

CHAPTER 172.

ANIMALS DISTRAINED.

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172.01 Animals not to run at large. No stallion over one year old, nor bull over six months old, nor boar, nor ram, nor billy goat over four months old shall run at large; and if the owner or keeper shall, for any reason, suffer any such animal so to do he shall forfeit five dollars to the person taking it up and be liable in addition for all damages done by such animal while so at large, although he escapes without the fault of such owner or keeper; and the construction of any fence enumerated in section 90.02 shall not relieve such owner or keeper from liability for any damage committed by an animal of the enumerated class upon the inclosed premises of an adjoining owner.

Because this section imposes strict liability on owners of domestic animals therein described, the statute must be strictly construed, and absolute liability cannot be imposed unless the statutory requirement of a "bull over 6 months old" is established. Where a plaintiff has established that the defendant owned the bull, allowed him to run at large, and that the bull escaped his enclosure and did damage to the property or person of another, a rebuttable presumption arises that the bull was 6 months old. *Fringer v. Venema*, 26 W (2d) 366, 132 NW (2d) 565, 133 NW (2d) 809.

172.02 May be taken up; notice. Any person finding any such animal running at large may take it up, but shall within seven days thereafter notify the owner, if to him known, and request him to pay all reasonable charges for its keeping, besides such forfeiture for taking up, and take such animal away within five days after being so notified.

172.03 Notice, if owner unknown. If the owner of such animal is unknown the finder shall within 10 days thereafter file a notice with the clerk of the town in which it is taken up and if the value exceeds \$50 shall publish in the county a class 3 notice, under ch. 985. The notice shall briefly describe the animals, by marks natural or artificial, as near as practicable, and give the name and residence of the finder and the time when taken up. A copy of it shall be forthwith sent by the town clerk to the county clerk, who shall file the same.

History: 1965 c. 252.

172.04 Appraisal of animals. The finder shall, within one month from taking them up, if the animals be of the value of ten dollars or more, procure them to be appraised by a justice of the peace of such town; a certificate of such appraisal shall be signed by the justice and filed in the town clerk's office. The finder shall pay the justice fifty cents for the certificate and ten cents per mile for every mile necessarily traveled in such service.

172.05 How restored to owner. The owner or person entitled to the possession of any such animal, at any time within ninety days after such notice is filed with such town clerk, may have such animal restored to him upon proving his right thereto and paying all lawful charges incurred in relation to the same. If such claimant and the finder cannot agree as to the amount of such charges or for the use of such animal either party upon notice to the other may apply to any justice of the peace of such town to settle the same, who for that purpose may examine witnesses on oath. If any amount shall be found due to the finder over the value of the use of such animal the same, with the costs of such adjudication, shall be a lien upon such animal.

172.06 Ownership by finder; sale. If no claimant for such animal shall cause its return to him as hereinbefore provided, and if such animal shall not have been appraised for more than ten dollars, the finder shall thereupon become the absolute owner thereof; but if such appraised value exceeds ten dollars such animal shall be sold at public auction by the sheriff or any constable of the county on the request of the finder. Notice thereof shall be given and the sale shall be conducted and the same fees allowed therefor as in case of sales upon a justice's execution. The finder may bid at such sale and shall at the time of sale deliver to such officer a statement in writing of his charges, which shall be filed by such officer with the town treasurer, and after deducting such charges, if just and reasonable, and the costs of the sale the officer shall pay one-half of the remaining

proceeds to the finder, and within ten days thereafter the other half to the treasurer of such town for its use. If the finder of any such stray shall neglect or refuse to cause such sale to be made when required by law he shall pay to the town the value of such stray, to be recovered in an action by the town.

172.07 Penalties. If any person, without the consent of the finder, shall take any animal lawfully taken up as aforesaid from his possession, without the payment of his lawful charges incurred in relation to the same, he shall be liable to such finder for the value of such animal. If the finder shall neglect to give the notices, procure the appraisals or perform any of the duties hereinbefore required of him he shall be precluded from acquiring any right of property in such animal or receiving any charges or damages relative thereto.

172.08 Rams may be taken up; liability. If the owner of any ram shall suffer him to go at large or out of his inclosure between the fifteenth day of July and the first day of December in the same year he shall forfeit ten dollars for each time such ram shall be found at large and taken up, one-half of which shall be paid to the prosecutor; and he shall also be liable for any damages sustained by any person in consequence of such ram running at large. Any person may take up such ram, and shall within twenty-four hours thereafter notify the owner thereof, if known, and the place where the same is secured; and if unknown shall within the same time file with the town clerk a notice of such taking up, containing the marks of such ram, natural and artificial, if any, and also post copies of such notice in three public places in such town. The owner of such ram may, within six days after the filing and posting of such notices, pay or tender to the town clerk said forfeiture and fifty cents for his fees, and thereupon said ram shall be restored to him; and the clerk shall forthwith pay one-half of said forfeiture to the person who took the same up and the other half to the county treasurer. If such owner shall not so pay such forfeiture and fees in the time aforesaid said ram shall become the property of the person so taking him up.