

# House Amendment 1711

PAG LIN

1 1 Amend Senate File 564, as amended, passed, and  
1 2 reprinted by the Senate, as follows:  
1 3 #1. Page 1, by inserting before line 1 the  
1 4 following:  
1 5 <Section 1. Section 170.6, Code 2007, is amended  
1 6 by adding the following new subsection:  
1 7 NEW SUBSECTION. 3. The department shall revoke a  
1 8 fence certification issued pursuant to section 170.4  
1 9 or disapprove a person's application for the  
1 10 certification of a fence pursuant to that section for  
1 11 a period of three years if the person violates a  
1 12 provision of section 171.209 or 171.401.  
1 13 SUBCHAPTER I  
1 14 GENERAL PROVISIONS  
1 15 Sec. \_\_\_\_\_. NEW SECTION. 171.101 DEFINITIONS.  
1 16 As used in this chapter, unless the context  
1 17 otherwise requires:  
1 18 1. "Authorized department" means the department of  
1 19 agriculture and land stewardship or the department of  
1 20 natural resources.  
1 21 2. "Custody or control" means to keep swine in a  
1 22 manner that prevents the release or escape of the  
1 23 swine from containment at all times, including keeping  
1 24 swine for breeding, growing, or transport.  
1 25 3. "Department" means the department of  
1 26 agriculture and land stewardship.  
1 27 4. "Estray swine" means swine that are not in the  
1 28 custody or control of a responsible party.  
1 29 5. "Feral swine" means swine that are classified  
1 30 as part of the species sus scrofa linnaeus which may  
1 31 be commonly known as Russian boar or European boar of  
1 32 either sex.  
1 33 6. "Hunt" includes any sporting or recreational  
1 34 activity involving pursuing, ambushing, trapping,  
1 35 shooting, wounding, or killing an animal.  
1 36 7. "Landholder" means a titleholder or leaseholder  
1 37 of land.  
1 38 8. "Local authority" means a county as provided in  
1 39 chapter 331 or a city as defined in section 362.2.  
1 40 9. "Move" or "movement" means to ship, transport,  
1 41 or deliver swine by land, water, or air.  
1 42 10. "Public land" means land owned by the federal  
1 43 government, the state, or a local authority.  
1 44 11. "Responsible party" means a person who owns or  
1 45 has custody or control of swine, including by  
1 46 providing for the care and feeding of the swine.  
1 47 12. "Swine" means an animal belonging to the order  
1 48 artiodactyla, and classified as part of the family  
1 49 suidae.  
1 50 13. "System" means the feral swine reporting  
2 1 system established pursuant to section 171.205.  
2 2 14. "Take" means to kill or attempt to kill a  
2 3 feral swine by a person other than the owner of the  
2 4 feral swine.  
2 5 Sec. \_\_\_\_\_. NEW SECTION. 171.102 STATE PUBLIC  
2 6 NUISANCE SWINE ERADICATION POLICY == AGENCY  
2 7 COOPERATION.  
2 8 1. The following classes of swine are declared to  
2 9 be a public nuisance:  
2 10 a. Feral swine, regardless of whether the swine  
2 11 are in a person's custody or control.  
2 12 b. Estray swine.  
2 13 c. Swine which are produced or maintained to  
2 14 provide persons with the opportunity to hunt the  
2 15 swine.  
2 16 2. Swine which are a public nuisance are subject  
2 17 to a policy of eradication as administered by the  
2 18 department of agriculture and land stewardship  
2 19 pursuant to this chapter.  
2 20 3. a. The department of agriculture and land  
2 21 stewardship shall be the principal enforcement agency  
2 22 charged with carrying out the policy.  
2 23 b. The department of natural resources shall  
2 24 cooperate with the department of agriculture and land

2 25 stewardship in carrying out the policy. The  
2 26 authorized departments shall periodically consult  
2 27 about how to most effectively contribute resources and  
2 28 their respective expertise, and divide jurisdictional  
2 29 responsibility, including the assignment of  
2 30 investigative personnel where appropriate. However,  
2 31 the department of natural resources shall regulate  
2 32 hunting preserves under chapter 484B or 484C, and the  
2 33 regulation of persons taking animals under Title XI,  
2 34 subtitle 6.

