

1 *House* BILL NO. *103* *Mular*
 2 INTRODUCED BY *Jacobson, Linn, Grand, Nelson*
 3 *Shelden, Johnson, Johnson, Williams, Bengtson*
 4 BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT
 5 LIVESTOCK ENCROACHING ON CERTAIN PUBLIC HIGHWAYS MAY, AFTER
 6 TWO WARNINGS, SUBJECT THE OWNER TO A CIVIL PENALTY, AND
 7 PROVIDING FOR THE EXEMPTION OF COUNTIES OR PARTS OF COUNTIES
 8 FROM THIS ACT; AND PROVIDING AN EFFECTIVE DATE."
 9 *Synch*
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: *Casey*

11 Section 1. Livestock on highways -- removal -- notice
 12 to owner. (1) No person who owns or is entitled to the
 13 possession of any livestock may permit that livestock to
 14 create a traffic hazard upon a highway that is part of the
 15 state or county highway system.

16 (2) Whenever a peace officer sees unattended livestock
 17 on a part of the state or county highway system and
 18 determines that it is creating a traffic hazard, he shall
 19 make such efforts as may be appropriate to reduce any
 20 immediate hazard to traffic, including impoundment of the
 21 livestock. He shall then attempt to identify the owner,
 22 probable owner, or possessor of the livestock and shall
 23 notify the owner, probable owner, or possessor, and the
 24 county sheriff, by the fastest available means, that the
 25 livestock is creating a traffic hazard.

INTRODUCED BILL

1 (3) When the person owning or possessing the livestock
 2 has been finally identified, the sheriff shall provide the
 3 owner or possessor of the livestock with a written notice
 4 detailing the time and place and description of the stock
 5 that were creating a hazard in violation of this act. The
 6 notice shall include a statement of the penalty for
 7 violation of this act and shall list the details of any
 8 other violation of this act that may be on record against
 9 the owner or possessor so warned.

10 (4) A sheriff or other peace officer who impounds
 11 livestock in accordance with this act shall notify the
 12 rightful owner of that impounded livestock. If the sheriff
 13 or peace officer cannot determine the rightful owner, then a
 14 state stock inspector or deputy state stock inspector of the
 15 county may be called to examine the livestock for brands to
 16 determine ownership. The rightful owners shall be notified
 17 by the inspector and the usual inspection fees and mileage
 18 shall be paid by the owner of the livestock.

19 Section 2. Civil penalty -- disposition of fines.
 20 After peace officers have issued two (2) such warnings to a
 21 livestock owner, any peace officer observing any of the same
 22 owner's stock on a public highway shall serve the owner with
 23 a citation to appear in the nearest justice court. Upon
 24 finding that two (2) or more warnings or citations have been
 25 issued to the livestock owner within the preceding twelve

HB 103

1 (12) months, and that livestock have encroached upon the
 2 highway as alleged in the citation, the court shall assess a
 3 civil penalty not to exceed one hundred dollars (\$100) plus
 4 an additional penalty of ten dollars (\$10) for each
 5 unattended animal in violation of this act provided that the
 6 total penalty not exceed (three hundred dollars (\$300)).
 7 One-half (1/2) of the fines so collected shall be paid to
 8 the road fund for the county.

9 Section 3. Exemption -- procedure. (1) When five
 10 percent (5%) of the registered voters of a county petition
 11 to remove the application of this act, the board of county
 12 commissioners shall place on the ballot at the next election
 13 the question "For the control of livestock on highways by
 14 fines" and "Against the control of livestock on highways by
 15 fines". A majority of registered voters in the county
 16 voting "Against" shall cause this act to have no effect in
 17 that county.

18 (2) A board of county commissioners may, by
 19 resolution, declare this act effective in a portion of their
 20 county only. This declaration is effective upon filing the
 21 resolution and a description of the affected areas with the
 22 secretary of state.

23 Section 4. Records to be kept. The sheriff, or such
 24 other officer as the board of county commissioners may
 25 designate, shall keep records of all warnings and citations

1 issued under this act for at least twelve (12) months after
 2 issuance.

3 Section 5. Definitions. When used in this act, the
 4 term "Livestock" means cattle, sheep, swine, horses, mules,
 5 and goats.

6 Section 6. Liability not altered by this act. In any
 7 civil action brought by the owner, driver, or occupant of a
 8 motor vehicle, or by their personal representatives or
 9 assigns, for damages caused by collision between any motor
 10 vehicle and any livestock, there is no presumption or
 11 inference that such collision was due to negligence on the
 12 part of an owner or person in possession of such livestock
 13 because of a violation of this act and no civil liability
 14 for damages shall attach to an owner or person in possession
 15 of such livestock because of a violation of this act.

