

H B

387

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 8, 1990

FURTHER REFERRALS:

Date of Committee Action: 02/20/90

The RESOURCES Committee considered:

HB 387

HOUSE BILL NO. 387

CONTROLLED LIVESTOCK DISTRICTS

"An Act relating to controlled livestock districts."

RECOMMENDATIONS:

- be replaced with CS HB 387 (RES) the same title
 a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note DNR
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

Grant Mendenhall
Mike D

	Do Not Pass	No Rec	Amend
<u>Cly Davidson</u>		✓	
<u>Bill Huds</u>		✓	
<u>Beth Sharp</u>		✓	
<u>[Signature]</u>		✓	

Grant Mendenhall
Chairman's Signature

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION : HB 387
PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date: 7-Feb-90 Agency Affected: Natural Resources
 Title: An Act relating to controlled BRU: Land & Water Management
livestock districts.
 Sponsor: Swackhammer and Navarre Components: _____
 Requestor: Resources Land & Water Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached

Prepared by: Larry Ostrovsky Phone: 465-2400
 Division: Commissioner's Office Date: 7-Feb-90
 Approved by Commissioner: *Lennie Gorsuch* Date: 7-Feb-90
 Agency: Department of Natural Resources

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Original sponsor(s): REP. SWACKHAMMER, Naverre

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 387 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to controlled livestock districts."

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. ESTABLISHMENT [CREATION] AND RESTRICTION IN USE
 10 OF CONTROLLED LIVESTOCK DISTRICTS. A district judge may [CREATE AND]
 11 establish a controlled livestock district within a municipality [CITY
 12 OR ORGANIZED BOROUGH,] or in other settled areas of the state, as
 13 provided in this chapter, to consist of [ONE OR MORE TOWNSHIPS OR
 14 PORTIONS THEREOF OR OF] a contiguous area of not less than 1,280
 15 acres. The owner and the person having custody and control of a
 16 domestic animal may not knowingly permit the [IT IS UNLAWFUL FOR ANY]
 17 domestic animal to graze or run at large within a controlled livestock
 18 district [UNLESS THE DOMESTIC ANIMAL IS HERDED ON OPEN PUBLIC DOMAIN
 19 AND TENDED BY A PERSON AND PREVENTED FROM GRAZING UPON PRIVATE ROADS
 20 OR HIGHWAYS AND PRIVATELY OWNED LAND].

21 * Sec. 2. AS 03.35.010 is amended by adding a new subsection to read:

22 (b) Violation of (a) of this section is a class B misdemeanor.

23 * Sec. 3. AS 03.35.020(a) is amended to read:

24 (a) A controlled livestock district may be established [CREATED]
 25 upon petition of not less than 60 percent of the resident owners and
 26 lessees of the [CULTIVATED] land within the area to be included in the
 27 district. The petition must [SHALL] contain a statement of its pur-
 28 pose, [SHALL] define the boundaries of the area to be included within
 29 the district, [SHALL] be signed by [THE REQUISITE] 60 percent of the

1 resident owners and lessees within the area described, and [SHALL] be
2 filed with the district judge for the district within which the land
3 is situated.

4 * Sec. 4. AS 03.35.020(c) is amended to read:

5 (c) A portion [PORTIONS] of a controlled livestock district may
6 be eliminated or a [AN ENTIRE] district may be dissolved [ABOLISHED OR
7 ELIMINATED] if 60 percent of the resident owners and lessees of the
8 [CULTIVATED] land within the district or the area affected petition
9 for the elimination or dissolution under [ABOLISHMENT, IN WHICH EVENT]
10 the procedure set out in this section for the establishment [FORMA-
11 TION] of a controlled livestock district [SHALL BE FOLLOWED FOR DISSO-
12 LUTION].

