

1 IN THE HOUSE

BY ORBECK

2 HOUSE BILL NO. 11

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the impounding of estrays."

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

8 * Section 1. AS 03 is amended by adding a new chapter to read:

9 CHAPTER 51. ESTRAYS.

10 Sec. 03.51.010. IMPOUNDING OF ESTRAYS. (a) A person lawfully in
11 possession of land, or his authorized agent, may impound an estray
12 running at large upon the land and keep the animal in a reasonably
13 safe place until damages for injury to the property of the impounder,
14 together with reasonable charges for keeping and feeding it, are paid.

15 (b) If the impounder knows the owner or person entitled to
16 possession of an estray, he shall immediately notify the person of the
17 impounding. If the owner or person entitled to possession of the
18 estray fails, upon receipt of notice from the impounder, to im-
19 mediately take and remove the estray, or if the impounder does not
20 know the owner or person entitled to possession, the impounder shall
21 immediately give 10 days notice of the impounding by posting, within
22 two miles of the place of impounding, notices in three public places,
23 one of which shall be at the nearest post office, if within the two-
24 mile area. The notice shall contain a reasonably correct description
25 of the estray's sex, breed, size, probable age, natural, artificial and
26 other identifying marks, the name of the impounder, and the time and
27 place of impounding.

28 (c) If at the time of impounding the estray, the impounder knows
29 the owner or person entitled to the possession but fails to notify him,

1 the impounder may not recover for impounding, posting or keeping the
2 stray.

3 Sec. 03.51.020. STATEMENT ON FAILURE OF OWNER TO RECLAIM ESTRAY.
4 If, at the expiration of 10 days from the date of posting, the stray
5 is not reclaimed, the impounder shall file with a district judge or
6 magistrate in the recording district where the stray is impounded a
7 verified statement showing the failure and the efforts made by him to
8 find the owner or person entitled to possession of the stray, and the
9 damages, if any, he has suffered by the stray running at large upon
10 his premises, and the keeping rates, if any, he claims as compensation
11 for keeping the stray.

12 Sec. 03.51.030. HEARING ON STATEMENT. The district judge or
13 magistrate shall promptly hold a public hearing at which the owner or
14 person entitled to possession of the stray may appear and be heard.
15 The district judge or magistrate at the hearing shall allow and assess
16 against the stray all reasonable damages, keeping rate and costs that
17 have been reasonably incurred by the impounder.

18 Sec. 03.51.040. PUBLIC SALE OF ESTRAYS. If the owner, or person
19 entitled to possession, fails to pay damages, keeping rates, or costs
20 assessed, the stray shall be sold to satisfy them at public auction
21 within not less than two nor more than three weeks after the assessment
22 is entered. The impounder shall give notice of the sale by publica-
23 tion for not less than once a week for two consecutive weeks in a
24 newspaper published nearest the place where the stray is impounded
25 and by posting, within two miles of the place of the sale, notices in
26 three public places, one of which shall be the nearest post office if
27 it is within two miles of the place of sale. Publication may be
28 omitted if no newspaper of general circulation is published within 25
29 miles of the place where the stray is impounded. The notice of sale

1 shall contain a description of the estray's sex, breed, brand, size,
2 probable age, natural, artificial and other identifying marks, the name
3 of the impounder, the date of impounding, the date, hour and place of
4 sale, and a statement of the assessed damages, keeping rates, costs and
5 expenses for which the estray will be sold.

6 Sec. 03.51.050. BIDDING AND DISPOSITION OF PROCEEDS. Any person
7 other than the impounder may act as auctioneer at the sale, and any per-
8 son may bid. The proceeds of the sale shall be applied in the follow-
9 ing manner: first, to costs and expenses of sale; second, to fees for
10 the district judge or magistrate, assessors and auctioneers, and expenses
11 of publishing and posting notice of sale; third, to keeping rates up to
12 the time of sale; and fourth, to damage done by the estray. The buyer
13 of the animal, if the proceedings are regular, acquires good title to
14 the animal superior to all liens, encumbrances and mortgages. The
15 owner or person entitled to possession of the estray may, at any time
16 before the sale, take the estray upon paying to the impounder all
17 damages, keeping rates, costs, charges and expenses incurred up to the
18 time of taking.

19 Sec. 03.51.060. DISPOSITION OF EXCESS PROCEEDS OF SALE. The
20 district judge or magistrate shall hold any excess proceeds derived
21 from the sale in trust for the owner of the estray, and he shall pay
22 the proceeds to the owner upon the owner's written, verified claim to
23 the proceeds, with proof of his ownership, within six months after the
24 date of the sale. If no claim is made within six months after the date
25 of sale, the district judge or magistrate shall immediately pay the
26 excess proceeds to the commissioner of revenue for deposit in the state
27 treasury. The owner, within seven years after the date of the sale,
28 may recover the money from the state in the same manner as though the
29 money had been escheated.

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Sec. 03.51.070. PENALTY FOR IMPOUNDING OR USING ESTRAYS CONTRARY TO CHAPTER. A person impounding or using an estray except in accordance with this chapter is liable to a penalty of double the value of the estray. The penalty may be recovered by the owner or person entitled to possession in any competent court of the state.

Sec. 03.51.080. CHAPTER INAPPLICABLE TO AUTHORIZED PUBLIC OFFICERS. This chapter does not apply to municipal or other public officers empowered by statute or municipal ordinance to impound animals running at large or in contravention of a municipal ordinance.

Sec. 03.51.090. DEFINITIONS. In this chapter "estrays" means a domestic animal, whether its owner is known or not, running at large on private land.