2 35 c. The department of agriculture and land  
2 36 stewardship shall cooperate with the animal and plant  
2 37 health inspection service of the United States  
2 38 department of agriculture, and may enter into  
2 39 cooperative agreements with the animal and plant  
2 40 health inspection service in order to carry out the  
2 41 provisions of this chapter.

#### 2 42 SUBCHAPTER II

#### 2 43 FERAL SWINE

#### 2 44 PART A

#### 2 45 GENERAL PROVISIONS

2 46 Sec. \_\_\_\_ NEW SECTION. 171.201 FINDINGS AND  
2 47 DECLARATION.

2 48 1. The general assembly finds all of the  
2 49 following:

2 50 a. Feral swine are known carriers of a variety of  
3 1 diseases including but not limited to pseudorabies,  
3 2 swine brucellosis, leptospirosis, and trichinosis  
3 3 impacting upon this state's domestic livestock herds  
3 4 and especially its domestic swine herds.

3 5 b. Feral swine carry diseases which may be  
3 6 transmitted to human populations.

3 7 c. Feral swine disrupt native wildlife and destroy  
3 8 native habitat.

3 9 d. Feral swine damage or destroy cropland and row  
3 10 crops, including but not limited to corn and soybeans.

3 11 2. a. The general assembly declares that the  
3 12 increased movement of feral swine into this state  
3 13 presents an immediate and serious risk to the state's  
3 14 economy, public health, and ecosystems.

3 15 b. The general assembly further declares that the  
3 16 state establishes a policy to eradicate all feral  
3 17 swine from this state with all possible speed.

#### 3 18 PART B

#### 3 19 REPORTING

3 20 Sec. \_\_\_\_ NEW SECTION. 171.205 FERAL SWINE  
3 21 REPORTING SYSTEM.

3 22 The department of agriculture and land stewardship  
3 23 shall establish a feral swine reporting system, in  
3 24 cooperation with the department of natural resources.

3 25 1. The system may include receipt of reports by  
3 26 any of the following:

3 27 a. Automated toll-free telephone number.

3 28 b. Postcard.

3 29 c. Electronic communication at an electronic  
3 30 licensing location.

3 31 d. Electronic communication to the department,  
3 32 including by the internet.

3 33 2. The department of natural resources shall  
3 34 maintain a database of information collected by the  
3 35 system which shall be made available to the department  
3 36 of agriculture and land stewardship.

3 37 3. The system shall allow persons to conveniently  
3 38 report the presence of a feral swine to an authorized  
3 39 department. Either authorized department may conduct  
3 40 the investigation or refer the report to the local  
3 41 authority responsible for the prevention and detection  
3 42 of crime in the jurisdiction where the swine is found.

3 43 4. The system shall provide for reports by persons  
3 44 who have taken or injured feral swine in this state.

3 45 The report shall include at least all of the  
3 46 following:

3 47 a. The name and address of the person who has  
3 48 taken or injured the feral swine.

3 49 b. The county and township where the feral swine  
3 50 were taken or injured.

4 1 c. The date when the feral swine were taken or  
4 2 injured.

4 3 d. The number of feral swine found by the person  
4 4 on the date when the feral swine were taken or  
4 5 injured.

4 6 Sec. \_\_\_\_ NEW SECTION. 171.206 REQUIREMENTS.

4 7 1. A person who takes or injures a feral swine  
4 8 shall submit a report to an authorized department as  
4 9 provided in section 171.205 within ten days after  
4 10 taking the swine.

4 11 2. A person who kills a feral swine shall retain  
4 12 the carcass for examination by the authorized  
4 13 department. The authorized department may temporarily  
4 14 or permanently confiscate the carcass for purposes of  
4 15 analysis including disease testing.

4 16 Sec. \_\_\_\_ NEW SECTION. 171.207 PENALTY.

