

Missouri Revised Statutes

Chapter 252 **Department of Conservation--Fish and Game**

August 28, 2013

Department of conservation created--commission appointment, qualifications--director, appointment.

252.002. 1. There is hereby created a department of conservation to be headed by a conservation commission of four members appointed by the governor, by and with the advice and consent of the senate, not more than two of whom shall be of the same political party. The members shall have the qualifications, serve the terms and receive the expense reimbursement provided in Article IV, Constitution of Missouri. The commission shall appoint a director of the department of conservation who with its approval shall appoint assistants and other employees.

2. All the powers, duties and functions of the conservation commission, chapters 252, 254, and others, are transferred by type I transfer to the department of conservation.

(L. 1973 1st Ex. Sess. S.B. 1 § 3)

Effective 5-2-74

*Transferred 1986; formerly section 3, Reorganization Act of 1974, Appendix B

Citation of law.

252.010. This law shall be known and may be cited as "The Wildlife and Forestry Law".

(L. 1945 p. 664 § 2)

Definitions.

252.020. As used in sections 252.010 to 252.240, unless the context otherwise requires:

(1) The word "commission" shall mean and include the conservation commission as established by the Constitution of Missouri; and the words "rules and regulations" shall mean those made by said commission pursuant thereto;

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

(3) The word "wildlife" shall mean and include all wild birds, mammals, fish and other aquatic and amphibious forms, and all other wild animals, regardless of classification, whether resident, migratory or imported, protected or unprotected, dead or alive; and shall extend to and include any and every part of any individual species of wildlife.

(L. 1945 p. 664 § 3)

Wildlife of Missouri--ownership and title.

252.030. The ownership of and title to all wildlife of and within the state, whether resident, migratory or imported, dead or alive, are hereby declared to be in the state of Missouri. Any person who fails to comply with or who violates this law or any such rules and regulations shall not acquire or enforce any title, ownership or possessory right in any such wildlife; and any person who pursues, takes, kills, possesses or disposes of any such wildlife or attempts to do so, shall be deemed to consent that the title of said wildlife shall be and remain in the state of Missouri, for the purpose of control, management, restoration, conservation and regulation thereof.

(RSMo 1939 § 8883, A.L. 1945 p. 664 § 4)

Prior revisions: 1929 § 8224; 1919 § 5581; 1909 § 6508

Taking of wildlife--violations, misdemeanor--fur dealers and buyers violating record keeping rules, fine.

252.040. 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 misdemeanor except that any person violating any of the rules and regulations pertaining to record-keeping 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.

(L. 1945 p. 664 § 26, A.L. 1989 H.B. 293)

CROSS REFERENCE:

Hunting or trapping on land without consent of owner, penalty, 569.140, 569.150

(2001) Municipal ordinance requiring hunters and trappers to obtain permission from government owners of land and rights-of-way was not prohibited by section; Conservation Commission does not have exclusive authority to regulate location of allowable hunting, fishing, and trapping. *Miller v. City of Town & Country*, 62 S.W.3d 431 (Mo.App.E.D.).

Deer hunting during deer-hunting season with firearms, orange colored clothing required, violation, penalty.

252.041. Any person hunting deer during a firearms deer-hunting season shall wear a cap or hat, and a shirt, vest or coat with the outermost color of daylight fluorescent orange, blaze orange or hunter orange, which must be plainly visible from all sides while being worn. Any person violating rules and regulations adopted pursuant to this section shall be guilty of an infraction.

(L. 1990 H.B. 1669 § 252.041 subsec. 1, A.L. 1993 H.B. 306)

Hunter inflicting injury by firearm or other weapon on person mistaken as game, penalties--hearing procedure--hunter safety course required.

252.043. 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 and any person aggrieved by a final decision shall be entitled to judicial review as provided in chapter 536.

(L. 1990 H.B. 1669 § 252.041 subsec. 2, A.L. 1998 S.B. 596, A.L. 1999 S.B. 328, et al.)

Motor vehicles, speed limit--areas designated for use of recreation activities and equipment--solid waste not to be discarded or brought on to land or water--entry by utilities permitted, when.

252.045. 1. No motor vehicle shall be operated within the boundary of any land owned, leased or managed by the Missouri conservation commission except upon roads, thoroughfares or areas specifically designated for travel by the commission. Except as otherwise specifically posted by the commission, or established by other governmental authority, the speed limit within any land owned, leased or managed by the Missouri conservation commission shall be forty-five miles per hour.

2. Except as otherwise provided in this subsection, swimming, camping, shooting, fires, fireworks, use of firearms, digging, cutting or removal of vegetation, tree stands, horses, pets, cave exploring, entry on areas closed to public use, bicycling, the operation and parking of all land and water conveyances, trailers, and aircraft are permitted only where, when, and in the manner specifically authorized by the commission on all wildlife refuges, wildlife management areas, state forests, natural areas, lakes, fishing accesses and all land and waters owned, leased or managed by the commission. Upon providing reasonable prior notification to the commission, a public utility, rural electric cooperative or railroad may cut or remove vegetation from, and construct and maintain utility services on, easement areas granted by the commission and other areas covered pursuant to the terms of existing agreements. Reasonable prior notification shall take into account weather conditions and work schedules, and shall not be required for the restoration of essential utility services.

3. No person shall discard solid waste, garbage, refuse or other materials on any lands or waters described in this section. No person shall discard solid waste, garbage, refuse or other materials in a solid waste receptacle located on lands described in this section if the discarded materials were generated outside the boundaries of such lands.

