be] provided by the commission. The state forester [will] shall make or cause to be made an examination of the lands covered by [said] such application and shall forward a copy of [same] such application, together with his or her recommendations, to the commission. If

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

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

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

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

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

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

3. No application for such program shall be accepted for a tract of land containing less than forty acres. The total amount of incentives provided to any person shall not 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 provisions of this chapter, it shall be lawful for any person on whose premises said swine or sheep shall be found to restrain the same forthwith, and give the owner, if known, notice in writing that [he] such person has restrained said swine or sheep, and the amount of damages [he] such person claims in the premises, and requiring the owner to take said swine or sheep away and pay such damages; and such owner shall pay such person a reasonable sum for taking up, feeding and caring for the same, and the actual damages done by said swine or sheep. If such owner fails to comply with the provisions of this section within three days after receiving such notice, or if the owner of such swine or sheep be unknown, such swine or sheep shall be disposed of in the manner provided for in section 270.180.

2. Any swine not conspicuously identified by ear tags or other forms of identification and born in the wild or that lived outside of captivity for a sufficient length of time to be wild by nature by hiding from humans or being nocturnal shall be considered 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 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. Each swine so released shall be a separate offense.

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

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

3. Any person may take or kill a feral hog on public land or private land with the consent of the landowner; except that, during the firearms deer and turkey hunting season the regulations of the Missouri Wildlife Code shall apply. Such person shall not be liable to the owner of the hog for the loss of such hog.

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