ANIMALS RUNNING AT LARGE

Act 248 of 1879

AN ACT to prevent animals from running at large in certain cities and villages within this state.

History: 1879, Act 248, Eff. Aug. 30, 1879

The People of the State of Michigan enact:

433.51 Animals running at large in certain cities and villages; seizure by officers.

Sec. 1.

The owner of any cattle, horse, mule, sheep, swine, or goat shall not allow the animal to run at large in any public place in any city or village having a population of 7,000 or more inhabitants. A law enforcement officer of or animal control officer for such a city or village may seize, and keep until disposed of as provided under this act, any such animal so found running at large.

History: 1879, Act 248, Eff. Aug. 30, 1879 ;-- How. 3068 ;-- CL 1897, 5613 ;-- CL 1915, 7293 ;-- CL 1929, 9047 ;-- CL 1948, 433.51 ;-- Am. 2010, Act 71, Imd. Eff. May 13, 2010

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433.52 Pounds; pound masters, appointments, duties; right to seize and impound animals.

Sec. 2.

It is hereby made the duty of the common council or board of trustees of every such city or village to provide 1 or more suitable and convenient pound or pounds, and to appoint 1 or more pound-masters who shall have charge thereof, and such pound-master or other person having charge of such pound, shall receive and keep therein any animal mentioned in the first section of this act, that may have been or may be found running at large contrary to said section, upon the request of any person. And it shall be lawful for any person to seize and take into custody and retain till disposed of as required by law, any animal mentioned in said first section of this act, which may be trespassing upon premises owned or occupied by such person, or such animal may be driven to and kept in said pound as herein provided, and any inhabitant of any such city or village may take into custody till disposed of as required by law, any animal found running at large contrary to said first section of this act, if at the time there shall not be kept and maintained within such city or village, a suitable pound within a distance of not more than 2 miles from the place where such animal may be found, or if there shall not be a pound-master in charge thereof, who will receive and keep the same as herein provided.

History: 1879, Act 248, Eff. Aug. 30, 1879 ;-- How. 3069 ;-- CL 1897, 5614 ;-- CL 1915, 7294 ;-- CL 1929, 9048 ;-- CL 1948, 433.52

433.53 Keeping animal after seizure; complaint against owner; summons; show cause hearing; sale of animal; costs and damages; disposition of surplus.

Sec. 3.

Whenever any such officer or person shall seize and take into his or her possession any animal under the preceding sections, such animal shall be received and kept in such pound, if there shall be one, and if not the same may be kept by any such officer or person in any other suitable place, and if such animal shall not be claimed, and