(L. 1979 S.B. 163, A.L. 1993 H.B. 306, A.L. 1996 S.B. 661)

Payment of fees--treasurer's report.

252.050. All moneys payable under the provisions of sections 252.010 to 252.240 shall be promptly transmitted to the division of taxation and collection in the department of revenue, which shall deposit the same in the state treasury to the credit of the conservation commission. The state treasurer shall report on the first day of each month to the commission the exact amount of money in the commission's funds.

(RSMo 1939 § 8963, A.L. 1945 p. 664 § 11)

Prior revisions: 1929 § 8307; 1919 § 5657; 1909 § 6588

License may be inspected--penalty for refusal.

252.060. It is hereby declared to be the duty of every person holding a license or permit issued pursuant to any such rules and regulations to submit the same for inspection by any agent of the commission, or by any sheriff, marshal or constable or any deputy thereof. Any person holding such license or permit and refusing to submit the same when a proper demand is made therefor shall be deemed guilty of a misdemeanor.

(RSMo 1939 § 8917, A.L. 1945 p. 664 § 15)

Prior revisions: 1929 § 8257; 1919 § 5606; 1909 § 6580

Arrest powers of certain conservation department employees.

252.068. When there is reasonable grounds to believe that a person has committed or is in the process of committing a violation of the laws or rules and regulations pertaining to wildlife and forestry resources of the state, any commission or department employee who has been trained and certified as an investigative assistant by the director may:

- (1) Detain the person in a reasonable manner and for a reasonable length of time for the purpose of investigating and reporting such a violation to law enforcement officers; and
- (2) Contact law enforcement officers and assist with criminal proceedings against such person.

(L. 1996 S.B. 661)

Enforcement of law.

252.070. It shall be the duty of all sheriffs, marshals, constables and their deputies and of all other peace officers and of all prosecuting attorneys and their assistants, within their respective counties, and the city of St. Louis, to aid diligently in enforcing the provisions of the law and all such rules and regulations.

(RSMo 1939 § 8928, A.L. 1945 p. 664 § 7)

Prior revisions: 1929 § 8268; 1919 § 5617; 1909 § 6545

Arrest by commission agents for violations of conservation rules, powers.

252.080. Every authorized agent of the commission shall have the same power to serve criminal process as sheriffs and marshals, only in such cases as are violations of this law and rules and regulations of the commission, and have the same right as sheriffs and marshals to require aid in the execution of such process. Any such agent may arrest, without warrant, any person caught by him or in his view violating or who he has good reason to believe is violating, or has violated this law or any such rules and regulations, and take such person forthwith before a associate circuit judge or any court having jurisdiction, who shall proceed without delay to hear, try and determine the matter as in other criminal cases.

(RSMo 1939 § 8870, A.L. 1945 p. 664 § 6)

Prior revisions: 1929 § 8210; 1919 § 5569; 1909 § 6565

Arrests by commission agents certified as peace officers or instructors, powers, limitation.

252.085. 1. All authorized agents of the commission who have attained proper certification as peace officers in accordance with the provisions of chapter 590 and all authorized agents of the commission who attain proper certification as instructors under chapter 590 are hereby declared to be officers of the state of Missouri and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of this state.

2. All such agents shall have full power and authority as now or hereafter vested by law in peace officers when working with and at the special request of the sheriff of any county, or the chief of police of any city, or under the direction of the superintendent of the state highway patrol; except that the authorized agent of the commission who is working in any county as provided in this section and section 252.225 and at the request of any agency other than that of the county sheriff's department shall notify immediately the sheriff or the sheriff's designee of the county where the request originated.

3. All authorized agents may arrest, without warrant or process of any kind, any person who they have probable cause to believe has committed or is in the process of committing any violation of the laws of the state of Missouri, on all lands owned, operated, managed, or leased by the commission, or when such probable cause is established incidental to the enforcement of the laws of the state of Missouri which such agents have been authorized by statute to enforce on all lands not owned, operated, managed, or leased by the commission.

4. All authorized agents shall also be declared to be peace officers of the state of Missouri and shall have jurisdiction and may arrest, without warrant or process of any kind, any person who they have probable cause to believe has committed or is in the process of committing a violation of section 569.055, 569.065, 569.067, 569.100, 569.120, 569.140, or 569.150, except that no arrest without warrant may be made on any lands not owned, operated, managed or leased by the commission for violations of section 569.100, 569.120, 569.140, or 569.150, except upon the complaint of the landowner upon whose land such alleged violation occurred and no arrest may be made without a warrant for the commission of a misdemeanor committed outside the presence of the agent.

5. In addition to the powers prescribed in this section, all persons certified as peace officers in accordance with the provisions of chapter 590 and authorized agents of the conservation commission as provided in subsection 1 of this section may arrest on view, and without a warrant, at any place within this state, any person the certified officer or agent sees asserting physical force for the purpose of causing or creating a substantial risk of death or serious injury to any person.

(L. 1981 S.B. 112, A.L. 1990 H.B. 1669, A.L. 1994 H.B. 1398, A.L. 1997 H.B. 424)

Effective 7-7-97

Right of inspection by commission agents--penalty.

252.090. 1. It is hereby made the duty of every warehouse, merchant, or common carrier, or agent, servant or employee thereof, to permit any agent of the commission to examine any package in the possession of said warehouse or common carrier, or agent, servant or employee thereof, which the said commission agent shall suspect or have reason to believe contains any wildlife not lawfully transported or had in possession, or when any such agent of the commission shall suspect or have reason to believe that the said package is falsely labeled.

