

1 IN THE SENATE

BY KILCHER AND OWEN

2 SENATE BILL NO. 302

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the impounding and sale
7 of domestic animals trespassing within a
8 controlled livestock district."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 03.35.050 is amended to read:

11 Sec. 03.35.050. IMPOUNDING OF ANIMALS RUNNING AT LARGE.

12 The owner of any land within a controlled livestock district
13 may impound a domestic animal trespassing upon his land and
14 keep the animal until damages, together with reasonable
15 charges for keeping and feeding it, are paid. Within 24
16 hours after impounding an animal, the person impounding it
17 shall give notice in writing to the owner or claimant of
18 the animal, if the owner is known, or, if the owner is un-
19 known, file a notice of impounding with the district
20 magistrate for the district and post a copy of the notice in
21 a public place nearest to the enclosure of the impounded
22 animal. If, within five days after receipt or posting of
23 the notice, the owner or claimant fails to claim the animal
24 and pay the reasonable charges for keeping and feeding it,
25 together with damages and costs, the [ANIMAL SHALL BE DEALT
26 WITH AS IN THE CASE OF AN ESTRAY] person impounding the
27 animal shall file with the district magistrate a verified
28 statement showing the failure and the efforts made by him to
29 find the owner or person entitled to possession of the

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1 animal and the damages, if any, he has suffered by the
2 animal trespassing upon his land, and the charges for keeping
3 and feeding it, if any, which he claims as compensation.

4 * Sec. 2. AS 03.35 is amended by adding new sections to read:

5 Sec. 03.35.052. HEARING ON STATEMENT. The district
6 magistrate shall immediately hold a public hearing at which
7 the owner or person entitled to possession of the animal may
8 appear and be heard. The district magistrate at the hearing
9 shall allow and assess against the animal all reasonable
10 damages, charges and costs to which it appears the person
11 impounding the animal is justly entitled. Upon request of
12 the person impounding the animal or of the owner or person
13 entitled to possession of the animal, and payment of the
14 required fees, the magistrate shall appoint three residents
15 of the recording district, who have the qualifications to
16 act as jurors, to assess damages, charges and costs. The
17 decision of the magistrate or, if he appoints assessors,
18 then of a majority of them, is final, but, if the amount in-
19 volved exceeds \$50, an appeal may be taken to the superior
20 court. Each assessor is entitled to the same compensation
21 paid to jurors in the district magistrate court, to be taxed
22 as costs in the proceeding.

23 Sec. 03.35.054. PUBLIC SALE. If the owner, or person
24 entitled to possession, fails to pay damages, charges, or
25 costs assessed, the animal shall be sold to satisfy them at
26 public auction within not less than two nor more than three
27 weeks after the assessment is entered by the magistrate. The
28 person impounding the animal shall give notice of the sale by
29 publication for not less than once a week for two consecutive

1 weeks in a newspaper published nearest the place where the
2 animal is impounded and by posting, within two miles of the
3 place of the sale, notices in three public places, one of
4 which shall be the nearest post office if it is within two
5 miles of the place of sale. Publication may be omitted if no
6 newspaper of general circulation is published within 25
7 miles of the place where the animal is impounded. The notice
8 of sale shall contain a description of the animal's sex,
9 breed, brand, size, probable age, natural, artificial and
10 other identifying marks, the name of the person impounding
11 the animal, the date of impounding, the date, hour and place
12 of sale, and a statement of the assessed damages, charges
13 and costs for which the animal will be sold.

14 Sec. 03.35.056. BIDDING AND DISPOSITION OF PROCEEDS.

15 Any person, other than the person impounding the animal,
16 may act as auctioneer at the sale, and any person may bid.
17 The proceeds of the sale shall be applied in the following
18 manner: first, to costs of sale; second, to fees for magis-
19 trate, assessors and auctioneers, and expenses of publishing
20 and posting notice of sale; third, to charges for keeping
21 and feeding the animal up to the time of sale; and fourth,
22 to damage done by the animal. The buyer of the animal, if
23 the proceedings are regular, acquires good title to the
24 animal superior to all liens, encumbrances and mortgages.
25 The owner, mortgagee, or person entitled to possession of
26 the animal may, at any time before the sale, take the animal
27 upon paying to the person impounding the animal all damages,
28 charges and costs incurred up to the time of taking.

29 Sec. 03.35.058. DISPOSITION OF EXCESS PROCEEDS OF SALE.

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The magistrate shall hold any excess proceeds derived from the sale in trust for the owner of the animal, and he shall pay them to the owner upon the owner's written, verified claim to them, with proof of his ownership, within six months after the date of the sale. If no claim is made within six months after the date of sale, the magistrate shall immediately pay the excess proceeds to the commissioner of revenue for deposit in the state treasury. The owner, within seven years after the date of the sale, may recover said money from the state in the same manner as though the money had been escheated.

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