

**HB**

**387**

DATE: 3/19/90

FURTHER:

DATE TURNED INTO OFFICE: 4-24-90

Resources Committee considered CSHB 387 (Resources) am "An Act relating to controlled livestock districts."

and recommended:

- [x] replace with 5 CS 29 HB 357 (RES)
[ ] or adopt CS
[ ] attached amendment(s)
[ ] letter of intent adopted

- [x] same title
[ ] new title
[ ] technical title change (HB only)

- [ ] do pass
[ ] do not pass
[ ] no recommendation
[x] individual recommendations
[ ] further referral to

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

- [x] fiscal note(s) DNR
[ ] zero fiscal note(s)
[ ] appropriation-no fiscal note

- [ ] fiscal note(s)
[ ] zero fiscal note(s)
[ ] Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Antoin Stimpelmba

Rick Halford NO REC
10 4
D. E. Gibson

Chair: Signature and Recommendation

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						
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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: [Signature] Bernice 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)

Changes in SCS CSHB 387 (Res)  
 have no fiscal impact. This  
 fiscal note is appropriate.  
 Projections of no fiscal impact

REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

# Alaska State Legislature



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## House of Representatives

April 20, 1990

### SECTIONAL ANALYSIS OF PROPOSED SENATE RESOURCES CS FOR CS FOR HOUSE BILL 387 (Res)

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 with criminal negligence 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 (b). 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. Reference to "the requisite" was 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. In order to protect the land owners who have a large amount of land, 60 percent of the resident owners or lessees must own or lease at least 30 percent of the land described in the petition.

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, eliminate 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. Failure to properly identify domestic animals is punishable as a violation offense.

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.

SECTION EIGHT: Adds a new subsection to A.S. 22.15.110 which describes the additional duties of a district judge and magistrate. A district judge may establish a controlled livestock district in accordance with A.S. 09.35.010 (Judgements enforceable by execution).

REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives  
MEMORANDUM

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TO: Senator Bettye Fahrenkamp  
FROM: Representative C.E. Swackhammer *Swack*  
DATE: April 25, 1990  
RE: SCS for CS for House Bill 387 (Res)

Attached for your review is material relating to SCS for CS for HB 387 (Res). The bill is in the Senate Rules Committee.

This legislation has a zero fiscal note.

Due to our tight schedules during the last few days of this session, it will be difficult to contact each of you individually. However, Tom Wright of my staff will be contacting your staff to answer any questions or discuss concerns you may have in regards to HB 387.

I would appreciate your favorable consideration of this legislation.

Attachments

CES/tw

*Thank You for hearing  
the bill in Resources -  
Your help is appreciated*

REPRESENTATIVE  
C.E. "SWACK" SWACKHAMMER

# Alaska State Legislature



April 25, 1990

## House of Representatives

### SUMMARY OF SCS FOR CS FOR HB 387 (RES)

SCS for CS for House Bill 387 (Res), an act relating to controlled livestock districts, is in response to conflicts that exist between neighboring livestock owners in my district and, from what I understand, other areas in the state, where roaming livestock are causing substantial private property damage as they wander off public grazing land. The current statutory remedies are confrontational in nature. HB 387 establishes an alternative to existing law which requires impoundment of roaming livestock as a means to collect for damages.

The proposed legislation:

- \* Creates a Class B misdemeanor in instances where an owner or person having custody of domestic animals with criminal negligence allows those animals to roam at large within a controlled livestock district.
- \* Refines the guidelines for establishing or abolishing a controlled livestock district.
- \* Makes identification of the animals mandatory using the system established under AS 03.40, identification collars or other reasonable means. Failure to properly identify animals constitutes a violation.
- \* Raises the claim for damages from \$50 to \$500 per animal for any one trespass.

The establishment of a controlled livestock district is not mandatory under this bill. An area has to be larger than 1,280 acres before it can be established and only after 60% of the affected resident owners or lessees who own or lease at least 30% of the land have petitioned to establish such a district. Additions to existing districts must be at least 160 acres.

