

1 SENATE BILL NO. 44

2 INTRODUCED BY BECK

3 BY REQUEST OF THE DEPARTMENT OF LIVESTOCK

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING PENALTIES FOR ALLOWING MALE EQUINES AND
 6 CERTAIN CATTLE TO RUN AT LARGE, FOR TAKING OR RESCUING A TRESPASSING ANIMAL FROM THE
 7 POSSESSION OF A PERSON WHO LAWFULLY RETAINS THE ANIMAL, FOR UNLAWFUL POSSESSION OF
 8 AN ESTRAY, AND FOR WILLFULLY OR NEGLIGENTLY MOVING LIVESTOCK FROM THEIR OWNER'S
 9 CUSTOMARY RANGE; AND AMENDING SECTIONS 81-4-209, 81-4-213, 81-4-217, 81-4-621, AND
 10 81-5-101, MCA."

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

13
 14 **Section 1.** Section 81-4-209, MCA, is amended to read:

15 "81-4-209. **Penalty for violations.** ~~Any~~ An owner, person, firm, corporation, or association
 16 violating any provisions of 81-4-203 through 81-4-209 shall be guilty of a misdemeanor ~~and upon~~
 17 ~~conviction thereof shall be fined not less than \$10 or more than \$25~~ punishable as provided in 46-18-212."

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 19 **Section 2.** Section 81-4-213, MCA, is amended to read:

20 "81-4-213. **Penalty.** Any person or persons, firm, company, or corporation violating any of the
 21 provisions of 81-4-210 through 81-4-213 shall be guilty of a misdemeanor ~~and punishable by a fine of not~~
 22 ~~less than \$25 or more than \$250~~ as provided in 46-18-212."

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 24 **Section 3.** Section 81-4-217, MCA, is amended to read:

25 "81-4-217. **Retention of trespassing stock.** (1) If an animal breaks into an enclosure surrounded
 26 by a legal fence or is wrongfully on the premises of another, the owner or occupant of the enclosure or
 27 premises may take into ~~his~~ possession the trespassing animal and keep the animal until all damages,
 28 together with reasonable charges for keeping and feeding the animal, are paid. The person who takes the
 29 animal into ~~his~~ possession shall, within 24 hours after ~~he takes~~ taking possession, give written notice to
 30 the owner or person in charge of the animal, stating that ~~he has taken~~ the animal has been taken. The

1 notice ~~shall~~ must also give the date of the taking, the description of the animal taken, including marks and
 2 brands, if any, the amount of damages claimed, the charge per head per day for caring for and feeding the
 3 animal, and the description, either by legal subdivisions or other general description, of the location of the
 4 premises on which the animal is held.

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

14 (3) If the parties within 5 days ~~thereafter~~ after receipt of the notice do not agree to the amount of
 15 damages, the claimant ~~must~~ shall within 10 days ~~thereafter~~ institute a civil action to collect ~~his~~ the claim
 16 in a court of competent jurisdiction. Pending the outcome of the suit, the person taking the stock may, at
 17 the expense of the owner, retain a sufficient number of animals to cover the amount of damages claimed
 18 by ~~him~~ the person taking the stock. The ~~defendant~~ owner or person in charge of the animal may, after the
 19 institution of the action, on filing a bond executed by two or more sureties and approved by the court in
 20 double the sum sued for, conditioned upon the payment to the ~~plaintiff~~ claimant of all sums, including costs
 21 that may be recovered by the ~~plaintiff~~ claimant, have all livestock returned to ~~him~~. The claimant is liable
 22 to the owner for any loss or injury to the stock occurring through ~~his~~ the claimant's fault or neglect. If the
 23 claimant fails to recover in the action a sum equal to that offered ~~him~~ by the owner of the stock, the
 24 claimant bears the expense of keeping and feeding the stock while in ~~his~~ the claimant's possession.

25 (4) A person who takes or rescues an animal from the possession of the person taking the animal,
 26 without ~~his~~ the consent of the person taking the animal, is guilty of a misdemeanor ~~and shall be fined not~~
 27 ~~less than \$100 or more than \$500~~ punishable as provided in 46-18-212."

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29 **Section 4.** Section 81-4-621, MCA, is amended to read:

30 **"81-4-621. Penalties.** Any A person who ~~shall~~, for ~~his~~ that person's own use or benefit and

1 without the owner's consent, ~~take~~ takes into his possession any estray shall be guilty of a misdemeanor
2 and shall be punishable by a fine of not less than \$25 or more than \$100 or by imprisonment in the county
3 jail not exceeding 60 days or by both such fine and imprisonment as provided in 46-18-212."

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5 **Section 5.** Section 81-5-101, MCA, is amended to read:
6 "81-5-101. **Moving livestock from customary range forbidden.** ~~Every~~ A person who willfully or
7 negligently moves or causes to be moved any cattle, horses, mules, swine, llamas, alpacas, bison, or sheep
8 from their owner's customary range without the permission of the owner ~~is punishable~~ shall upon
9 conviction be punished by imprisonment in the county jail not exceeding 90 days or by a fine not exceeding
10 ~~\$100~~ \$500, or both."

11 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0044, as introduced


DESCRIPTION OF PROPOSED LEGISLATION:

An act increasing penalties for allowing male equines and certain cattle to run at large, for taking or rescuing a trespassing animal from the possession of a person who lawfully retains the animal, for unlawful possession of an estray, and for willfully or negligently moving livestock from their owner's customary range.