13 * Sec. 5. AS 03.35.030 is amended to read:

14 Sec. 03.35.030. NOTICE, HEARING, AND ORDER. Upon receipt of a
15 petition for the establishment, addition, elimination, or dissolution
16 of a controlled livestock district, the district judge shall set a
17 time for hearing the petition not less than 30 days after its receipt
18 [THEREAFTER]. Notice of the time and place of the hearing and its
19 purpose shall be posted in not less than three conspicuous public
20 places within the proposed district, including a post office, for a
21 period of at least 30 days before the hearing. If there is no post
22 office within the proposed district, then the notice shall be posted
23 in two conspicuous public places in the proposed district and in the
24 post office nearest the proposed district. If, at the hearing, the
25 district judge finds that the petition meets the requirements estab-
26 lished under AS 03.35.020 [IS SUFFICIENT] and that notice of the
27 hearing has been given, the district judge shall enter an order grant-
28 ing the request contained within the petition. The boundaries of the
29 district are those proposed within the petition [CREATING AND

1 ESTABLISHING THE CONTROLLED LIVESTOCK DISTRICT AND DESCRIBING ITS
2 BOUNDARIES]. The district judge shall certify to the clerk of the
3 superior court for the judicial district a copy of the findings and
4 order. The district judge shall send a copy of the order to the
5 commissioner of natural resources (DIRECTOR, DIVISION OF AGRICULTURE,
6 DEPARTMENT OF NATURAL RESOURCES).

7 * Sec. 6. AS 03.35 is amended by adding a new section to read:

8 Sec. 03.35.035. IDENTIFICATION OF DOMESTIC ANIMALS WITHIN CON-
9 TROLLED LIVESTOCK DISTRICT. (a) Within 60 days of the establishment
10 of a controlled livestock district or of the addition to an estab-
11 lished controlled livestock district under AS 03.35.010, the person
12 having custody and control of domestic animals located within the
13 district shall identify the animals under AS 03.40, use identification
14 collars to indicate ownership, or otherwise use a reliable system for
15 the identification of the ownership of the animal.

16 (b) A person who violates (a) of this section commits a viola-
17 tion.

18 * Sec. 7. AS 03.35.040 is amended to read:

19 Sec. 03.35.040. LIABILITY FOR DAMAGES, AND LIEN. (a) The owner
20 of land within a controlled livestock district, whether the land is
21 fenced or unfenced, [(1)] is entitled to recover, from the owner or
22 person having custody and control of a domestic animal, for any injury
23 done by the animal [(IT)] when grazing or running at large within a
24 controlled livestock district contrary to the provisions of this
25 chapter, and [(2)] has a lien upon the domestic animal for the amount
26 of the damage done.

27 (b) A [(HOWEVER, NO)] claim for damages may not exceed \$500 [(IN
28 EXCESS OF \$50 IS ALLOWED)] against any one animal for any one trespass.

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



SOLDOTNA

312 TYEE STREET
SOLDOTNA, ALASKA 99899
(907) 282-7841

JUNEAU

BOX V
JUNEAU, ALASKA 99811
(907) 485-2889

House of Representatives

February 20, 1990

SUMMARY OF AMENDMENTS TO HOUSE BILL 387

Page 1, line 25; Page 2, line 1; and Page 2, line 7: Before "owners", the word "resident" is inserted. This allows for only the resident landowners to be able to petition the district court for the establishment or dissolution of a controlled livestock district. Otherwise, those landowners, who do not live in state, would be involved in the petition process. The process would be virtually unmanageable for petitioners who wish to establish or dissolve a controlled livestock district. The out of state owners also are not affected as greatly by roaming livestock as those who reside in an area where livestock problems may exist.

Page 3, line 10: Deleted "the owner or" after "AS 03.35.010,". Legal Services believes an owner could be put in jeopardy of receiving a violation should he or she not have the custody or control of the livestock at a particular time. However, the definition of the person having custody and control does not exclude an owner who may indeed have custody and control of the animals on a controlled livestock district.

Page 2, line 25: Deleted "is sufficient" and substituted "meets the requirements established under A.S. 03.35.020". This clarifies the standards for which the petition is to be considered by the district court judge.

Page 3, line 15: Added Section (b) which establishes a violation for failure to properly brand, mark or use other reasonable means to identify animals within a controlled livestock district.