2. Any person who shall refuse any such commission agent or any officer charged with the enforcement of this law and such rules and regulations permission to examine or open any such package or shall impede such action by any such commission agent or officer shall be deemed guilty of a misdemeanor and shall be fined not less than fifty dollars nor more than one hundred and fifty dollars. Neither the commission nor any such agent or officer shall be liable for damages on account of any search, examination or seizure made in accordance with the provisions of sections 252.010 to 252.240.

(RSMo 1939 § 8953, A.L. 1945 p. 654 § 24)

Complaints--search warrants--penalty for resisting.

252.100. 1. Any authorized agent of the commission, sheriff, marshal or their deputies, may make complaint and cause proceedings to be commenced against any person for the violation of this law or of any such rules and regulation and such officer shall not be obligated to furnish security for costs.

2. He may search, without warrant, any creel, container, gamebag, hunting coat, or boat in which he has reason to believe wildlife is unlawfully possessed or concealed; and at any and all times may seize any wildlife in the possession or control of any person violating or who there is good reason to believe has violated this law or any of the rules or regulations of the commission; provided, however, that he shall first obtain a search warrant to enter and search an occupied dwelling and outbuildings immediately adjacent thereto, cold storage locker plant, motor vehicle, or sealed freight or express car for such purposes and then only in the daytime, and in the search of a cold storage locker plant every precaution shall be exercised to prevent contamination of foods stored therein. Any circuit judge, or associate circuit judge having jurisdiction, shall issue to such agent, sheriff, or marshal, a search warrant upon his complaint being made on oath in writing that the affiant has reasonable and probable cause to believe that wildlife is possessed or concealed in such occupied dwellings and outbuildings immediately adjacent thereto, cold storage locker plant, motor vehicle, or sealed freight or express car contrary to this law or to any such rules and regulations.

3. Any person who shall resist such search or interfere with such agent or officer in the execution of a search warrant shall be deemed guilty of a misdemeanor.

(L. 1945 p. 664 § 5)

Service of warrant on corporation.

252.110. In case of a violation of this law or of any of the rules and regulations of the conservation commission by a corporation, a warrant of arrest may be read to the president, secretary or manager in this state or any general or local agent thereof in the county where the action is pending; and upon return of such warrant so served the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation; but this section shall not be construed to exempt any agent or employee of such corporation from prosecution.

(RSMo 1939 § 8946, A.L. 1945 p. 664 § 8)

Prior revisions: 1929 § 8290; 1919 § 5640; 1909 § 6529

Limitation of prosecution.

252.120. Prosecutions for violations of this law and for violations of any such laws, rules and regulations shall be commenced within one year from the date of any such violation, either by indictment, complaint or information.

(RSMo 1939 § 8949, A.L. 1945 p. 664 § 25)

Prior revisions: 1929 § 8293; 1919 § 5643; 1909 § 6533

Failure to pay fine and costs--procedure.

252.130. Whenever upon conviction the person convicted fails to pay the fine and costs imposed upon him, he shall be committed to the jail of the county or of the city of St. Louis or to some workhouse and shall there be kept confined one day for each two dollars of the fine, and not more than twenty days for costs adjudged against him, unless otherwise paroled by the judge of the circuit or criminal courts of the state as otherwise provided by law in criminal cases.

(RSMo 1939 § 8947, A.L. 1945 p. 664 § 9)

Prior revisions: 1929 § 8291; 1919 § 5641; 1909 § 6530

Commission notified of results of prosecution.

252.140. It shall be the duty of every associate circuit judge or clerk of the court before whom any prosecution under sections 252.010 to 252.240 is commenced, or shall go on appeal and within twenty days after the trial or dismissal thereof, to report in writing the result thereof and the amount of fine collected, if any, to the commission.

(RSMo 1939 § 8961, A.L. 1945 p. 664 § 10)

Prior revisions: 1929 § 8305; 1919 § 5655; 1909 § 6586

Corporation owning dam to provide for free movement of fish--maintenance of hatchery--penalty.

252.150. 1. It shall be the duty of any person owning, operating or using any dam existing or which may hereafter be constructed across any river, stream or creek in this state, to erect or cause to be erected and maintained in connection therewith a durable and efficient fishway or such other device as the commission may deem necessary to enable fish to have free passage up and down said waters at all times. Such fishway or device shall be of a kind, and shall be placed, operated and maintained in a manner, approved by the commission.

2. Whenever in the opinion of the commission the height or character of the dam or the condition of the river or stream makes the installation of such ladders or devices thereon impractical or unnecessary, it is authorized to require the establishment and maintenance of a fish hatchery by such person, for the purpose of stocking the waters above and below such dam, the plans, adequacy and methods of operation of such hatchery to be subject to the approval of the commission. The commission may at any time take fish from said hatchery for distribution to the public waters of the state and such hatchery shall be operated under the supervision of the commission.

3. Any person who shall violate any of the provisions of this section or who shall refuse to establish and maintain such hatchery in lieu of establishing a fishway, when required to do so by the commission, shall be deemed guilty of a misdemeanor and fined not less than one hundred dollars, nor more than three hundred dollars for each such violation.

4. In respect to corporations, the duties and liabilities imposed by this section shall devolve and be imposed upon the president, secretary or manager in this state or any general or local agent thereof.

