CHAPTER 172

ANIMALS DISTRAINED OR DOING DAMAGE

SUBCHAPTER I
ANIMALS DISTRAINED
172.01 Animals not to run at large.
172.012 Exemption.
172.015 Livestock on highways; penalty.
172.02 Taking up animal; notice.
172.03 Notice, if owner unknown.
172.04 Appraisal of animals.
172.05 Restoring an animal to its owner.
172.06 Ownership by finder; sale.
172.07 Penalties.
172.08 Rams may be taken up; liability.
SUBCHAPTER II
ANIMALS DOING DAMAGE
172.51 Animals distrained; proceedings.
172.52 Appraisal.
172.53 Impounding; care; expense.
172.54 Time and notice of sale.
172.55 Sale of animal not impounded.
172.56 Proceeds of sale.
172.57 Damaging, or taking animal from, pound.

SUBCHAPTER I

ANIMALS DISTRAINED

172.01 Animals not to run at large. No stallion over one year old, nor bull over 6 months old, nor boar, nor ram, nor billy goat over 4 months old shall run at large. If the owner or keeper of an animal described in this section, for any reason, permit the animal to run at large, the owner or keeper shall forfeit $5 to the person taking up the animal and shall be liable in addition for all damages done by the animal while at large, regardless of whether the animal's escape was the fault of the owner or keeper. The construction of any fence enumerated in s. 90.02 does not relieve an owner or keeper from liability for any damage committed by an animal described in this section upon the enclosed premises of an adjoining owner.

History: 1993 a. 482; 1997 a. 254.

172.012 Exemption. This chapter does not apply to a humane officer appointed under ch. 173 or a law enforcement officer who takes custody of an animal under ch. 173 or other applicable law.

History: 1997 a. 192.

172.015 Livestock on highways; penalty. No livestock shall run at large on a highway at any time except to go from one farm parcel to another. If the owner or keeper of livestock knowingly permits livestock to run at large on a highway, except when going from one farm parcel to another, and after notice by any peace officer fails to remove the livestock from the highway, the owner or keeper may be fined not more than $200.

History: 1993 a. 482; 1997 a. 254.

172.02 Taking up animal; notice. Any person finding any animal described in s. 172.01 running at large may take it up, but shall within 7 days after taking up the animal notify the owner, if known to the person, and request the owner to pay all reasonable charges for the animal's keeping, together with the forfeiture required under s. 172.01 for taking up, and take the animal away within 5 days after being so notified.

History: 1993 a. 482; 1997 a. 254.

172.03 Notice, if owner unknown. If the owner of an animal taken up under s. 172.02 is unknown, the finder shall, within 10 days after taking up the animal, file a notice with the clerk of the town in which the animal is taken up and, if the value of the animal exceeds $50, shall publish in the county a class 3 notice, under ch. 985. The notice shall briefly describe the animal, by marks natural or artificial, as near as practicable, and give the name and residence of the finder and the time when the animal was taken up. A copy of the notice shall be sent immediately by the town clerk to the county clerk, who shall file the notice.

History: 1997 a. 254.

172.04 Appraisal of animals. The finder of animals taken up under s. 172.02 shall, within one month from taking them up, if the animals are of the value of $10 or more, apply to the town chairperson, village president or city mayor of the municipality where found for the appointment of a disinterested appraiser. A certificate of the appraisal shall be signed by the appraiser and filed in the municipal clerk's office. The finder shall pay the appraiser $3 for the certificate and 10 cents per mile for every mile necessarily traveled by the appraiser.

History: 1989 a. 56 s. 258; 1997 a. 254.

172.05 Restoring an animal to its owner. The owner or person entitled to the possession of an animal taken up under s. 172.02, at any time within 90 days after notice is filed with the municipal clerk under s. 172.03, may have the animal restored upon proving rights to the animal and paying all lawful charges incurred. If the claimant and the finder cannot agree as to the amount of the charges or for the use of the animal either party upon notice to the other may apply to the town chairperson, village president or city mayor or manager of the municipality to settle the dispute, who for that purpose may examine witnesses on oath. Any amount found to be due the finder over the value of the use of the animal, together with the costs of adjudication, shall be a lien upon the animal.

History: 1989 a. 56; 1997 a. 254.

