GOVERNOR OF MISSOURI

JEFFERSON CITY
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JEREMIAH W. (JAY) NIXON
GOVERNOR

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June 28, 2016

TO THE SECRETARY OF STATE OF THE STATE OF MISSOURI

Herewith I return to you Senate Bill No. 844 entitled:

AN ACT

To repeal section 272.030 and 272.230, RSMo, and to enact in lieu thereof one new section relating to livestock trespass.

I disapprove of Senate Bill No. 844. My reasons for disapproval are as follows:

Under current law, if any horses, cattle or other stock break over or through a fence and trespass on the property of another, the owner of the animals is liable for the damage caused to the other landowner. Under Senate Bill No. 844, the owner of the animals would not be responsible to his neighbor for the damage caused by his animals, unless the injured party can establish "the owner of the trespassing horses, cattle, or other stock was negligent." Current law properly assigns liability upon the owner of the animals that have caused the damage, and I will not approve legislation that shifts that risk to an innocent neighbor.

There are many reasons a farmer's animals could escape from confinement including the farmer's negligence, an act of God or the independent actions of a third party. Regardless of the underlying reason for the escape, Missouri's fencing law properly assigns liability to the owner of the animals that caused the damage. However, under Senate Bill No. 844, the victim of the animal rampage would be left without recourse, despite playing no role in causing the damage, unless negligence on the part of either the owner of the animals or a third party can be proven. The responsibility for making the injured party whole for the action of these animals is and must continue to be placed with the owner of the trespassing animals. Further, nothing precludes the owner of those animals from subsequently pursuing a responsible third party, if one exists, and seeking damages and indemnification for any payments made to compensate the neighbor for damages. Existing law is fair, equitable and places the financial exposure with the proper party.

Lastly, it was just three sessions ago, the General Assembly, over my objection, enacted Senate Bill No. 9 (2013) to create the crime of animal trespass. So, while in 2013 the General Assembly was willing to hold the owner of trespassing animals criminally responsible, in 2016, it now

attempts to make it more difficult to hold that same owner civilly liable. This is wholly inconsistent, unfair and will not receive my approval.

In accordance with the above stated reasons for disapproval, I am returning Senate Bill No. 844 without my approval.

Respectfully submitted,

Jeremiah W. (Jay) Nixon
Governor