(RSMo 1939 §§ 8938, 8939, A.L. 1945 p. 664 § 21)

Prior revisions: 1929 §§ 8279, 8283; 1919 §§ 5629, 5633; 1909 §§ 6552, 6556

CROSS REFERENCES:

Dam without chute a nuisance, 236.230

Judgment authorizing erection of dam to provide for free passage of fish, 236.180

Fraudulently securing license, penalty.

252.160. Any person who shall obtain or cause to be issued any certificate, license, or privilege from this state or any political subdivision thereof, or from any licensing or certifying organization authorized to certify or license by the laws of this state, by any deceit, shall, upon conviction, be deemed guilty of a misdemeanor.

(RSMo 1939 § 8919, A.L. 1945 p. 664 § 16, A.L. 1953 p. 316)

Prior revisions: 1929 § 8259; 1919 § 5608; 1909 § 6582

Soliciting illegal shipments--penalty.

252.170. It shall be unlawful for any person to solicit by correspondence, printed cards, circulars, shipping tags, advertisement or otherwise, any illegal shipments, consignments or delivery of wildlife, contrary to the laws and rules and regulations of this state, or in any manner to aid or abet a conspiracy to violate this law or any of such laws, rules and regulations. Any person violating this section shall upon conviction thereof be deemed guilty of a misdemeanor and shall be fined not less than ten dollars nor more than one hundred dollars.

(RSMo 1939 § 8942, A.L. 1945 p. 664 § 22)

Prior revisions: 1929 § 8286; 1919 § 5636

Consignee to notify commission--penalty.

252.180. Any person to whom is consigned any wildlife, the taking, transportation, sale or possession of which is at any time or at all times prohibited or not permitted by such laws, rules and regulations, shall upon receipt of same immediately notify the commission or any of its authorized agents, and safely keep such wildlife in his possession or under control, subject to the order of the commission. Any person violating this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than five dollars, nor more than fifty dollars.

(RSMo 1939 § 8940, A.L. 1945 p. 664 § 23)

Prior revisions: 1929 § 8284; 1919 § 5634; 1909 § 6523

Possession of wildlife a misdemeanor--when.

252.190. Any person who shall have in his possession or under his control any wildlife, except in the manner, to the extent and at the time or times permitted by the provisions of this chapter and the rules and regulations of the commission, shall be deemed guilty of a misdemeanor; and any agent of the commission, and any sheriff or marshal or deputy thereof is hereby permitted and authorized to take and confiscate any such wildlife from any person so possessing or controlling the same.

(RSMo 1939 § 8906, A.L. 1945 p. 664 § 17)

Obstructing free passage of fish--penalty.

252.200. It shall be unlawful for any person to place or cause to be placed or erected any seine, screen, net, weir, fish dam or other obstruction in or across any of the waters, rivers, creeks, ponds, streams, sloughs or other watercourse within the jurisdiction of this state in such a manner as will obstruct the free passage of fish up and down and through such water or watercourses. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and be fined upon conviction not less than ten dollars nor more than one hundred dollars and costs of prosecution.

(RSMo 1939 § 8924, A.L. 1945 p. 664 § 18)

Prior revisions: 1929 § 8264; 1919 § 5613; 1909 § 6535

Contamination of streams--penalty.

252.210. It shall be unlawful for any person to cause any deleterious substance to be placed, run or drained into any of the waters of this state in quantities sufficient to injure, stupefy or kill fish which may inhabit the same at or below the point where any substance was thrown, run or drained into such waters; provided that it shall not be a violation of this section for any person engaged in industry, to cause or permit any water subject to his control or used in any branch of such industry to be so discharged under such precautionary measures as have been specifically approved by the commission. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor.

(RSMo 1939 § 8925, A.L. 1945 p. 664 § 19)

Prior revisions: 1929 § 8265; 1919 § 5614; 1909 § 6536

Explosives prohibited--penalty.

252.220. 1. It shall be unlawful for any person to place any explosive substance or preparation in any of the waters of this state, whereby any fish which may inhabit said waters may be killed, injured or destroyed; and no person, by any such means, shall kill, catch or take any fish from said waters; provided, however, that explosive substances or preparations may be used in said waters, but only with the permission and under the supervision of the commission.

2. Any person violating any of the provisions of this section shall be deemed guilty of a felony, and upon conviction shall be fined not less than two hundred dollars, nor more than one thousand dollars, or by imprisonment in the state penitentiary for not more than two years, or by both such fine and imprisonment, for each such offense.

(RSMo 1939 § 8926, A.L. 1945 p. 664 § 20)

Prior revisions: 1929 § 8266; 1919 § 5615; 1909 § 6537

Telephone, statewide toll-free numbers for violation reports--confidentiality of reports, exceptions--false reports or unauthorized release of confidential information, penalties.

252.225. 1. The department of conservation may maintain a telephone service operating at all times, capable of receiving and recording reports of violations of sections 252.010 to 252.240, and of the conservation commission's rules and regulations. This service shall receive reports over a single, statewide toll-free number.

2. All reports and records made pursuant to this section and maintained by the department pursuant to this section shall be confidential. Information shall not be made available to any individual or institution except to:

(1) Appropriate staff of the department;

(2) A grand jury, prosecuting attorney or law enforcement officer involved in the investigation of a violation of sections 252.010 to 252.240, or the commission rules and regulations or in other court proceedings regarding violations of sections 252.010 to 252.240 or the commission's rules and regulations;

(3) Any person engaged in a bona fide research purpose, with the permission of the director of the department of conservation; provided, however, that no information identifying any person mentioned in the report shall be made available to the researcher; and

(4) Any person who is the subject of a report of a violation under this section.