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# Alaska State Legislature



## House of Representatives

April 25, 1990

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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 with criminal negligence 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 (b). 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. Reference to "the requisite" was 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. In order to protect the land owners who have a large amount of land, 60 percent of the resident owners or lessees must own or lease at least 30 percent of the land described in the petition.

**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, eliminate 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. Failure to properly identify domestic animals is punishable as a violation offense.

**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.

**SECTION EIGHT:** Adds a new subsection to A.S. 22.15.110 which describes the additional duties of a district judge and magistrate. A district judge may establish a controlled livestock district in accordance with A.S. 09.35.010 (Judgements enforceable by execution).

BASIS

Committee Minutes

Senator Fahrenkamp announced SB 472 to be up for discussion. Senator Coghill, sponsor, gave the background on moose ranching; he said it's being done in Russia and the Scandinavian countries. He said that we could ranch moose along with buffalo and musk oxen and start a whole new industry in rural Alaska.

Senator Coghill said that ADF&G is opposed to this legislation, because they have a policy against domestication of wildlife. The Fairbanks Daily News Miner is in favor of it.

Senator Zharoff asked if this would allow importation of moose. Senator Coghill said his intent is to domesticate local moose.

TAPE 2, SIDE 1  
Number 001

Molly McCammon, ADF&G, said the Department opposes this

Selection=>											
PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
BASIS					Committee Minutes						

bill because they believe that the domestication of wildlife is contrary to the traditional values or traditional uses of our wildlife species. It would pose additional problems in management of the species and enforcement. It could also create problems in disease control and importation of moose from the outside.

Ms. McCammon said this could also establish a precedent for people who want their own private herds of wild animals.

Senator Sturgulewski asked if currently other wild animals are being ranched. Ms. McCammon answered that surplus buffalo and musk oxen can be ranched. Reindeer are already in private ownership.

Senator Zharoff moved to pass SB 472 with individual recommendations. There were no objections and it was so ordered.

Selection=>											
PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

A M E N D M E N T *am#1*

OFFERED IN THE SENATE

BY SEN. FAHRENKAMP

TO: SCS CSHB 387 (Resources)

Page 1, line 23:

Delete "new subsections"

Insert "a new subsection"

Page 1, lines 24 - 28:

Delete all material.

Reletter the following subsection accordingly.

Page 1, line 29:

Delete "or (c)"

Original sponsor(s): REP. SWACKHAMMER, Navarre

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 SENATE CS FOR 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) A district judge may [CREATE  
11 AND] establish a controlled livestock district within a municipality  
12 [CITY OR ORGANIZED BOROUGH,] or in other settled areas of the state,  
13 as 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.

16 (b) The owner and the person having custody and control of a  
17 domestic animal kept within a controlled livestock district may not  
18 with criminal negligence permit the [IT IS UNLAWFUL FOR ANY] domestic  
19 animal to graze or run at large [WITHIN A CONTROLLED LIVESTOCK DIS-  
20 TRICT UNLESS THE DOMESTIC ANIMAL IS HERDED ON OPEN PUBLIC DOMAIN AND  
21 TENDED BY A PERSON AND PREVENTED FROM GRAZING UPON PRIVATE ROADS OR  
22 HIGHWAYS AND PRIVATELY OWNED LAND].

23 Sec. 2. AS 03.35.010 is amended by adding new subsections to read:

24 (c) The owner and the person having custody and control of a  
25 domestic animal kept within 10 miles of the boundary of a controlled  
26 livestock district may not with criminal negligence permit the  
27 domestic animal to graze or run at large within the controlled live-  
28 stock district.

29 (d) Violation of (b) or (c) of this section is a class B

1 misdemeanor.

