

Offered: 5/7/86  
Referred: Rules

Original sponsor: Marrou

1 IN THE HOUSE BY THE COMMUNITY AND  
REGIONAL AFFAIRS COMMITTEE  
2 CS FOR HOUSE BILL NO. 428 (C&RA)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FOURTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act relating to open public range."  
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
8 \* Section 1. AS 03.35.010 is amended to read:  
9 Sec. 03.35.010. CREATION AND RESTRICTION IN USE OF CONTROLLED  
10 LIVESTOCK DISTRICTS. (a) The state constitutes a controlled live-  
11 stock district. An area of open public range may be established under  
12 this chapter  
13 (1) in the unorganized borough; and  
14 (2) in the areas outside a city or former city of any class  
15 in a borough or a unified municipality.  
16 (b) A district judge may create and establish open public range  
17 in the unorganized borough [A CONTROLLED LIVESTOCK DISTRICT WITHIN A  
18 CITY OR ORGANIZED BOROUGH, OR IN OTHER SETTLED AREAS OF THE STATE,] as  
19 provided in this chapter [, TO CONSIST OF ONE OR MORE TOWNSHIPS OR  
20 PORTIONS THEREOF OR OF A CONTIGUOUS AREA OF NOT LESS THAN 1,280  
21 ACRES].  
22 (c) The assembly of a borough or a unified municipality may by  
23 ordinance establish open public range in the areas outside a city or a  
24 former city of any class within the borough or unified municipality as  
25 provided in this chapter.  
26 (d) It is unlawful for any domestic animal to graze or run at  
27 large within a controlled livestock district [UNLESS THE DOMESTIC  
28 ANIMAL IS HERDED ON OPEN PUBLIC DOMAIN AND TENDED BY A PERSON AND  
29 PREVENTED FROM GRAZING UPON PRIVATE ROADS OR HIGHWAYS AND PRIVATELY

1 OWNED LAND].

2 \* Sec. 2. AS 03.35.020 is repealed and reenacted to read:

3 Sec. 03.35.020. PETITION TO CREATE, ADD, OR ABOLISH. (a) An  
4 area of open public range may be established on the petition of not  
5 less than 60 percent of the owners of land within the proposed open  
6 range area in the unorganized borough. The petition shall contain a  
7 statement of its purpose, shall define the boundaries of the area,  
8 shall be signed by 60 percent of the owners of land within the area  
9 described, and shall be filed with the district judge for the area  
10 within which the land is situated.

11 (b) An area of open public range may be established in an area  
12 outside the area of a city or former city in a borough or a unified  
13 municipality upon petition of not fewer than 10 owners of land within  
14 the proposed open range area. The petition shall contain a statement  
15 of its purpose, shall define the boundaries of the area, shall be  
16 signed by 10 owners of land within the area described, and shall be  
17 filed with the assembly of the borough or unified municipality.

18 (c) An addition to an area of open public range may be made  
19 under the procedures established under (a) and (b) of this section if  
20 the addition is contiguous to an area of open public range.

21 (d) All or a portion of an area of open public range may be  
22 returned to status as a controlled livestock district if the required  
23 number of the owners of land within the area affected petition for the  
24 change. If a petition is filed requesting a change, the procedure set  
25 out in (a) and (b) of this section for formation of an area of open  
26 public range shall be followed.

27 \* Sec. 3. AS 03.35.030 is amended to read:

28 Sec. 03.35.030. NOTICE, HEARING, AND ORDER OR ORDINANCE. (a)  
29 Upon receipt of a petition for the establishment of an area of open

1 public range in an area of the unorganized borough [A CONTROLLED  
2 LIVESTOCK DISTRICT], the district judge shall set a time for hearing  
3 the petition not less than 30 days after the receipt of the petition  
4 [THEREAFTER].

5 (b) Upon receipt of a petition for the establishment of an area  
6 of open public range in an area within a borough or a unified munic-  
7 ipality, the assembly of the borough or unified municipality shall set  
8 a time for hearing the petition not less than 30 days after the re-  
9 ceipt of the petition.

10 (c) Notice of the time and place of the hearing and its purpose  
11 shall be posted in not less than three conspicuous public places  
12 within the proposed area [DISTRICT], including a post office, for a  
13 period of at least 30 days before the hearing. If there is no post  
14 office within the proposed area [DISTRICT], then the notice shall be  
15 posted in two conspicuous public places in the proposed area [DIS-  
16 TRICT] and in the post office nearest the proposed area [DISTRICT].

17 (d) If, at the hearing, the district judge finds that the peti-  
18 tion is sufficient and that notice of the hearing has been given, the  
19 district judge shall enter an order creating and establishing the area  
20 of open public range [CONTROLLED LIVESTOCK DISTRICT] and describing  
21 its boundaries. The district judge shall [CERTIFY TO THE CLERK OF THE  
22 SUPERIOR COURT FOR THE JUDICIAL DISTRICT A COPY OF THE FINDINGS AND  
23 ORDER. THE DISTRICT JUDGE SHALL] send a copy of the order to the  
24 commissioner of natural resources [DIRECTOR, DIVISION OF AGRICULTURE,  
25 DEPARTMENT OF NATURAL RESOURCES].

26 (e) If, at the hearing, the assembly of a borough or a unified  
27 municipality finds that the petition is sufficient and that notice of  
28 the hearing has been given, it may adopt an ordinance creating and  
29 establishing the area of open public range and describing its bound-

1 aries. The clerk of the borough or unified municipality shall send a  
2 copy of the ordinance to the commissioner of natural resources.

3 \* Sec. 4. AS 03.35.040 is amended to read:

4 Sec. 03.35.040. LIABILITY FOR DAMAGES, AND LIEN. (a) The owner  
5 of land within a controlled livestock district, whether the land is  
6 fenced or unfenced,

7 (1) is entitled to recover, from the owner or person having  
8 custody and control of a domestic animal, for actual damages or in-  
9 juries [ANY INJURY] done or caused by the domestic animal [IT] when  
10 grazing or running at large within a controlled livestock district  
11 contrary to the provisions of this chapter, and

12 (2) has a lien upon the domestic animal for the amount of  
13 the damage done.

14 (b) A [HOWEVER, NO] claim for damages in excess of \$5,000 [\$50]  
15 is not allowed against any one animal for any one trespass.

16 \* Sec. 5. AS 03.35.070 is amended to read:

17 Sec. 03.35.070. DEFINITIONS. In [AS USED IN] this chapter

18 (1) "domestic animal" includes goats, sheep, cattle, hors-  
19 es, and swine;

20 (2) "owner of land" means a [INCLUDES A FREEHOLDER, TENANT,  
21 CONTRACT VENDEE OR OTHER] person in actual possession of land.