4 17 A person who violates section 171.206 is subject to  
4 18 a civil penalty of not more than one hundred dollars.  
4 19 The moneys collected by the department shall be  
4 20 deposited into the general fund of the state.

4 21 PART C  
4 22 CUSTODY AND CONTROL

4 23 Sec. \_\_\_\_ NEW SECTION. 171.209 PROHIBITIONS.

4 24 A person shall not do any of the following:

4 25 1. Move a feral swine into or within this state.

4 26 2. Release or allow the escape of a feral swine  
4 27 from the person's custody or control.

4 28 3. Acquire custody or control of a feral swine in  
4 29 this state.

4 30 4. Maintain custody or control of a feral swine in  
4 31 this state on or after August 1, 2007.

4 32 Sec. \_\_\_\_ NEW SECTION. 171.210 PENALTY AND  
4 33 DISCIPLINARY ACTION.

4 34 1. A person who violates section 171.209 is guilty  
4 35 of an aggravated misdemeanor. A person is guilty of a  
4 36 separate offense for each feral swine which is the  
4 37 subject of the violation.

4 38 2. Upon conviction of violating section 171.209, a  
4 39 court may, as part of the judgment, revoke or suspend  
4 40 a license issued pursuant to chapter 481A or 483A for  
4 41 any definite period of time.

4 42 Sec. \_\_\_\_ NEW SECTION. 171.211 INJUNCTIVE  
4 43 RELIEF.

4 44 A court may prevent and restrain a violation of  
4 45 section 171.209 through the issuance of an injunction.  
4 46 The attorney general or a county attorney shall  
4 47 institute an action on behalf of the state to prevent  
4 48 or restrain a violation of section 171.209.

4 49 Sec. \_\_\_\_ NEW SECTION. 171.212 STATE  
4 50 INVESTIGATORY AND LEGAL EXPENSES.

5 1 A person convicted of violating section 171.209 is  
5 2 liable for all of the following:

5 3 1. The amount to indemnify the state or a local  
5 4 authority for investigative and eradication expenses  
5 5 incurred by the state or the local authority. The  
5 6 amount of the indemnification shall not exceed ten  
5 7 thousand dollars for each feral swine involved in the  
5 8 violation. The amount paid for indemnification shall  
5 9 be deposited in the general fund of the state.

5 10 However, if the investigation or eradication is not  
5 11 conducted by an authorized department or other state  
5 12 agency, the amount shall be paid to the local  
5 13 authority which conducts the investigation or  
5 14 eradication for deposit in the general fund of the  
5 15 county or city, as the case requires.

5 16 2. If the attorney general or a county attorney is  
5 17 the prevailing party in an action for a violation of  
5 18 section 171.209, the prevailing party shall be awarded  
5 19 court costs and reasonable attorney fees, which shall  
5 20 be taxed as part of the costs of the action. If the  
5 21 attorney general is the prevailing party, the moneys  
5 22 shall be deposited in the general fund of the state.  
5 23 If the county is the prevailing party, the moneys  
5 24 shall be deposited in the general fund of the county.

5 25 Sec. \_\_\_\_ NEW SECTION. 171.213 STRICT LIABILITY  
5 26 == ATTORNEY FEES.

5 27 If a person is convicted of violating section  
5 28 171.209, the person is strictly liable for any injury  
5 29 to a person or damages to the property of a person  
5 30 caused by the violation. The person who is the  
5 31 prevailing plaintiff in the case shall be awarded  
5 32 court costs and reasonable attorney fees, which shall  
5 33 be taxed as part of the costs of the action.

5 34 Sec. \_\_\_\_ NEW SECTION. 171.214 TAKING OR  
5 35 CAPTURING FERAL SWINE BY THE DEPARTMENT OR A LOCAL  
5 36 AUTHORITY.