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

3 (a) A controlled livestock district may be established [CREATED]  
4 upon petition of not less than 60 percent of the resident owners and  
5 lessees of the [CULTIVATED] land within the area to be included in the  
6 district who own or lease 30 percent of the land described in the  
7 petition. The petition must [SHALL] contain a statement of its pur-  
8 pose, [SHALL] define the boundaries of the area to be included within  
9 the district, [SHALL] be signed by the required [REQUISITE 60 PERCENT  
10 OF THE] resident owners and lessees within the area described, and  
11 [SHALL] be filed with the district judge for the district within which  
12 the land is situated.

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

14 (c) A portion [PORTIONS] of a controlled livestock district may  
15 be eliminated or a [AN ENTIRE] district may be dissolved [ABOLISHED OR  
16 ELIMINATED] if 60 percent of the resident owners and lessees of the  
17 [CULTIVATED] land within the district who own or lease 30 percent of  
18 the land within the district [OR THE AREA AFFECTED] petition for the  
19 elimination or dissolution under [ABOLISHMENT, IN WHICH EVENT] the  
20 procedure set out in this section for the establishment [FORMATION] of  
21 a controlled livestock district [SHALL BE FOLLOWED FOR DISSOLUTION].

22 \* Sec. 5. AS 03.35.030 is amended to read:

23 Sec. 03.35.030. NOTICE, HEARING, AND ORDER. Upon receipt of a  
24 petition for the establishment, addition, elimination, or dissolution  
25 of a controlled livestock district, the district judge shall set a  
26 time for hearing the petition not less than 30 days after its receipt  
27 [THEREAFTER]. Notice of the time and place of the hearing and its  
28 purpose shall be posted in not less than three conspicuous public  
29 places within the proposed district, including a post office, for a

1 period of at least 30 days before the hearing. If there is no post  
2 office within the proposed district, then the notice shall be posted  
3 in two conspicuous public places in the proposed district and in the  
4 post office nearest the proposed district. If, at the hearing, the  
5 district judge finds that the petition meets the requirements estab-  
6 lished under AS 03.35.020 [IS SUFFICIENT] and that notice of the  
7 hearing has been given, the district judge shall enter an order grant-  
8 ing the request contained within the petition. The boundaries of the  
9 district are those proposed within the petition [CREATING AND ESTAB-  
10 LISHING THE CONTROLLED LIVESTOCK DISTRICT AND DESCRIBING ITS BOUND-  
11 ARIES]. The district judge shall certify to the clerk of the superior  
12 court for the judicial district a copy of the findings and order. The  
13 district judge shall send a copy of the order to the commissioner of  
14 natural resources [DIRECTOR, DIVISION OF AGRICULTURE, DEPARTMENT OF  
15 NATURAL RESOURCES].

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

17 Sec. 03.35.035. IDENTIFICATION OF DOMESTIC ANIMALS WITHIN CON-  
18 TROLLED LIVESTOCK DISTRICT. (a) Within 60 days of the establishment  
19 of a controlled livestock district or of the addition to an estab-  
20 lished controlled livestock district under AS 03.35.010, the person  
21 having custody and control of domestic animals located within the  
22 district shall identify the animals under AS 03.40, use identification  
23 collars to indicate ownership, or otherwise use a reliable system for  
24 the identification of the ownership of the animal.

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

27 \* Sec. 7. AS 03.35.040 is amended to read:

28 Sec. 03.35.040. LIABILITY FOR DAMAGES, AND LIEN. (a) The owner  
29 of land within a controlled livestock district, whether the land is

1 fenced or unfenced, [(1)] is entitled to recover, from the owner or  
2 person having custody and control of a domestic animal, for any injury  
3 done by the animal [IT] when grazing or running at large within a  
4 controlled livestock district contrary to the provisions of this  
5 chapter, and [(2)] has a lien upon the domestic animal for the amount  
6 of the damage done.

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

9 \* Sec. 8. AS 22.15.110 is amended by adding a new subsection to read:

10 (b) A district judge may establish a controlled livestock dis-  
11 trict in accordance with AS 09.35.010.

6-1776J  
Bradley  
3/30/90

Original sponsor(s): REP. SWACKHAMMER, Navarre

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