3. Any person who violates the provisions of this section, or who permits or encourages the unauthorized dissemination of information contained in reports and records made pursuant to this section shall be guilty of a class A misdemeanor.

4. Any person convicted of filing a false report shall be guilty of a class B misdemeanor and may be fined up to five hundred dollars.

5. All information which concerns a person who is the subject of a report under this section and which is made available to another person or institution outside the department of conservation shall also be disclosed to the subject of the report when such information is disseminated, except that the department may obscure or remove the name and other identifying information of the person who made the report.

(L. 1990 H.B. 1669)

Effective 7-9-90

Hunting, fishing and trapping permit records, contents--records closed, when.

252.228. 1. Individual hunting, fishing and trapping permit records maintained by the department of conservation, including address, telephone number, personal identifying characteristics, date of birth and unique identification numbers shall be available to:

- (1) Any court;
- (2) Any law enforcement agency;
- (3) The U.S. Fish and Wildlife Service or its successor agency as provided by federal regulation for migratory bird surveys;
- (4) Any state department, division, agency, bureau, board, commission, employee or agent thereof in the performance of any statutory or constitutional duty;
- (5) Any political subdivision;
- (6) Any agency of another state; and
- (7) The holder of the permit.

2. Such information shall be inaccessible to all other persons when the holder of the permit has so requested in writing. Individual credit card numbers are closed records and shall not be released pursuant to section 610.021.

(L. 1998 S.B. 596)

Penalty not otherwise provided.

252.230. 1. Except as provided in subsection 2 of this section, any person violating any of the provisions of sections 252.010 to 252.240 wherein other specific punishment is not provided, and any person violating any of such rules and regulations relating to wildlife, shall be guilty of a class A misdemeanor.

2. Any person violating any rules and regulations relating to wildlife shall be guilty of a class B misdemeanor unless such rules and regulations pertain to the provisions of sections 252.010 to 252.043 or sections 252.050 to 252.241.

(RSMo 1939 § 8967, A.L. 1945 p. 664 § 27, A.L. 1997 H.B. 424)

Prior revisions: 1929 § 8311; 1919 § 5661

Sale of any species of wildlife, fish parts thereof or eggs taken in violation of rules--penalties--sale and property defined.

252.235. The sale, taking for sale or possession for sale of any species of fish or wildlife, or parts thereof, which shall include eggs, which have been taken or possessed in violation of the rules and regulations of the commission, is prohibited. Any person violating the provisions of this section shall be guilty of a class A misdemeanor for the first offense if the sale amounts to less than five hundred dollars. Any person violating the provisions of this section shall be guilty of a class D felony for the second and subsequent offense if the sale amounts to less than five hundred dollars. Any person violating the provisions of this section shall be guilty of a class C felony for the first and all subsequent offenses if the sale amounts to five hundred dollars or more. "Sale" means the exchange of an amount of money, other negotiable instruments, or property of value received by the person or persons selling the prohibited species. "Sale", for purposes of this section, shall also mean the intention to exchange an amount of money, other negotiable instruments or property of value for a prohibited species. For the purposes of this section "property" is defined by section 570.010 and value shall be ascertained as set forth in section 570.020.

(L. 1989 H.B. 214, A.L. 1993 H.B. 306, A.L. 2002 H.B. 1888)

Endangered species law, definitions--prohibited activities, exceptions, penalty.

252.240. 1. The importation, transportation, or sale of any endangered species of fish or wildlife, or hides or other parts thereof, or the sale or possession with intent to sell any article made in whole or in part from the skin, hide or other parts of any endangered species of fish or wildlife is prohibited. For the purposes of this section, "endangered species" shall mean those species of fish and wildlife designated by the

department of conservation, by rule filed with the secretary of state, and those species listed by the United States Department of the Interior, as threatened or endangered.

2. The exportation, transportation, or sale of any endangered species of plant, or parts thereof, or the sale of or possession with intent to sell any product made in whole or in part from any parts of any endangered species of plants is prohibited, unless authorized by regulation. For purposes of this section, "endangered species of plants" shall mean those species of plants which are designated as rare or endangered by the department of conservation or listed in the "United States List of Endangered and Threatened Wildlife and Plants" pursuant to the Endangered Species Act of 1973, Public Law 93-205 (87 STAT 884) as amended, or listed in the "Appendices on the Convention of International Trade in Endangered Species of Wild Fauna and Flora".

3. Such rule shall take effect sixty days after it has been filed with the secretary of state.

4. Any publicly owned and operated zoo shall be exempt from the provisions of this section. The provisions of this section shall not apply to legally acquired wildlife held under permit or to wildlife legally taken in another state or to articles manufactured before January 1, 1973.

5. The collecting, digging, or picking of any rare or endangered plant without the permission of the property owner is prohibited.

6. Any person violating the provisions of this section is guilty of a class B misdemeanor.

(L. 1972 H.B. 790 §§ 1, 2, 4, A.L. 1984 H.B. 1079)

Penalty for hunting or fishing when license is suspended, revoked, denied.

252.241. 1. No person shall hunt or fish during a period when any permit or privilege allowing such person to hunt or fish is suspended, revoked, or denied by any court of this state or by the conservation commission during the term of such suspension, revocation, or denial.

