

HOUSE BILL NO. 127

INTRODUCED BY NEUMAN, SWITZER, ADDY, SAUNDERS, LEE,
HOLLIDAY, THOFT, ELLERD, VINGER, GRAHAM

BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

IN THE HOUSE

January 7, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 21, 1983	Committee recommend bill do pass as amended. Report adopted.
January 22, 1983	Bill printed and placed on members' desks.
January 24, 1983	Second reading, do pass.
January 25, 1983	Considered correctly engrossed.
January 26, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 27, 1983	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
February 8, 1983	Committee recommend bill be concurred in. Report adopted.
February 11, 1983	Second reading, concurred in.
February 14, 1983	Third reading, concurred in. Ayes, 50; Noes, 0.

IN THE HOUSE

February 14, 1983	Returned to House.
February 15, 1983	Sent to enrolling. Reported correctly enrolled.

1 *Irisham* ~~House~~ BILL NO. 127
 2 INTRODUCED BY *Maunson* *Switzer* *Ally* *Samuelson*
 3 *Vimmer* BY REQUEST OF THE DEPARTMENT OF LIVESTOCK *Case*
 4 *Ellis* *Stolt* *Shelley*

5 A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE PERIOD OF
 6 TIME IN WHICH A PERSON TAKING POSSESSION OF TRESPASSING
 7 LIVESTOCK MUST GIVE NOTICE TO THE OWNER; AMENDING SECTION
 8 81-4-217, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 81-4-217, MCA, is amended to read:

12 "81-4-217. Retention of trespassing stock. (1) If an
 13 animal breaks into an enclosure surrounded by a legal fence
 14 or is wrongfully on the premises of another, the owner or
 15 occupant of the enclosure or premises may take into his
 16 possession the trespassing animal and keep the animal until
 17 all damages, together with reasonable charges for keeping
 18 and feeding the animal, are paid. The person who takes the
 19 animal into his possession shall, within 72 ~~24~~ hours after
 20 he takes possession, give written notice to the owner or
 21 person in charge of the animal, stating that he has taken
 22 the animal. The notice shall also give the date of the
 23 taking, the description of the animal taken, including marks
 24 and brands, if any, the amount of damages claimed, the
 25 charge per head per day for caring for and feeding the

1 animal, and the description, either by legal subdivisions or
 2 other general description, of the location of the premises
 3 on which the animal is held. In all cases a copy of the
 4 notice shall also be posted at a point where the animal was
 5 taken.

6 (2) The notice shall be given to the owner or person
 7 in charge only when the owner or person in charge of the
 8 animal is known to the person taking the animal and resides
 9 within 25 miles of the premises on which the animal was
 10 taken. If the owner or person in charge of the animal
 11 resides more than 25 miles from the place of the taking, the
 12 notice shall be mailed to him. In this case or if the owner
 13 is unknown, a similar notice shall be mailed to the
 14 department of livestock and the sheriff of the county in
 15 which the animal has been taken. On receipt of the notice,
 16 the sheriff shall post a copy of the notice at the
 17 courthouse and shall send by certified mail a copy of it to
 18 the owner of the stock, if known to him. If unknown to him,
 19 the sheriff shall send a copy of the notice to the nearest
 20 state livestock inspector.

21 (3) If the parties within 5 days thereafter do not
 22 agree to the amount of damages, the claimant must within 10
 23 days thereafter institute a civil action to collect his
 24 claim in a court of competent jurisdiction. Pending the
 25 outcome of the suit, the person taking the stock may, at the

-2- INTRODUCED BILL
 H.B. 127

1 expense of the owner, retain a sufficient number of animals
2 to cover the amount of damages claimed by him. The defendant
3 may, after the institution of the action, on filing a bond
4 executed by two or more sureties and approved by the court
5 in double the sum sued for, conditioned upon the payment to
6 the plaintiff of all sums, including costs that may be
7 recovered by the plaintiff, have all livestock returned to
8 him. The claimant is liable to the owner for any loss or
9 injury to the stock occurring through his fault or neglect.
10 If the claimant fails to recover in the action a sum equal
11 to that offered him by the owner of the stock, the claimant
12 bears the expense of keeping and feeding the stock while in
13 his possession.