5 37 An authorized department or local authority may  
5 38 take or capture feral swine which are maintained on  
5 39 land in violation of section 171.209, if one of the  
5 40 following applies:  
5 41 1. The landowner provides consent.  
5 42 2. The authorized department or local authority  
5 43 has credible reason to believe that feral swine are on  
5 44 the land. The authorized department or local  
5 45 authority may enter onto the land pursuant to a  
5 46 warrant issued by a court, or otherwise enter onto the  
5 47 land in a manner consistent with the laws of this  
5 48 state and the United States, including Article I,  
5 49 section 8, of the Constitution of the State of Iowa,  
5 50 or the fourth amendment to the Constitution of the  
6 1 United States.

6 2 PART D  
6 3 INDEMNIFICATION

6 4 Sec. \_\_\_\_ NEW SECTION. 171.221 FERAL SWINE  
6 5 INDEMNITY FUND.

6 6 1. A feral swine indemnity fund is created as a  
6 7 separate fund in the state treasury under the control  
6 8 of the department. The general fund of the state is  
6 9 not liable for claims presented against the indemnity  
6 10 fund.  
6 11 2. The feral swine indemnity fund consists of any  
6 12 moneys appropriated by the general assembly and any  
6 13 other moneys available to and obtained or accepted by  
6 14 the department from the federal government or private  
6 15 sources for placement in the fund. Notwithstanding  
6 16 section 12C.7, subsection 2, interest or earnings on  
6 17 moneys deposited in the fund shall be credited to the  
6 18 fund.  
6 19 3. The moneys deposited in the feral swine  
6 20 indemnity fund are appropriated to the department  
6 21 exclusively for paying claims of persons who purchased  
6 22 feral swine on or before the effective date of this  
6 23 Act.  
6 24 4. In order to be eligible to file a claim for  
6 25 indemnification, a person shall do all of the  
6 26 following:  
6 27 a. File an application, including supporting  
6 28 documentation, with the department as required by the  
6 29 department pursuant to procedures established by the  
6 30 department. The application shall state the amount of  
6 31 the claim. The application shall be filed with the  
6 32 department not later than September 30, 2007.  
6 33 b. Relinquish custody or control of the feral  
6 34 swine to an authorized department or a local  
6 35 authority, as required by the department of  
6 36 agriculture and land stewardship.  
6 37 5. The department shall determine the validity of  
6 38 a claim which is submitted by an eligible person as  
6 39 part of the application for indemnification as  
6 40 provided in this section. The dollar value of the  
6 41 claim shall be based on a formula established by rule  
6 42 and adopted by the department. The formula shall  
6 43 provide for the payment of the fair market value of  
6 44 the feral swine based on market prices paid for  
6 45 similar swine according to categories or criteria  
6 46 established by the department.  
6 47 6. Upon a determination that the amount claimed in  
6 48 a person's application is valid, the department shall  
6 49 provide for payment of one hundred percent of the  
6 50 amount claimed. The department shall pay all valid  
7 1 claims not later than January 1, 2008. If the  
7 2 department determines that there are insufficient  
7 3 moneys in the feral swine indemnity fund to fully  
7 4 satisfy the amounts claimed in valid applications  
7 5 submitted by all eligible persons, the department  
7 6 shall prorate the amount paid to all eligible persons.  
7 7 7. A person's submission of an application under  
7 8 this section constitutes a waiver of any further claim  
7 9 by the person against the state regarding the feral  
7 10 swine.  
7 11 8. This section is repealed on July 1, 2008. Any  
7 12 moneys remaining in the feral swine indemnity fund on  
7 13 that date shall be distributed as follows:  
7 14 a. The amount of moneys which were contributed to  
7 15 the fund by persons other than a state or federal  
7 16 government source shall be refunded to the respective  
7 17 persons. If the department determines that there are

7 18 insufficient moneys in the fund to fully satisfy the  
7 19 amounts for refunds to all persons, the department  
7 20 shall prorate the amount of refunds paid to those  
7 21 persons based on their contributions.

7 22 b. Any remaining moneys that were appropriated by  
7 23 a state or federal government source shall be repaid  
7 24 to that source. If the department determines that  
7 25 there are insufficient moneys in the fund to fully  
7 26 satisfy the amounts for repayments to such sources,  
7 27 the department shall prorate the amounts repaid to  
7 28 such sources based on the amounts appropriated.