2. Violation of subsection 1 of this section is a class A misdemeanor.

3. The penalties prescribed by this section shall be in addition to, and not in lieu of, any other penalties prescribed by law.

(L. 1993 H.B. 306 § 1)

Hunting heritage protection areas designated, where--no TIF projects permitted, exceptions--discharge of firearms prohibited--areas not included.

252.243. 1. This section shall be known as and may be cited as the "Hunting Heritage Protection Areas Act". Hunting heritage protection areas shall include all land located within the one hundred-year flood plain of the Missouri River and all land located within the one hundred-year flood plain of the Mississippi River, as designated by the Federal Emergency Management Agency as amended from time to time.

2. In addition to the provisions of section 99.847, no new tax increment financing project shall be authorized in any hunting heritage protection area after August 28, 2007. This subsection shall not apply to tax increment financing projects or districts approved:

(1) Prior to August 28, 2007, and shall allow the modification, amendment, or expansion of such projects including redevelopment project costs by not more than forty percent of such project's original projected cost and the tax increment finance district by not more than five percent of the district as it existed as of August 28, 2007;

(2) For the purpose of flood or drainage protection and for any public infrastructure included therewith; or

(3) For the purpose of constructing or operating a renewable fuel facility as defined in section 348.430 or for the purpose of providing infrastructure necessary solely for the construction or operation of such renewable fuel production facility, provided no residential, commercial, or industrial development not directly associated with the production of renewable fuel shall occur within a hunting heritage protection area, either directly or indirectly, as a result of such tax increment financing project.

3. The discharge of firearms for lawful hunting, sporting, target shooting, and all other lawful purposes shall not be prohibited in hunting heritage protection areas, subject to all applicable state and federal laws, and local ordinances prohibiting hunting or the discharge of firearms adopted before August 28, 2007.

4. Notwithstanding the provisions of subsection 1 of this section to the contrary, hunting heritage protection areas shall not include:

(1) Any area with a population of not less than fifty thousand persons that has been defined and designated in the 2000 United States Census as an "urbanized area" by the United States Secretary of Commerce;

(2) Any land ever owned by an entity regulated by the Federal Energy Regulatory Commission or any land ever used or operated by an entity regulated by the Federal Energy Regulatory Commission;

(3) Any land used for the operation of a physical port of commerce to include customs ports, but shall not include other land managed or governed by a port authority if such other land extends beyond the actual physical port;

(4) Any land contained within the boundary of any home rule city with more than four hundred thousand inhabitants and located in more than one county, or any land contained within a city not within a county; or

(5) Any land located within one-half mile of any interstate highway, as such highways exist as of August 28, 2007.

(L. 2007 S.B. 225)

Wild game defined, preparation and service permitted, when--notice to be posted--donation of wild game, regulation.

252.244. 1. Any political subdivision, elementary or secondary school, or any charitable, religious, fraternal or other not-for-profit organization may prepare or serve wild game, provided that there shall be no charge for the wild game served, in connection with:

(1) The organization's meetings;

(2) A fund-raising event; or

(3) Meals provided to indigent persons free of charge or at a reduced rate.

2. Except for venison donated or distributed pursuant to section 537.115, an organization preparing or serving wild game shall visibly post at the entrance to the dining area a sign bearing the following message: "Public Notice: The wild game served at this facility has not been subject to state or federal inspection". The words of the message shall be written or printed in letters of not less than three-fourths of an inch high and three-fourths of an inch wide, and shall be readable.

3. Any individual or group of individuals may donate wild game, or collect and transport wild game to an organization pursuant to subsection 1 of this section, provided such wild game has been legally taken according to law and the rules and regulations relating to wildlife. Any wild game donated shall be accompanied by the

name, address and phone number of the individual making such donation and shall be affixed to the individual package or the container holding more than one package.

4. In accordance with the rules and regulations relating to wildlife, any wild game that is captured or killed to prevent private property damage may be donated to any charitable organization approved by the department of conservation. The department shall maintain a list of approved organizations and shall make the list available upon request.

5. For purposes of this section, "wild game" shall include, but not be limited to, bear, deer, elk, hares, moose, rabbits, fox squirrels, black and gray squirrels, muskrat and game birds, except migratory birds regulated by the federal government, as defined by the rules and regulations relating to wildlife.

(L. 1998 S.B. 596)

Volunteers, liability, expenses--use of state vehicles--definition.

252.245. 1. The department of conservation may recruit, train and utilize the services of volunteers, whose services may supplement the programs administered by the department of conservation.

2. Volunteers recruited, trained or utilized by the department of conservation shall comply with applicable rules and policies of the department of conservation.

3. The department shall:

(1) Provide necessary staff for the management and development of volunteer programs;

(2) Develop opportunities for citizen involvement in department-administered programs;

(3) Develop and provide to all volunteers written rules governing the job descriptions, recruitment, screening, training, responsibility, use and supervision of volunteers;

(4) Educate volunteers regarding their duties and responsibilities;

(5) Provide for the recognition of volunteers who have offered exceptional service to the department.

4. Volunteers or persons functioning within the scope and purpose of the designated authority and specifically authorized by the department director shall be unpaid

employees and shall be accorded the protection of the legal expense fund and liability provisions.

5. Reimbursement for transportation and other necessary expenses may be furnished to the volunteers whose presence on special assignment is determined to be necessary by the department. Such expenses shall be reimbursed from the regular appropriations of the department. Volunteers specifically authorized by the department director may use state vehicles in the performance of department-related functions, subject to the rules and regulations governing the use of state vehicles by paid staff.