172.06 Ownership by finder; sale. If no claimant for an animal taken up under s. 172.02 causes its return, and if the animal has not been appraised for more than $10, the finder shall become the absolute owner of the animal. If the appraised value of the animal exceeds $10, the animal shall be sold at public auction by the sheriff or any constable of the county on the request of the finder. Notice of the sale shall be given and the sale shall be conducted and the same fees allowed as in the case of sales upon execution under ch. 815. The finder may bid at the sale and shall at the time of sale deliver to the officer conducting the sale a statement in writing of the finder's charges, which shall be filed by the officer with the municipal treasurer. After deducting the finder's 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 10 days after the sale, the other half to the treasurer of the municipality for its use. If the finder of any stray neglects or refuses to cause a sale to be made when required by law, the finder shall pay to the municipality the value of the stray, to be recovered in an action by the municipality.

History: Sup. Ct. Order, 67 Wis. 2d 585, 775 (1975); 1975 c. 218; 1997 a. 254.

172.07 Penalties. If any person, without the consent of the finder, takes any animal lawfully taken up from the finder's possession, without the payment of the finder's lawful charges incurred in relation to the animal, the person taking the animal shall be liable to the finder for the value of the animal. If the finder neglects to give the notices, procure the appraisals or perform any

of the duties required of the finder, the finder shall be precluded from acquiring any right of property in the animal or receiving any charges or damages relative to the animal.

History: 1993 a. 482; 1997 a. 254.

172.08 Rams may be taken up; liability. (1) If the owner of any ram permits the ram to go at large or out of the ram's enclosure between July 15 and December 1 in the same year, the owner shall forfeit $10 for each time that the ram is found at large and taken up, 50 percent of which shall be paid to the prosecutor. The owner shall also be liable for any damages sustained by any person in consequence of the ram running at large.

(2) Any person may take up a ram described in sub. (1), and shall within 24 hours after taking up the ram do one of the following:

(a) If the owner of the ram is known, notify the owner that the ram has been taken up and of the place where the ram is secured.

(b) If the owner of the ram is unknown, file with the town clerk a notice of the taking up, describing the marks of the ram, natural and artificial, if any, and also post copies of the notice in 3 public places in the town.

(3) The owner of a ram taken up under this section may, within 6 days after the filing and posting of the notices under sub. (2), pay or tender to the town clerk the forfeiture under sub. (1) and 50 cents for the town clerk's fees. Upon payment of the forfeiture and fees, the ram shall be restored to the owner and the clerk shall immediately pay one−half of the forfeiture to the person who took the ram up and the other half to the county treasurer. If the ram's owner fails to pay the forfeiture and fees in the 6−day period under this subsection, the ram shall become the property of the person who took up the ram.

History: 1993 a. 482; 1997 a. 254.

SUBCHAPTER II

ANIMALS DOING DAMAGE

172.51 Animals distrained; proceedings. (1) The owner or occupant of any lands may distrain any beast doing damage on the premises, either while upon the premises or upon immediate pursuit of the beasts escaping from the premises and before returning to the enclosure of or to the immediate care of the owner or keeper. The person distraining the beasts may keep the beasts upon the premises or in a public pound in the person's town, city or village of residence until the person's damages are appraised.

(2) If the owner of the beasts is known to the person distraining the beasts and resides within the same county, the person distraining the beasts shall give written notice to the owner in accordance with whichever of the following applies:

(a) If the owner resides within the same town, city or village as the person distraining the beasts, notice shall be given within 24 hours, Sundays excepted, after the animal is distrained.

(b) If the owner does not reside in the same town, city or village as the person distraining the beasts, notice shall be given within 48 hours, Sundays excepted.

(3) The notice under sub. (2) shall specify all of the following:

(a) The time when and the place where the beasts were distrained.

(b) The number of beasts distrained and the place of their detention.

(c) That at a time, which shall not be less than 12 hours after the serving of the notice nor more than 3 days after distraining the beasts, and place designated in the notice, the person distraining will apply to the town chairperson, village president or city mayor or manager of the municipality where the beasts were found for the appointment of 3 disinterested freeholders of the town, city or village to appraise the damages.

(4) If the owner of the beasts is unknown or does not reside in the same county as the person distraining the beasts, the person distraining the beasts shall, in accordance with sub. (3) (c), apply for the appointment of appraisers without notice and within 24 hours after distraining the beasts.

(5) Upon application, the town chairperson, village president or city mayor or manager shall appoint in writing 3 disinterested freeholders of the town, city or village to appraise the damages. The appraisers shall receive 50 cents for the appointment.

History: 1989 a. 56; 1997 a. 192 s. 12; Stats. 1997 s. 172.51; 1997 a. 254.