ASSUMPTIONS:

1. Incidents applicable to this legislation and penalties collected would be minimal.

FISCAL IMPACT: There would be no fiscal impact to the Department of Livestock.

 1-6-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-6-95
THOMAS A. BECK, PRIMARY SPONSOR DATE

Fiscal Note for SB0044, as introduced

SB 44

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

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20 -END-



HOUSE STANDING COMMITTEE REPORT

February 8, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Agriculture, Livestock, and Irrigation report that Senate Bill 44 (third reading copy -- blue) be concurred in as amended.

Signed: Joe Barnett
Joe Barnett, Chair

Carried by: Rep. Ohs

And, that such amendments read:

1. Page 3.

Following: line 19

Insert: "(3) Prior to the imposition of the penalty provided for in subsection (1) or (2), the owner of the livestock shall file a complaint with the department. The department shall conduct an investigation to determine the circumstances under which the livestock were moved."

-END-

Committee Vote:
Yes 18, No 0.

SB 44
HOUSE

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28 together with reasonable charges for keeping and feeding the animal, are paid. The person who takes the
29 animal into ~~his~~ possession shall, within 24 hours after ~~he takes~~ taking possession, give written notice to
30 the owner or person in charge of the animal, stating that ~~he has taken~~ the animal has been taken. The

1 notice ~~shall~~ must also give the date of the taking, the description of the animal taken, including marks and
 2 brands, if any, the amount of damages claimed, the charge per head per day for caring for and feeding the
 3 animal, and the description, either by legal subdivisions or other general description, of the location of the
 4 premises on which the animal is held.

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

14 (3) If the parties within 5 days ~~thereafter~~ after receipt of the notice do not agree to the amount of
 15 damages, the claimant ~~must~~ shall within 10 days ~~thereafter~~ institute a civil action to collect ~~his~~ the claim
 16 in a court of competent jurisdiction. Pending the outcome of the suit, the person taking the stock may, at
 17 the expense of the owner, retain a sufficient number of animals to cover the amount of damages claimed
 18 by ~~him~~ the person taking the stock. The ~~defendant~~ owner or person in charge of the animal may, after the
 19 institution of the action, on filing a bond executed by two or more sureties and approved by the court in
 20 double the sum sued for, conditioned upon the payment to the ~~plaintiff~~ claimant of all sums, including costs
 21 that may be recovered by the ~~plaintiff~~ claimant, have all livestock returned to ~~him~~. The claimant is liable
 22 to the owner for any loss or injury to the stock occurring through ~~his~~ the claimant's fault or neglect. If the
 23 claimant fails to recover in the action a sum equal to that offered ~~him~~ by the owner of the stock, the
 24 claimant bears the expense of keeping and feeding the stock while in ~~his~~ the claimant's possession.

25 (4) A person who takes or rescues an animal from the possession of the person taking the animal,
 26 without ~~his~~ the consent of ~~the person taking the animal~~, is guilty of a misdemeanor ~~and shall be fined not~~
 27 ~~less than \$100 or more than \$500~~ punishable as provided in 46-18-212."

28
 29 **Section 4.** Section 81-4-621, MCA, is amended to read:

30 **"81-4-621. Penalties.** Any A person who ~~shall~~, for ~~his~~ that person's own use or benefit and

1 without the owner's consent, ~~take~~ takes into his possession any estray shall be guilty of a misdemeanor
2 and shall be punishable by a fine of not less than ~~\$25~~ or more than ~~\$100~~ or by imprisonment in the county
3 jail not exceeding ~~60 days~~ or by both such fine and imprisonment as provided in 46-18-212."

4
5 **Section 5.** Section 81-5-101, MCA, is amended to read:

6 "**81-5-101. Moving livestock from customary range forbidden.** (1) ~~Every~~ A person who willfully
7 ~~or negligently~~ moves or causes to be moved any cattle, horses, mules, swine, llamas, alpacas, bison, or
8 sheep from their owner's customary range without the permission of the owner ~~is punishable~~ shall upon
9 conviction be punished by imprisonment in the county jail not exceeding ~~90 days~~ 6 MONTHS or by a fine
10 not exceeding ~~\$100~~ \$500, or both.

11 (2) A PERSON WHO NEGLIGENTLY MOVES OR CAUSES TO BE MOVED ANY CATTLE, HORSES,
12 MULES, SWINE, LLAMAS, ALPACAS, BISON, OR SHEEP FROM THEIR OWNER'S CUSTOMARY RANGE
13 WITHOUT THE PERMISSION OF THE OWNER SHALL UPON CONVICTION BE PUNISHED BY:

14 (A) A TERM OF IMPRISONMENT IN THE COUNTY JAIL NOT TO EXCEED 6 MONTHS;

15 (B) A FINE NOT EXCEEDING:

16 (I) \$25 FOR A FIRST OFFENSE;

17 (II) \$250 FOR A SECOND OFFENSE; AND

18 (III) \$500 FOR A THIRD OR SUBSEQUENT OFFENSE; OR

19 (C) BOTH IMPRISONMENT AND THE APPROPRIATE FINE.

20 (3) PRIOR TO THE IMPOSITION OF THE PENALTY PROVIDED FOR IN SUBSECTION (1) OR (2), THE
21 OWNER OF THE LIVESTOCK SHALL FILE A COMPLAINT WITH THE DEPARTMENT. THE DEPARTMENT
22 SHALL CONDUCT AN INVESTIGATION TO DETERMINE THE CIRCUMSTANCES UNDER WHICH THE
23 LIVESTOCK WERE MOVED."

24 -END-