16 Section 7. This act is effective upon passage and
 17 approval.

-End-

House BILL NO. *103* *MULAK*

INTRODUCED BY

Jacobson, Linn, Grief, Nelson, Sheldon, Johnson, Johnson, Williams, Bengtson

BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT

LIVESTOCK ENCROACHING ON CERTAIN PUBLIC HIGHWAYS MAY, AFTER

TWO WARNINGS, SUBJECT THE OWNER TO A CIVIL PENALTY, AND

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(2) Whenever a peace officer sees unattended livestock on a part of the state or county highway system and determines that it is creating a traffic hazard, he shall make such efforts as may be appropriate to reduce any immediate hazard to traffic, including impoundment of the livestock. He shall then attempt to identify the owner, probable owner, or possessor of the livestock and shall notify the owner, probable owner, or possessor, and the county sheriff, by the fastest available means, that the livestock is creating a traffic hazard.

INTRODUCED BILL

(3) When the person owning or possessing the livestock has been finally identified, the sheriff shall provide the owner or possessor of the livestock with a written notice detailing the time and place and description of the stock that were creating a hazard in violation of this act. The notice shall include a statement of the penalty for violation of this act and shall list the details of any other violation of this act that may be on record against the owner or possessor so warned.

(4) A sheriff or other peace officer who impounds livestock in accordance with this act shall notify the rightful owner of that impounded livestock. If the sheriff or peace officer cannot determine the rightful owner, then a state stock inspector or deputy state stock inspector of the county may be called to examine the livestock for brands to determine ownership. The rightful owners shall be notified by the inspector and the usual inspection fees and mileage shall be paid by the owner of the livestock.

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 9 assigns, for damages caused by collision between any motor
 10 vehicle and any livestock, there is no presumption or
 11 inference that such collision was due to negligence on the
 12 part of an owner or person in possession of such livestock
 13 because of a violation of this act and no civil liability
 14 for damages shall attach to an owner or person in possession
 15 of such livestock because of a violation of this act.

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 17 approval.

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Approved by Committee
on Judiciary

HOUSE BILL NO. 103

INTRODUCED BY JACOBSEN, LIEN, LUND, AAGESON,
SHELDEN, HUBING, HALVORSON, WILLIAMS, BENGTSON, MCFADDEN,
BARDANOUVE, SEIFERT, KIMBLE, KVAALEN, MURPHY, STOLTZ, GERKE,
SCULLY, KUMMERFELDT, MANUEL, W. BAETH, GUNDERSON, BRADLEY,
LOCKREM, CASEY, SMITH, HARPER, DASSINGER, JAMES MOORE,
MULAR, DRISCOLL, DUSSAULT, LYNCH

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PROVIDING FOR THE EXEMPTION OF COUNTIES OR PARTS OF COUNTIES
FROM THIS ACT,~~AND PROVIDING AN EFFECTIVE DATE.~~"

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possession of any livestock may permit that livestock to
create a traffic hazard upon a highway that is part of the
state or county highway system.

(2) Whenever a peace officer sees unattended livestock
on a part of ~~the~~ SUCH state or county highway system and
determines that it is creating a traffic hazard, he shall
make such efforts as may be appropriate to reduce any
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livestock. He shall then attempt to identify the owner,
probable owner, or possessor of the livestock and shall
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has been finally identified, the sheriff shall provide the
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(WARNING) detailing the time and place and description of
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the owner or possessor so warned.

~~(4) A sheriff or other peace officer who impounds
livestock in accordance with this act shall notify the
rightful owner of that impounded livestock.~~ If the sheriff
or peace officer cannot determine the rightful owner, then a
state stock inspector or deputy state stock inspector of the
county may be called to examine the livestock for brands to
determine ownership. The rightful owners shall be notified
by the inspector and the usual inspection fees and mileage
shall be paid by the owner of the livestock.

Section 2. Civil penalty -- disposition of fines.
After peace officers have issued two (2) such warnings to a

1 livestock owner, any peace officer observing any of the same
 2 owner's stock CREATING A TRAFFIC HAZARD on a public highway
 3 shall serve the owner with a citation to appear in the
 4 nearest justice court. Upon finding that two (2) or more
 5 warnings or citations have been issued to the livestock
 6 owner within the preceding twelve (12) months, and that
 7 livestock have encroached upon the highway as alleged in the
 8 citation, the court shall assess a civil penalty not to
 9 exceed one hundred dollars (\$100) plus an additional penalty
 10 of ten dollars (\$10) for each unattended animal in violation
 11 of this act provided that the total penalty not exceed
 12 ~~three~~ hundred dollars (\$300). One-half (1/2) of the fines
 13 so collected shall be paid to the road fund for the county.

14 SECTION 3. COUNTY COMMISSIONERS TO IMPLEMENT ACT.

15 (1) BEFORE THIS ACT IS EFFECTIVE IN ANY COUNTY THE BOARD OF
 16 COUNTY COMMISSIONERS SHALL PASS A RESOLUTION DECLARING THAT
 17 THE ACT SHALL BECOME EFFECTIVE THIRTY (30) DAYS AFTER
 18 PASSAGE OF THE RESOLUTION. THE RESOLUTION MAY PROVIDE THAT
 19 THE ACT IS EFFECTIVE THROUGHOUT THE COUNTY OR ONLY IN
 20 SPECIFIED AREAS OF THE COUNTY.