172.52 Appraisal. The freeholders appointed as appraisers under s. 172.51 shall be immediately notified and shall immediately repair to the place damaged by the animals and view the damages done. The appraisers may take evidence of any witnesses of the facts and circumstances necessary to enable them to ascertain the extent of the damages and the sufficiency of any line fence on the premises where the damage was done, if any dispute arises regarding the damages or line fence. The appraisers may administer oaths to the witnesses. The appraisers shall certify under their hands the amount of damages, the cost of keeping the beasts to that time, their fees for services as appraisers not exceeding $1 per day each, and their determination as to the sufficiency of the line fence, if in dispute. The appraisers' decision as to damages and sufficiency of the fence is conclusive.

History: 1997 a. 192 s. 12; Stats. 1997 s. 172.52; 1997 a. 254; 1999 a. 32.

172.53 Impounding; care; expense. (1) Unless the damages determined under s. 172.52, together with the fees of the appraisers and chairperson, president or mayor, have been paid within 24 hours after the appraisal, the person distraining the beasts shall cause the beasts to be confined in accordance with whichever of the following applies:

(a) The beasts shall be put into the nearest pound in the distraining person's town, city or village of residence, if there is a pound.

(b) If there is no pound in the distraining person's town, city or village of residence, the beasts shall be put in some other secure enclosure.

(2) The beasts shall remain confined until sold under ss. 172.54 to 172.56, until the damages, fees and costs of keeping the beasts after appraisal are paid or until they are otherwise seized or discharged according to law. The confined beasts shall be furnished with suitable food from the time of seizure until they are discharged or sold. The expense of feeding the beasts, after the appraisal, shall be added to the amount determined under s. 172.52 and paid as additional costs. If the beasts are put in a pound, the certificate of appraisal shall be delivered to the keeper of the pound.

History: 1993 a. 184; 1997 a. 192 s. 12; Stats. 1997 s. 172.53; 1997 a. 254; 1999 a. 32.

172.54 Time and notice of sale. The poundmaster of any pound shall receive and keep any beasts delivered to the poundmaster under s. 172.53. Unless the beasts are seized or discharged according to law within 6 days, from the time of their delivery to the pound, the poundmaster shall sell at public auction the beasts or so many of them as is necessary to pay the damages, fees and costs enumerated under ss. 172.52 and 172.53. The poundmaster shall give 2 days' notice of the sale by notice posted upon the pound and at 3 public places in the town, city or village in which the pound is located.

History: 1993 a. 482; 1997 a. 192 s. 12; Stats. 1997 s. 172.54; 1997 a. 254; 1999 a. 32.

172.55 Sale of animal not impounded. If in consequence of there being no pound within the distraining person's city, town or village of residence the beasts distrained under s. 172.51 are kept in some other enclosure and the beasts are not discharged in the manner provided under this chapter within 6 days after being placed in the enclosure, the sheriff or any constable of the county shall sell the beasts or so many of them as shall be necessary to pay the damages, fees and costs of keeping, upon the same notice as

is required in case of a constable's sale of personal property taken by execution.

History: 1997 a. 192 s. 12; Stats. 1997 s. 172.55; 1997 a. 254; 1999 a. 32.

172.56 Proceeds of sale. (1) From the proceeds of the sale under s. 172.54 or 172.55, the person making the sale shall retain his or her fees, which shall be the same as are allowed to constables upon sales of personal property on execution, and the cost of keeping the beasts. The person making the sale shall pay to the person who distrained the beasts the damages certified under s. 172.52, with the fees of the appraisers and chairperson, president or mayor.

(2) Any surplus remaining after distribution of the proceeds under sub. (1) shall be paid to the owner of the beast, if known. If no owner appears at the time of sale or within one week after the sale, and claims the surplus, it shall be paid to the treasurer of the distraining person's town, city or village of residence. If the money is not applied for within one year after the sale, the treasurer shall place the money in the town treasury. If the owner applies for the surplus and gives proper proof of ownership within 6 years after its receipt by the treasurer, the surplus, less a 2 percent deduction for fees, shall be paid over to the owner.

History: 1993 a. 184; 1997 a. 192 s. 12; Stats. 1997 s. 172.56; 1997 a. 254; 1999 a. 32.

172.57 Damaging, or taking animal from, pound. Any person who willfully damages any pound maintained or supported by any town, city, village or county or wrongfully and forcibly takes, drives or releases from the pound any animal lawfully confined in the pound shall forfeit not more than $50.

History: 1981 c. 285; 1997 a. 192 s. 12; Stats. 1997 s. 172.57.