

Introduced: 1/21/77  
Referred: Judiciary

BY OSE, AKERS, BEIRNE, BENNETT,  
CHATTERTON, FREEMAN, KELLY,  
MILLER, RHODE, SCHAEFFER,  
SWANSON AND URION

1 IN THE HOUSE

2 *SCS* *CS* HOUSE BILL NO. 90 *am*

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to 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. RECORD OF ESTRAYS. District magistrates and  
11 deputy magistrates shall keep a record of estrays, showing claims,  
12 notices, awards, orders, affidavits and proceedings relative to estrays.

13 Sec. 03.51.020. WHO MAY IMPOUND. A person, or his agent, upon  
14 whose premises an estray is running at large, may impound the estray in  
15 a reasonably safe place.

16 Sec. 03.51.030. NOTICE OF TAKING UP OR IMPOUNDING. If the im-  
17 pounder knows the owner or person entitled to possession of an estray,  
18 he shall immediately notify the person of the impounding. If the owner  
19 or person entitled to possession of the estray fails, upon receipt of  
20 notice from the impounder, to immediately take and remove the estray, or  
21 if the impounder does not know the owner or person entitled to posses-  
22 sion, the impounder shall immediately give 10 days notice of the im-  
23 pounding by posting, within two miles of the place of impounding,  
24 notices in three public places, one of which shall be at the nearest  
25 post office, if within the two-mile area. The notice shall contain a  
26 reasonably correct description of the estray's sex, breed, size, pro-  
27 bable age, natural, artificial and other identifying marks, the name of  
28 the impounder, and the time and place of impounding.

29 Sec. 03.51.040. SURRENDER OF ESTRAY TO OWNER UPON PAYMENT OF

1 EXPENSES AND DAMAGES. If the owner or person entitled to the possession  
2 of the estray proves before the expiration of the 10-day period his  
3 ownership of or possessory right to the estray, the impounder shall  
4 immediately surrender possession to him upon his paying the impounder \$1  
5 for the impounder's services, a reasonable rate for keeping the animal,  
6 and payment for damages the estray has caused to the property of the  
7 impounder. If at the time of impounding the estray the impounder knows  
8 the owner or person entitled to the possession but fails to notify him  
9 as required by sec. 30 of this chapter, the impounder may not recover  
10 for impounding, posting or keeping the estray.

11 Sec. 03.51.050. STATEMENT ON FAILURE OF OWNER TO RECLAIM ESTRAY.  
12 If, at the expiration of 10 days from the date of posting, the estray is  
13 not reclaimed, the impounder shall file with a district or deputy  
14 magistrate in the recording district where the estray is impounded a  
15 verified statement showing the failure and the efforts made by him to  
16 find the owner or person entitled to possession of the estray, and the  
17 damages, if any, he has suffered by the estray running at large upon his  
18 premises, and the keeping rates, if any, he claims as compensation for  
19 keeping the estray.

20 Sec. 03.51.060. HEARING ON STATEMENT. The district or deputy  
21 magistrate shall promptly hold a public hearing at which the owner or  
22 person entitled to possession of the estray may appear and be heard.  
23 The district or deputy magistrate at the hearing shall allow and assess  
24 against the estray all reasonable damages, keeping rate and costs to  
25 which it appears the impounder is justly entitled. Upon request of the  
26 impounder or of the owner or person entitled to possession of the estray,  
27 and payment of the required fees, the magistrate shall appoint three  
28 residents of the recording district, who have the qualifications to act  
29 as jurors, to assess damages, keeping rates and costs. The decision of

1 the magistrate or, if he appoints assessors, then of a majority of them  
2 is final, but, if the amount involved exceeds \$50, an appeal may be  
3 taken to the superior court. Each assessor is entitled to the same  
4 compensation paid to jurors in the district magistrate court, to be  
5 taxed as costs in the proceeding.

6 Sec. 03.51.070. PUBLIC SALE OF ESTRAYS. If the owner or person  
7 entitled to possession fails to pay damages, keeping rates, or costs  
8 assessed, the estray shall be sold to satisfy them at public auction  
9 within not less than two more more than three weeks after the assessment  
10 is entered by the magistrate. The impounder shall give notice of the  
11 sale by publication for not less than once a week for two consecutive  
12 weeks in a newspaper published nearest the place where the estray is  
13 impounded and by posting, within two miles of the place of the sale,  
14 notices in three public places, one of which shall be the nearest post  
15 office if it is within two miles of the place of sale. Publication may  
16 be omitted if no newspaper of general circulation is published within 25  
17 miles of the place where the estray is impounded. The notice of sale  
18 shall contain a description of the estray's sex, breed, brand, size,  
19 probable age, natural, artificial and other identifying marks, the name  
20 of the impounder, the date of impounding, the date, hour and place of  
21 sale, and a statement of the assessed damages, keeping rates, costs and  
22 expenses for which the estray will be sold.

23 Sec. 03.51.080. BIDDING AND DISPOSITION OF PROCEEDS. Any person,  
24 other than the impounder, may act as auctioneer at the sale, and any  
25 person may bid. The proceeds of the sale shall be applied in the  
26 following manner: first, to costs and expenses of sale; second, to fees  
27 for magistrate, assessors and auctioneers, and expenses of publishing  
28 and posting notice of sale; third, to keeping rates up to the time of  
29 sale, including the fee of \$1; and fourth, to damage done by the estray.

1 The buyer of the animal, if the proceedings are regular, acquires good  
2 title to the animal superior to all liens, encumbrances and mortgages.  
3 The owner, mortgagee, or person entitled to possession of the estray  
4 may, at any time before the sale, take the estray upon paying to the  
5 impounder all damages, keeping rates, costs, charges and expenses in-  
6 curred up to the time of taking.

7 Sec. 03.51.090. DISPOSITION OF EXCESS PROCEEDS OF SALE. The  
8 magistrate shall hold excess proceeds derived from the sale in trust for  
9 the owner of the estray, and he shall pay them to the owner upon the  
10 owner's written, verified claim to them, with proof of his ownership,  
11 within six months after the date of the sale. If no claim is made  
12 within six months after the date of sale, the magistrate shall immedi-  
13 ately pay the excess proceeds to the commissioner of revenue for deposit  
14 in the state treasury. The owner, within seven years after the date of  
15 the sale, may recover this money from the state in the same manner as  
16 though the money had been escheated.

17 Sec. 03.51.100. PENALTY FOR IMPOUNDING OR USING ESTRAYS CONTRARY  
18 TO CHAPTER. A person impounding or using an estray except in accordance  
19 with this chapter is liable to a penalty of double the value of the  
20 estray. The penalty may be recovered by the owner or person entitled to  
21 possession in any competent court of the state.

22 Sec. 03.51.110. CHAPTER INAPPLICABLE TO AUTHORIZED PUBLIC OFFICERS.  
23 This chapter does not apply to municipal or other public officers  
24 empowered by statute or municipal ordinance to impound animals running  
25 at large or in contravention of a statute or municipal ordinance.  
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