14 (4) A person who takes or rescues an animal from the
15 possession of the person taking the animal, without his
16 consent, is guilty of a misdemeanor and shall be fined not
17 less than \$100 or more than \$500."

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

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A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE PERIOD OF
TIME IN WHICH A PERSON TAKING POSSESSION OF TRESPASSING
LIVESTOCK MUST GIVE NOTICE TO THE OWNER; ~~DELETING A
REQUIREMENT THAT NOTICE BE POSTED WHERE THE ANIMAL WAS
TAKEN;~~ AMENDING SECTION 81-4-217, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 81-4-217, MCA, is amended to read:

"81-4-217. Retention of trespassing stock. (1) If an
animal breaks into an enclosure surrounded by a legal fence
or is wrongfully on the premises of another, the owner or
occupant of the enclosure or premises may take into his
possession the trespassing animal and keep the animal until
all damages, together with reasonable charges for keeping
and feeding the animal, are paid. The person who takes the
animal into his possession shall, within ~~72~~ 24 hours after
he takes possession, give written notice to the owner or
person in charge of the animal, stating that he has taken
the animal. The notice shall also give the date of the
taking, the description of the animal taken, including marks

and brands, if any, the amount of damages claimed, the
charge per head per day for caring for and feeding the
animal, and the description, either by legal subdivisions or
other general description, of the location of the premises
on which the animal is held. ~~in all cases a copy of the
notice shall also be posted at a point where the animal was
taken.~~

(2) The notice shall be given to the owner or person
in charge only when the owner or person in charge of the
animal is known to the person taking the animal and resides
within 25 miles of the premises on which the animal was
taken. If the owner or person in charge of the animal
resides more than 25 miles from the place of the taking, the
notice shall be mailed to him. In this case or if the owner
is unknown, a similar notice shall be mailed to the
department of livestock and the sheriff of the county in
which the animal has been taken. On receipt of the notice,
the sheriff shall post a copy of the notice at the
courthouse and shall send by certified mail a copy of it to
the owner of the stock, if known to him. If unknown to him,
the sheriff shall send a copy of the notice to the nearest
state livestock inspector.

(3) If the parties within 5 days thereafter do not
agree to the amount of damages, the claimant must within 10
days thereafter institute a civil action to collect his

1 claim in a court of competent jurisdiction. Pending the
2 outcome of the suit, the person taking the stock may, at the
3 expense of the owner, retain a sufficient number of animals
4 to cover the amount of damages claimed by him. The defendant
5 may, after the institution of the action, on filing a bond
6 executed by two or more sureties and approved by the court
7 in double the sum sued for, conditioned upon the payment to
8 the plaintiff of all sums, including costs that may be
9 recovered by the plaintiff, have all livestock returned to
10 him. The claimant is liable to the owner for any loss or
11 injury to the stock occurring through his fault or neglect.
12 If the claimant fails to recover in the action a sum equal
13 to that offered him by the owner of the stock, the claimant
14 bears the expense of keeping and feeding the stock while in
15 his possession.

16 (4) A person who takes or rescues an animal from the
17 possession of the person taking the animal, without his
18 consent, is guilty of a misdemeanor and shall be fined not
19 less than \$100 or more than \$500."

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and brands, if any, the amount of damages claimed, the charge per head per day for caring for and feeding the animal, and the description, either by legal subdivisions or other general description, of the location of the premises on which the animal is held. ~~in all cases a copy of the notice shall also be posted at a point where the animal was taken~~

(2) The notice shall be given to the owner or person in charge only when the owner or person in charge of the animal is known to the person taking the animal and resides within 25 miles of the premises on which the animal was taken. If the owner or person in charge of the animal resides more than 25 miles from the place of the taking, the notice shall be mailed to him. In this case or if the owner is unknown, a similar notice shall be mailed to the department of livestock and the sheriff of the county in which the animal has been taken. On receipt of the notice, the sheriff shall post a copy of the notice at the courthouse and shall send by certified mail a copy of it to the owner of the stock, if known to him. If unknown to him, the sheriff shall send a copy of the notice to the nearest state livestock inspector.

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