

SENATE BILL NO. 386

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Introduced: 4/7/04

Referred: Resources, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to controlled livestock districts and liability for livestock."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 03.35.010 is repealed and reenacted to read:

4 **Sec. 03.35.010. Liability for livestock.** (a) Except for animals listed in (d) of
5 this section, a person owning or having the custody, possession, or control of livestock
6 may not, with criminal negligence, allow the livestock to run at large or be herded,
7 pastured, or otherwise go upon the land that is not owned or under the control of the
8 person. In this subsection, "criminal negligence" has the meaning given in
9 AS 11.81.900(a).

10 (b) A person owning or having custody, possession, or control of livestock
11 shall have and maintain adequate fencing to contain the livestock.

12 (c) If an animal escapes and is running at large, the person owning or having
13 custody, possession, or control of the animal shall take every reasonable action to
14 immediately return the animal to an adequately fenced area.

15 (d) A person having the management or control of a bull, a stallion, an animal

1 that is a ridgeling, an unaltered male mule, a jackass, or a ram over one year of age
 2 may not, even without a culpable mental state, allow the animal to run at large or be
 3 herded, pastured, or otherwise go upon land that is not owned or under the control of
 4 the person.

5 (e) Livestock running at large is a public nuisance. In addition to the means
 6 prescribed by this section for the abatement and removal of livestock running at large,
 7 livestock running at large may be abated and removed by the means and proceedings
 8 provided by law for the abatement or removal of public nuisances.

9 (f) This section does not

10 (1) limit any right to destroy an animal to prevent injury by the animal
 11 to person or property;

12 (2) prohibit a person from driving livestock other than animals listed in
 13 (d) of this section along a public road;

14 (3) affect activities conducted under a generally allowed use or other
 15 authorization.

16 (g) A person who violates this section is guilty of a class B misdemeanor and,
 17 upon conviction, shall be fined not more than \$500 and ordered to pay restitution,
 18 including expenses incurred by and damages to any party injured as a result of the
 19 violation.

20 * **Sec. 2.** AS 03.35.035 is amended to read:

21 **Sec. 03.35.035. Identification of [DOMESTIC] animals [WITHIN**
 22 **CONTROLLED LIVESTOCK DISTRICT].** (a) ▲ [WITHIN 60 DAYS OF THE
 23 ESTABLISHMENT OF A CONTROLLED LIVESTOCK DISTRICT OR OF THE
 24 ADDITION TO AN ESTABLISHED CONTROLLED LIVESTOCK DISTRICT
 25 UNDER AS 03.35.010, THE] person having custody and control of **livestock**
 26 [DOMESTIC ANIMALS] located within the **state** [DISTRICT] shall identify the
 27 animals under AS 03.40, use identification collars to indicate ownership, or otherwise
 28 use a reliable system for the identification of the ownership of the animal.

29 (b) A person who violates (a) of this section commits a violation **and, upon**
 30 **conviction, may be punished by a fine of not more than \$250.**

31 * **Sec. 3.** AS 03.35.040(a) is amended to read:

1 (a) The owner of land within the state [A CONTROLLED LIVESTOCK
2 DISTRICT], whether the land is fenced or unfenced, is entitled to recover, from the
3 owner or person having custody and control of livestock [A DOMESTIC ANIMAL],
4 for any injury done by the livestock [ANIMAL] when grazing or running at large
5 [WITHIN A CONTROLLED LIVESTOCK DISTRICT] contrary to the provisions of
6 this chapter, and has a lien upon the livestock [DOMESTIC ANIMAL] for the amount
7 of the damage done.

8 * **Sec. 4.** AS 03.35.050 is amended to read:

9 **Sec. 03.35.050. Impounding and public sale of animals running at large.**

10 The owner of any land within the state [A CONTROLLED LIVESTOCK DISTRICT]
11 may impound livestock [A DOMESTIC ANIMAL] trespassing upon that land and
12 keep the livestock [ANIMAL] until damages, together with reasonable charges for
13 keeping and feeding the livestock [IT], are paid. Within 24 hours after impounding
14 livestock [AN ANIMAL], the person impounding the livestock [IT] shall give notice
15 in writing to the owner or claimant of the livestock [ANIMAL], if the owner is
16 known, or, if the owner is unknown, file a notice of impounding with the district judge
17 for the district and post a copy of the notice in a public place nearest to the enclosure
18 of the impounded livestock [ANIMAL]. If, within five days after receipt of the notice
19 of impoundment or posting of the notice of impoundment, the owner or claimant fails
20 to claim the livestock [ANIMAL] and pay the reasonable charges for keeping and
21 feeding the livestock [IT], together with damages and costs, the livestock [ANIMAL]
22 may be sold at public auction as provided in AS 03.35.055.

23 * **Sec. 5.** AS 03.35.070 is repealed and reenacted to read:

24 **Sec. 03.35.070. Definitions.** In this chapter,

25 (1) "adequate fencing" means a continuous barrier consisting of natural
26 barriers, structures, masonry, rails, poles, planks, wire, or any combination of natural
27 barriers, structures, masonry, rails, poles, planks, or wires installed and maintained in
28 a condition so as to form a continuous guard and defense against the ingress or egress
29 of livestock into or from the enclosed land; in this paragraph, "natural barriers"
30 includes hedges, ditches, rivers, streams, ponds, or lakes;

31 (2) "animal" means an individual member of a type of livestock;

1 (3) "department" means the Department of Natural Resources;

2 (4) "livestock" means horses, cattle, sheep, goats, mules, jackasses,
3 swine, reindeer, elk, bison, muskoxen, llamas, alpacas, yaks, and camels;

4 (5) "owner of land" includes a freeholder, tenant, contract vendee, or
5 other person in actual possession of land or duly authorized agent of the local
6 government, state government, or federal government that has overall management
7 responsibilities of land.

8 * **Sec. 6.** AS 03.35.020, 03.35.030; and AS 22.15.110(b) are repealed.