

at any time after the expiration of six months from the granting of letters testamentary or of administration, and until the final settlement of the estate and discharge of such executor or administrator from the trust, and not otherwise."

Approved April 24, 1933.

CHAPTER 45.

AN ACT

[S. B. 35]

To define legal fences and to provide for the collection of damages for trespass by animals on lands lawfully fenced and to repeal Chapter 58, Session Laws of Alaska, 1917, as amended by Chapter 88, Session Laws of Alaska, 1931.

Be it enacted by the Legislature of the Territory of Alaska:

Legal fences
defined.

Section 1. The following fences only are legal and they must not be less than four feet in height above the surface of the ground:

(a) All fences constructed of at least one strong pole, rail or board, and three of either wires, or strong poles, rails or boards, or both, so that there be three altogether thereunder, which lower three, whether all wires, or poles, rails or boards and wires, may be arranged at the pleasure of the builder; but all must be fastened firmly as nearly equi-distant as possible to substantial posts firmly set in the ground, not more than twenty feet apart, or fastened to well-supported, substantial leaning posts not more than twenty feet apart. The lower pole, rail, board or wire shall not be more than one foot and a half above the ground.

(b) All fences constructed of at least four horizontal wires each, if cabled, to consist of not less than

two wires, of at least number twelve gauge; or, if plain, of not less than a number nine gauge, the lowest of which must not be more than one foot and a half above the ground, securely fastened, as nearly equidistant as possible, to substantial posts, firmly set in the ground, or to well-supported substantial leaning posts, not exceeding thirty-two feet apart, with stays of wood or wire interwoven in or fastened to said wires, between each two of said posts, in such manner that there must not be more than five and one-half feet space between such stays and posts or nearest stay: the stays, if of wire, to be of not less than number nine gauge.

(c) All substantial worm fences or stone walls.

(d) All rivers, hedges, mountain ridges and bluffs or other barriers, over or through which it is impossible for stock to pass.

(e) All fences constructed of any standard woven field fencing, not less than four feet in height, securely fastened to substantial posts, set at a distance not exceeding thirty-five feet apart.

Section 2. It shall be the duty of all persons having barbed wire fences to keep them in good repair; in all cases in which any domesticated animal shall be killed or injured by coming in contact with barbed wire fences which are not at the time of injury kept in substantial compliance with the terms of this Act, the owner of the animal so killed or injured shall have the right to recover from the owner of such fence a sum equal to the amount of the injury sustained by him in the killing or injury to any such animal.

Fences must be kept in repair.

Liability of owner of fence.

Section 3. Any wire fence so dilapidated as to be of no practical use as a fence but which is a menace to live stock is hereby declared a public nuisance and may be abated by the court in a proceeding instituted for that purpose.

Public nuisances—what fences are.

Liability for destruction by cattle.

Section 4. The owners of any cattle or other domestic animals or those persons having possession and control of them shall be liable for all damage done by such cattle or animals to the lands and crops of another enclosed by a legal fence as defined herein, which shall be collected by the person entitled thereto, and such person shall have a lien on the cattle or other domestic animals for all damage done by them.

Damage by estrays—notice to owner of animals.

Section 5. If any domestic animal breaks into an enclosure surrounded by a legal fence, the owner or occupant of the enclosure may take into his possession the animal trespassing, and keep the same until all damages, together with reasonable charges for keeping and feeding the same, are paid. Within twenty-four hours after taking such animal into his possession, the owner or occupant must give notice thereof to the owner or claimant of the animal that he has taken up the animal if known or, if unknown, he must post a like notice at some public place near the enclosure, and if the owner fails to claim such animal and pay the reasonable charges incurred for keeping and feeding the same, within five (5) days after the receipt or posting of such notice, such animal shall be dealt with as in the case of an estray.

Penalty for removing impounded animals.

Any person who takes or removes any such impounded animal from the possession of the person in whose custody the same may be, without his consent, is liable to a penalty of not less than five not more than twenty-five dollars for each animal so taken or removed, which penalty may be recovered by such occupant or owner in any court of competent jurisdiction.

Repeal.

Section 6. That Chapter 58 of the Session Laws of 1917 and Chapter 88 of the Session Laws of 1931, be, and the same are, hereby repealed.

Approved April 25, 1933.