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

SOLDOTNA
312 TYEE STREET
SOLDOTNA, ALASKA 99669
(907) 262-7841

JUNEAU
BOX V
JUNEAU, ALASKA 99811
(907) 465-2689

January 31, 1990

SECTIONAL ANALYSIS OF HOUSE BILL 387

SECTION ONE: Amends A.S. 03.35.010 which allows for the establishment of a controlled livestock district. Since portions of this statute date back to the 1941 Territorial legislature, the drafter improved upon the adopted language by deleting the following:

1. "CREATION," substituting "ESTABLISHMENT"
2. "city or organized borough," substituting "municipality"
3. "one or more townships or portions thereof or of" (This reference is not necessary since the basic requirement is that the district have 1280 acres.)
4. "It is unlawful for any," substituting "The owner and the person having custody and control of a domestic animal may not knowingly permit the"
5. "unless the domestic animal is herded on open public domain and tended by a person and prevented from grazing upon private roads or highways and privately owned land." (This deletion is necessary to close loopholes upon the establishment of a controlled livestock district.)

SECTION TWO: Adds a new subsection to A.S. 03.35.010. Establishes a Class B misdemeanor for a violation of A.S. 03.35.010 (a). This allows for livestock trespass cases to be handled in a manner other than the impractical means of impoundment.

SECTION THREE: Amends A.S. 03.35.020 (a) that describes the petition process to establish a controlled livestock district. As in section one, this statute is fraught with outdated language. References to "resident" owners and "the requisite" were deleted as surplus. It was necessary to delete the word "cultivated." The legislative intent of the cultivated lands provision was to protect farmers from marauding livestock at a time when few people occupied rural areas. Thus, this archaic concept failed to provide any protection for people who settle in rural areas merely to enjoy country living and are not involved with commercial agriculture or grazing.

SECTION FOUR: Amends A.S. 03.35.030 which establishes the procedure for the elimination or dissolution of a controlled livestock district through the petition process. As in previous sections, the changes are merely "clean-up" in nature.

SECTION FIVE: Amends A.S. 03.35.030. This statute addresses the notice, hearing and order procedures upon receipt of the petition by a District Court to establish or dissolve a controlled livestock district. Once again, the changes reflect an update of current drafting styles. The only significant change has the district judge sending a copy of the order to the commissioner of the Department of Natural Resources rather than the director of the Division of Agriculture.

SECTION SIX: Adds a new section to A.S. 03.35. This section makes it mandatory for livestock owners within a controlled livestock district to use a reliable system for the identification of the ownership of the animal. Means for identification established under A.S. 03.40 (brands and marks), identification collars or any other reliable system will be appropriate.

SECTION SEVEN: Amends A.S. 03.35.040. Updates the language in this section and revises to a more reasonable figure (\$500) the amount available for damages.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. SWACKHAMMER

TO: HB 387

Page 1, line 25:

Delete "[RESIDENT]"

Insert "resident"

Page 2, line 1:

Delete "[RESIDENT]"

Insert "resident"

~~Page 3, line 7, after "DISTRICT."~~

~~Insert "(a)"~~

~~Page 3, after line 13.~~

~~Insert~~

~~"(b) Violation of (a) of this section is a class B misdemeanor."~~

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400

February 6, 1990

The Honorable Curt Menard
The Honorable Cliff Davidson
Co-Chairmen
House Resources Committee
State House of Representatives
P.O. Box V
Juneau, AK 99811

Dear Representatives Menard and Davidson:

Subject: HB 387, An act relating to controlled livestock districts.

Position: The department does not oppose this bill.


Background: This bill would enable 60 percent of owners and lessees within a given area to create a controlled livestock district through petition to a District Court. Such a change would make the uncontrolled livestock remedies under this statute available to a wider range of individuals, particularly in areas experiencing urban expansion into rural areas. We have some technical observations to offer:

Line 11: The addition of "municipality" restricts the availability of this statute and limits the number of individuals outside populated areas who can utilize it.

Line 24: Eliminating the word resident could make creation of a controlled livestock district unduly difficult or impossible in instances where state land disposals have created large absentee owner situations. If retained, it would give a preference to the individuals who are living in an area and having to deal with a problem.

Please contact me or my staff if you have questions regarding this matter.

Sincerely,


Lennie Gorsuch
Commissioner

cc: Bill Sponsor
House Resources Committee Members
Bob Evans, Legislative Liaison
Office of the Governor
Denby Lloyd, Special Staff Assistant
Office of the Governor
Gary Gustafson, Director
Division of Land and Water Management

6-1776E
Bradley
2/20/90

BY REP. SWACKHAMMER, Navarre

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2 CS FOR HOUSE BILL NO. 387 ()

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