6. As used in this section, "volunteer" means any person who, of the person's own free will, performs any assigned duties for the department with no monetary or material compensation.

7. Any person serving as a volunteer may be terminated from service in such capacity by the director of the department.

(L. 1997 H.B. 424)

Interstate wildlife violators compact, authorization to enter--rulemaking authority.

252.247. 1. The conservation commission may enter into an interstate wildlife violators compact with any one or more states.

2. The commission may adopt such rules as are necessary for the implementation of the compact.

(L. 1998 S.B. 596)

Citation of law--intent of legislature.

252.300. 1. Sections 252.300 to 252.333 shall be known and may be cited as "The Missouri Economic Diversification and Afforestation Act of 1990".

2. It is the intent of sections 252.300 to 252.333 to address environmental, economic, and social programs with a long-term, integrated strategy that will result in soil conservation, improved water and air quality, enhanced wildlife habitat, increased job opportunities, and reduced social problems, to the benefit of all citizens of the state of Missouri.

(L. 1990 H.B. 1653 § 1)

Agroforestry program developed--who may develop plan.

252.303. The department may develop and implement, in cooperation with the University of Missouri college of agriculture, the University of Missouri center for agroforestry, the University of Missouri extension service, the Missouri department of natural resources, private industry councils and the Missouri department of agriculture, an agroforestry program. The program shall be designed to encourage the development of a state program of agroforestry, and shall encourage soil conservation and diversifications of the state's agricultural base through the use of trees planted in an agroforestry configuration to accommodate alley cropping, forested-riparian buffers, silvopasture and windbreaks.

(L. 1990 H.B. 1653 § 2, A.L. 1993 S.B. 84, A.L. 2001 H.B. 904 merged with S.B. 462)

Definitions.

252.306. As used in sections 252.300 to 252.333, the following terms shall mean:

- (1) "Alley cropping", planting rows of trees at wide spacings and cropping the alleyways;
- (2) "Conservation reserve program", the conservation reserve program authorized by the Federal Food Security Act of 1985, as amended, (Title XII, P.L. 99-198), or its successor program;
- (3) "Department", the Missouri department of conservation;
- (4) "Director", the director of the Missouri department of conservation;
- (5) "Eligible land", agricultural land which is susceptible to soil erosion that has a recent cropping history, marginal pastureland, land surrounding livestock enclosures and riparian zones;
- (6) "Eligible practices", single or multiple rows of trees, alone or combined with other plants such as grass, conventional row crops or horticulture crops, and animals located at intervals of distance within or around fields, around livestock enclosures, and along streams and rivers, specifically designed to provide production and environmental enhancement benefits in accordance with the practices identified in section 252.303;
- (7) "Enhancement phase", the period of time, not to exceed ten years, immediately following the establishment phase, during which payments are made by the state of

Missouri to landowners who use their eligible land for agroforestry purposes as required by the department;

(8) "Establishment phase", the period of time during which eligible land is being prepared for planting trees and developing agroforestry practices, as determined by the director of the department;

(9) "Forested-riparian buffers", a combination of trees and other vegetation established parallel to streams and rivers;

(10) "Silvopasture", combining trees with forage and livestock;

(11) "Windbreaks", planting single or multiple rows of trees for protection and enhanced production of crops and animals.

(L. 1990 H.B. 1653 § 3, A.L. 1993 S.B. 84, A.L. 2001 H.B. 904 merged with S.B. 462)

Incentive payments--agreements with landowners--amount of payments.

252.309. 1. The director may enter into agreements with individual landowners to make incentive payments during the enhancement phase to landowners. Recipients of such payments shall utilize the land for which such payment is made for agroforestry purposes as required by the director pursuant to sections 252.300 to 252.333.

2. The amount of state incentive payment made to a landowner per acre of eligible land shall be an amount which, when added to any cash or in-kind net income produced by crops raised on the land, is substantially equal to the amount per acre previously paid or which would have been paid to the landowner under the federal conservation reserve program.

3. If an application made pursuant to section 252.315 is approved by the director, the director shall develop a schedule of annual payments to be made by the state.

4. The state shall not make any payment to a landowner to maintain the use of eligible land during the enhancement phase for agroforestry purposes after ten years have elapsed since the first such incentive payment is made.

(L. 1990 H.B. 1653 § 4, A.L. 1993 S.B. 84, A.L. 2001 H.B. 904 merged with S.B. 462)

Funding for payments.

252.312. The state payments provided for in sections 252.309, 252.330, and 252.333 may be made from funds available to the department of conservation, soil

conservation funds made available by the department of natural resources from the tax imposed by sections 47(a), 47(b) and 47(c) of article IV of the Constitution of Missouri, funds appropriated by the general assembly for that purpose, grants, bequests or gifts, or any combination thereof.

(L. 1990 H.B. 1653 § 5)

Application for participation--contents--review of application--administrative procedure.

252.315. 1. To participate in the program, the landowner shall make application to the director in writing. The written application shall show the number of acres to be placed in the program and that the land which is to be placed in the agroforestry program meets the eligibility requirements of this section. The application shall also contain a detailed plan of the landowner's proposal to meet the requirements of sections 252.300 to 252.333, including the type and number of trees to be planted, established, or managed, the type of compatible grass, other crops and such other information as may be deemed necessary. The number of trees required to satisfy eligibility may vary with agroforestry practice, but in each case shall be a sufficient number to guarantee the success of the practice and shall be consistent with standards established for each practice.