7 29 9. This section does not imply any guarantee or  
7 30 obligation on the part of the state of Iowa, the  
7 31 department of agriculture and land stewardship, or any  
7 32 state agency, employee, or official, either elective  
7 33 or appointive.

#### 7 34 SUBCHAPTER III

##### 7 35 ESTRAY SWINE

7 36 Sec. \_\_\_\_\_. NEW SECTION. 171.301 ORDINARY  
7 37 LIABILITY.

7 38 Nothing in this subchapter affects a responsible  
7 39 party's liability which arises out of estray swine and  
7 40 any remedies available to an injured party, as  
7 41 provided under statute, common law, or contract.

7 42 Sec. \_\_\_\_\_. NEW SECTION. 171.302 TAKING OR  
7 43 CAPTURING ESTRAY SWINE BY THE DEPARTMENT OR A LOCAL  
7 44 AUTHORITY.

7 45 An authorized department or local authority may  
7 46 take or capture estray swine on public land. An  
7 47 authorized department or local authority may take or  
7 48 capture estray swine on land other than public land if  
7 49 one of the following applies:

7 50 1. The landowner provides consent.

8 1 2. The authorized department or local authority  
8 2 has credible reason to believe that an estray swine is  
8 3 on the land. The authorized department or local  
8 4 authority may enter onto the land pursuant to a  
8 5 warrant issued by a court, or otherwise enter onto the  
8 6 land in a manner consistent with the laws of this  
8 7 state and the United States, including Article I,  
8 8 section 8, of the Constitution of the State of Iowa,  
8 9 or the fourth amendment to the Constitution of the  
8 10 United States.

8 11 Sec. \_\_\_\_\_. NEW SECTION. 171.303 TAKING OF ESTRAY  
8 12 SWINE BY A PERSON OTHER THAN AN AUTHORIZED DEPARTMENT  
8 13 OR A LOCAL AUTHORITY == CRIMINAL PENALTY.

8 14 A person other than an authorized department or a  
8 15 local authority may take an estray swine only as  
8 16 provided in this section.

8 17 1. The person may take the estray swine at any  
8 18 time regardless of whether the person has been issued  
8 19 a license under chapter 483A, unless a person's  
8 20 hunting license has been suspended or revoked as  
8 21 provided in chapter 481A, including but not limited to  
8 22 section 481A.134, or chapter 483A, including but not  
8 23 limited to section 483A.21.

8 24 2. a. The person shall not take or capture an  
8 25 estray swine on public land unless in compliance with  
8 26 regulations adopted by rule of the department of  
8 27 natural resources or an ordinance of the local  
8 28 authority that is responsible for the public land.

8 29 b. The person shall not take or capture an estray  
8 30 swine on land other than public land unless the  
8 31 landowner provides consent.

8 32 3. A person who violates this section is guilty of  
8 33 a simple misdemeanor. A person is guilty of a  
8 34 separate offense for each estray swine which is the  
8 35 subject of the violation.

#### 8 36 SUBCHAPTER IV

##### 8 37 HUNTING

8 38 Sec. \_\_\_\_\_. NEW SECTION. 171.401 HUNTS AND  
8 39 SCHEDULE OF HUNTS == PENALTY.

8 40 1. Except as provided in subsection 2, a person  
8 41 maintaining custody or control of swine shall not  
8 42 provide persons with the opportunity to hunt the  
8 43 swine.

8 44 2. a. A person maintaining custody or control of  
8 45 swine shall not provide for a hunt of the swine if the  
8 46 person sold or offered to sell the hunt, or scheduled  
8 47 a date or time for the hunt, on or after April 15,  
8 48 2007.

8 49 b. A person maintaining custody or control of  
8 50 swine who provides persons with the opportunity to  
9 1 hunt the swine shall report the schedule of all hunts  
9 2 of the swine to the department not later than May 15,  
9 3 2007, according to procedures required by the  
9 4 department.