21 (2) THE RESOLUTION SHALL DESCRIBE THE AFFECTED AREAS
 22 AND A COPY OF THE RESOLUTION SHALL BE:

23 (A) PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN
 24 THE COUNTY ONCE A WEEK FOR THREE (3) SUCCESSIVE WEEKS PRIOR
 25 TO THE EFFECTIVE DATE;

1 (B) SENT TO THE COUNTY SHERIFF, THE CITY POLICE
 2 DEPARTMENTS, THE HIGHWAY PATROL AND ANY OTHER PEACE OFFICERS
 3 HAVING JURISDICTION WITHIN THE COUNTY;

4 (C) FILED WITH THE SECRETARY OF STATE.

5 Section 4. Exemption -- procedure. ~~(1)~~ When five
 6 percent (5%) of the registered voters of a county petition
 7 to remove the application of this act, the board of county
 8 commissioners shall place on the ballot at the next election
 9 the question "For the control of livestock on highways by
 10 fines" and "Against the control of livestock on highways by
 11 fines". A majority of registered voters in the county
 12 voting "Against" shall cause this act to have no effect in
 13 that county.

14 ~~(2) -- A -- board -- of -- county -- commissioners -- may, -- by~~
 15 ~~resolution, -- declare -- this -- act -- effective -- in -- a -- portion -- of -- their~~
 16 ~~county -- only. -- This -- declaration -- is -- effective -- upon -- filing -- the~~
 17 ~~resolution -- and -- a -- description -- of -- the -- affected -- areas -- with -- the~~
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19 Section 5. Records to be kept. The sheriff, or such
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 25 term "Livestock" means cattle, sheep, swine, horses, mules,

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2 Section 7. Liability not altered by this act. In any
3 ~~civil~~ CIVIL action brought by the owner, driver, or occupant
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6 vehicle and any livestock, there is no presumption or
7 inference that such collision was due to negligence on the
8 part of an owner or person in possession of such livestock
9 because of a violation of this act and no civil liability
10 for damages shall attach to an owner or person in possession
11 of such livestock because of a violation of this act.

12 SECTION 8. THIS ACT DOES NOT APPLY TO PORTIONS OF
13 COUNTY ROADS, WHICH DO NOT RUN ON SUBDIVISION OR SECTION
14 LINES AND THE RIGHT-OF-WAY FOR WHICH WAS OBTAINED BY
15 VOLUNTARY GRANT OF EASEMENT BY THE OWNER OF THE LAND (OR HIS
16 PREDECESSOR IN TITLE) THROUGH WHICH THE PORTION OF THE ROAD
17 RUNS.

18 ~~Section 7. This act is effective upon passage and~~
19 ~~approval.~~

-End-

1 HOUSE BILL NO. 103

2 INTRODUCED BY JACOBSEN, LIEN, LUND, AAGESON,

3 SHELDEN, HUBING, HALVORSON, WILLIAMS, BENGTSON, MCFADDEN,

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 20 state or county highway system.

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 22 on a part of ~~the~~ SUCH state or county highway system and
 23 determines that it is creating a traffic hazard, he shall
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5 Section 4. Exemption -- procedure. ~~(1)~~ When five
 6 percent (5%) of the registered voters of a county petition
 7 to remove the application of this act, the board of county
 8 commissioners shall place on the ballot at the next election
 9 the question "For the control of livestock on highways by
 10 fines" and "Against the control of livestock on highways by
 11 fines". A majority of registered voters in the county
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 25 term "Livestock" means cattle, sheep, swine, horses, mules,

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-End-

March 26, 1975

SENATE COMMITTEE OF THE WHOLE
AMENDMENTS TO HOUSE BILL NO. 103

That House Bill No. 103, third reading, be amended as follows:

1. Amend page 1, section 1, line 20.
Following: "system"
Insert: ", when such highway is fenced"
2. Amend page 2, section 1, line 9.
Strike: "(WARNING)"
3. Amend page 5, section 8, lines 12 through 17.
Following: line 11
Strike: Section 8 in its entirety

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(2) Whenever a peace officer sees unattended livestock on a part of the SUCH state or county highway system and determines that it is creating a traffic hazard, he shall make such efforts as may be appropriate to reduce any immediate hazard to traffic, ~~including impoundment of the~~

livestock. He shall then attempt to identify the owner, probable owner, or possessor of the livestock and shall notify the owner, probable owner, or possessor, and the county sheriff, by the fastest available means, that the livestock is creating a traffic hazard.

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11 of such livestock because of a violation of this act.

12 ~~SECTION 6.--THIS ACT DOES NOT APPLY TO PORTIONS OF~~
13 ~~COUNTY ROADS, WHICH DO NOT RUN ON SUBDIVISION OR SECTION~~
14 ~~LINE AND THE RIGHT OF WAY FOR WHICH WAS OBTAINED BY~~
15 ~~VOLUNTARY GRANT OF EASEMENT BY THE OWNER OF THE LAND (OR HIS~~
16 ~~PREDECESSOR IN TITLE) THROUGH WHICH THE PORTION OF THE ROAD~~
17 ~~RUNS;~~

18 Section 7. This act is effective upon passage and
19 approval.

-End-