2. The director shall review each application. In reviewing the application the director shall determine the type or types of soil located in the area of the land proposed to be included in the agroforestry program and shall apply the land capability classification system to determine the potential or limitations of the land for inclusion in the program. Before the director acts upon the application, an on-site inspection shall be made by a representative of the department of conservation or its approved agent. The inspecting representative shall attest to the efficacy of the agroforestry plan to be used, the number of acres to be placed under agroforestry management, the species and number of trees to be planted, established, or managed, and other crop components of the proposed program. After the report of the on-site inspector and the review by the director, the director shall determine the landowner's eligibility to participate in the agroforestry program and shall determine the amount of cost sharing, including in-kind and labor components, for the landowner. If the director fails to approve an application, the aggrieved landowner may request a hearing before the conservation commission or its authorized representative within thirty days of notice to the landowner of the failure of the conservation department to approve the application, or the landowner may proceed under the provisions of section 536.150 as if the act of the conservation department was one not subject to administrative review. If an action is brought pursuant to section 536.150, venue shall be in Cole County.

Annual inspection--notification of noncompliance--administrative procedure.

252.318. 1. All land participating in the agroforestry program shall be inspected annually by a representative of the director, to ensure that the land continues to comply with the requirements of sections 252.300 to 252.333 and that practice specifications are being maintained in accordance with applicable rules and regulations.

2. If the annual inspection determines that the land is no longer in compliance with the provisions of sections 252.300 to 252.333 or with the rules and regulations promulgated pursuant to the provisions of sections 252.300 to 252.333, the director shall notify the landowner of that fact and shall detail the specifics in which the land fails to meet the requirements. The landowner may respond to the notice within thirty days of receipt, either by contesting the inspection report or by providing the director with a proposal to correct the problems which form the basis of the notice. If the landowner contests the findings of the annual inspection, the aggrieved landowner may request a hearing before the conservation commission or its authorized representative or the landowner may proceed under the provisions of section 536.150, as if the act of the conservation department was one not subject to administrative review. If an action is brought pursuant to section 536.150, venue shall be in Cole County. If the landowner provides the director with a proposal to correct the problems which form the basis of the notice, the director shall review the proposal and, if the director finds such proposal acceptable, shall allow the landowner to implement the proposal to correct the alleged problems and shall not suspend the annual payment to the landowner under the provisions of sections 252.300 to 252.333. If the landowner is unable or unwilling to correct the alleged problems in a manner acceptable to the director, the landowner shall not receive the subsequent payments due under the provisions of sections 252.300 to 252.333.

Agroforestry demonstration areas established.

252.321. The University of Missouri center for* agroforestry and extension service, in consultation with the director, shall establish agroforestry demonstration areas, and develop and deliver the educational components of sections 252.300 to 252.333.

Rules and regulations, procedure.

252.324. 1. The director may promulgate rules and regulations necessary to carry out the provisions of sections 252.300 to 252.333. Before promulgating any such rule, the director shall seek the advice and comments of the University of Missouri college of agriculture, the University of Missouri center for agroforestry, the University of Missouri extension service, the Missouri department of natural resources, private industry councils, the Missouri department of economic development and the Missouri department of agriculture. The director may seek advice and comments before promulgating rules and regulations from the United States Department of Agriculture and any other entities deemed advisable by the director. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

2. The Missouri department of conservation may contract with the division of soil and water conservation of the Missouri department of natural resources for any administrative functions required under the provisions of sections 252.300 to 252.333.

(L. 1990 H.B. 1653 § 9, A.L. 1993 S.B. 52, A.L. 1995 S.B. 3, A.L. 2001 H.B. 904 merged with S.B. 462)

Report--contents--when submitted.

252.327. 1. The department of conservation and the department of economic development and the University of Missouri college of agriculture shall, by each of the dates specified in subsection 2 of this section, jointly produce a report on the agroforestry program which:

- (1) Provides a status report on the afforestation aspects of the agroforestry program by presenting a forecast of anticipated economic developments from the afforestation in the state as a result of the agroforestry program;
- (2) Suggests public or private sector initiatives that will potentially serve to maximize the economic benefits for related new development and expansion of existing businesses resulting from the agroforestry program;
- (3) Suggests methods to promote the development of wood and other forestry related products;
- (4) Suggests public or private sector initiatives or methods which will result in significant increases in job opportunities and employment.

2. The report shall be submitted to the governor and to the general assembly by January thirty-first of each of the following years: 1996, 2001, 2006, 2011, 2016, 2021, and 2026.

(L. 1990 H.B. 1653 § 10)

Payment for planting trees.

252.330. During the establishment phase, the director may pay for the planting of trees on eligible land which is used for agroforestry pursuant to sections 252.300 to 252.333. Such payment shall be limited to expenses which are determined to be reasonable and necessary by the director, but shall not exceed seventy-five percent of the cost of establishment.

(L. 1990 H.B. 1653 § 11, A.L. 2001 H.B. 904 merged with S.B. 462)

Federal incentive payments for land enrolled in the program, duration.

252.333. The director may make incentive payments for agroforestry purposes of land enrolled in this program. The duration of such payments shall not exceed ten years. The director may also expend funds to plant trees on such land. Such expenditures may include both planting and associated practices as determined by the director.

(L. 1990 H.B. 1653 § 12, A.L. 1993 S.B. 84, A.L. 2001 H.B. 904 merged with S.B. 462)

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