9 5 c. This subsection is repealed on July 1, 2008.

9 6 3. A person who violates this section is subject  
9 7 to a civil penalty of not more than one thousand  
9 8 dollars. The amount of civil penalties collected by  
9 9 the department shall be deposited in the general fund  
9 10 of the state.

9 11 Sec. \_\_\_\_\_. NEW SECTION. 171.402 TAKING OR  
9 12 CAPTURING SWINE BY AN AUTHORIZED DEPARTMENT OR A LOCAL  
9 13 AUTHORITY.

9 14 An authorized department or local authority may  
9 15 take or capture swine which are maintained on land in  
9 16 violation of section 171.401 if one of the following  
9 17 applies:

9 18 1. The landowner provides consent.

9 19 2. The authorized department or local authority  
9 20 has credible reason to believe that swine are on the  
9 21 land. The authorized department or local authority  
9 22 may enter onto the land pursuant to a warrant issued  
9 23 by a court, or otherwise enter onto the land in a  
9 24 manner consistent with the laws of this state and the  
9 25 United States, including Article I, section 8, of the  
9 26 Constitution of the State of Iowa, or the fourth  
9 27 amendment to the Constitution of the United States.

9 28 Sec. \_\_\_\_\_. Section 484B.13, Code 2007, is amended  
9 29 to read as follows:

9 30 484B.13 ~~LICENSE REFUSAL DISCIPLINARY ACTION~~.

9 31 1. The department may either refuse to issue,  
9 32 refuse to renew, or suspend or revoke a person's  
9 33 hunting preserve operator's license issued pursuant to  
9 34 section 484B.4 if the department finds that the  
9 35 licensed area or the operator or employees of the  
9 36 licensed area are not in compliance with this chapter,  
9 37 or that the property or area is operated in violation  
9 38 of this chapter or administrative rules adopted under  
9 39 this chapter.

9 40 2. The department shall revoke a person's hunting  
9 41 preserve operator's license issued pursuant to section  
9 42 484B.4, or disapprove a person's application for a  
9 43 hunting preserve operator's license issued under that  
9 44 section, for a period of three years if the person  
9 45 violates a provision of section 171.209 or 171.401.

9 46 Sec. \_\_\_\_\_. Section 484C.13, Code 2007, is amended  
9 47 by adding the following new subsection:

9 48 NEW SUBSECTION. 4. The department shall revoke a  
9 49 fence certification issued pursuant to section 484C.6  
9 50 or disapprove a person's application for the  
10 1 certification of a fence issued pursuant to that  
10 2 section for a period of three years if the person  
10 3 violates a provision of section 171.209 or 171.401.>

10 4 #2. Page 14, by inserting after line 31 the  
10 5 following:

10 6 <Sec. \_\_\_\_\_. ADOPTION OF RULES. The department of  
10 7 agriculture and land stewardship shall adopt all rules  
10 8 necessary to administer the provisions of chapter 171  
10 9 as enacted in this Act by July 1, 2007. If the  
10 10 department adopts the rules pursuant to section 17A.4,  
10 11 subsection 2, and section 17A.5, subsection 2, it  
10 12 shall immediately readopt the rules as provided in  
10 13 section 17A.4, subsection 1, and section 17A.5,  
10 14 subsection 1.

10 15 Sec. \_\_\_\_\_. CONTINGENT EFFECTIVE DATE. Section  
10 16 171.221, as enacted in this Act, takes effect upon the  
10 17 appropriation of moneys into the feral swine indemnity  
10 18 fund by July 1, 2007.

10 19 Sec. \_\_\_\_\_. EFFECTIVE DATE. Except as provided in  
10 20 that section of this Act providing for the effective  
10 21 date of Code section 171.221, this Act, being deemed  
10 22 of immediate importance, takes effect upon enactment.>

10 23 #3. Title page, line 3, by inserting after the  
10 24 word <penalties> the following: <and effective  
10 25 dates>.

10 26  
10 27  
10 28  
10 29 GREINER of Washington

10 30 SF 564.705 82  
10 31 da/gg/8849