the fees hereinafter provided for, paid within 2 days thereafter, the pound-master or other person in charge of the pound, if such animal shall have been received at such pound; and if not, then the person by whom such animal was seized or taken into custody shall make immediate complaint in writing, stating the name of the owner of such animal, if known to him or her, and the facts, to the district or municipal court having jurisdiction to hear and determine such matter and shall thereupon proceed in the same manner as in civil action, except as especially changed in this act, and shall forthwith issue a summons, directed to the owner if he or she shall have been named in said complaint, and stating the fact that such seizure has been made, and requiring the owner of such animal, or any party having an interest in the same, to show cause before the court, at a time and place to be specified in such summons, why such animal should not be sold and the proceeds applied as directed by this act, and such time shall not be less than 6 nor more than 12 days from the issuing of such summons. The summons may be served by any marshal, deputy marshal, or constable of the city or village, or by any elector thereof authorized so to do by the court in writing thereon. Such service shall be made by delivering a copy thereof to the owner, if named in the summons and if he or she can be found in the city or village 6 days before the return day thereof, and if the owner shall not be named in the summons, or if he or she cannot be found then the summons shall be served by posting copies thereof in at least 3 public and conspicuous places in the city or village, at least 5 days before the return day thereof, and 1 of the places shall be in the office of the clerk of such city or village. At the time and place appointed for the return of the summons, the officer or person by whom such complaint was made, shall appear, and any party or persons owning or having an interest in the animal shall be allowed by the court to appear in the proceeding, and on his or her filing with the court, an answer under oath, subscribed by him or her or by his or her agent, denying any or all of the facts in the complaint, an issue shall be deemed joined in the proceeding, and the subsequent proceedings shall be as in civil actions so far as they can be except as otherwise provided in this act, and it is hereby made the duty of the city or village attorney of all cities and villages included within this act, to appear and conduct all proceedings under this act on behalf of the person making such complaint. If no one shall appear to show cause and the summons shall be returned duly served, or if the jury, or judge shall find, after a trial that no sufficient cause is shown why such sale should not be made, as directed by this act, then the judge shall issue his or her warrant under his or her hand, directed to any marshal, deputy marshal, or constable of the city or village, commanding him or her to sell the animal at public auction for the best price he or she can obtain therefor, and make return thereof to the court at a time and place therein specified, not less than 10 nor more than 20 days thereafter. The sale shall be on the like notice as on constable's sale on civil process, and the sheriff, deputy sheriff or constable shall make return as required by the warrant, and pay the proceeds of the sale to the court. The court shall thereupon adjudge the costs of the proceedings, the same amounts being allowed as in civil actions, and in addition, he or she shall allow to the officer or person making such seizure, for every horse, mule or colt, 1 dollar; for every cow, calf or other cattle, each 50 cents, and for every goat, sheep, or swine, 25 cents, together with the actual damages sustained by such person by reason of the trespass or breaking of such animal into his or her premises, and compensation to such person or officer for the care and keeping of such animals from the time of the seizure thereof to the sale at the rate specified in the next section of this act, and the marshal, deputy marshal, or constable, the same fees as for service of a summons and execution in civil actions. If, after paying the sums aforesaid, there shall be any surplus of the proceeds of the sale, the judge shall pay the same to the owner or person establishing before him or her, on the return of such summons, or at such other time as he or she shall appoint, the right to the same. If no person shall claim the surplus within 1 year after such seizure, the court shall pay the same to the treasurer of such city or village for the benefit of the contingent fund. If such owner or person interested, shall not appear and demand such surplus within the year, he or she shall be forever precluded from recovering any part of such moneys, and the receipt of the treasurer of the city or village, given at any time after the expiration of the year, shall be a full discharge to the court for the same.

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History: 1879, Act 248, Eff. Aug. 30, 1879 ;-- How. 3070 ;-- CL 1897, 5615 ;-- CL 1915, 7295 ;-- CL 1929, 9049 ;-- CL 1948, 433.53 ;-- Am. 1991, Act 142, Imd. Eff. Nov. 25, 1991

433.54 Demand and claim by owner of seized or impounded animal; payment of fees, expenses, and compensation.

Sec. 4.

The owner of any animal which shall have been seized or impounded under and pursuant to the foregoing provisions, may at any time before the making of the complaint hereinbefore provided for, demand and shall be entitled to the possession of such animal upon the payment to the pound-master or the person in charge of such pound, if such animal shall have been impounded, and if not, then upon payment to the person or officer who shall have seized or taken such animals into his or her possession, the fees provided for in the preceding sections for the

seizure of such animal; and if such animal shall have been impounded, the farther fee of 50 cents for every horse, mule, colt, cow, calf, or other cattle, and 25 cents for every goat, sheep, or swine, which fee shall belong to such pound-master or person in charge of such pound, and the farther sum of 1 dollar per day as compensation for keeping every such horse, mule, or colt, and 75 cents per day for every cow, calf, or other cattle, and 50 cents per day for every goat, sheep, or swine for each day since and including the day such animal was seized, impounded, or taken into possession as aforesaid. At any time after the making of the complaint and before the sale of the animal, the owner thereof may make demand and claim for such animal before the district court or municipal court at which the proceedings shall have been commenced; and upon making satisfactory proof of ownership of the animal and upon paying the fees and compensation for keeping such animal as provided for in this section, and other fees and expenses that shall have accrued up to the time of making such demand and proof, he or she shall be entitled to the custody and possession of such animal. The court shall fix and determine the amount of the fees, expenses, and compensation in accordance with the provisions of this act, and shall pay the same to the officer or person entitled thereto.

History: 1879, Act 248, Eff. Aug. 30, 1879 ;-- How. 3071 ;-- CL 1897, 5616 ;-- CL 1915, 7296 ;-- CL 1929, 9050 ;-- CL 1948, 433.54 ;-- Am. 1991, Act 142, Imd. Eff. Nov. 25, 1991

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433.55 Person wilfully causing animal to run at large; liability to owner.

Sec. 5.

In case the animal so seized under the foregoing provisions of this act shall have been so running at large by the willful act of any other person than the owner, such person shall be liable to the owner in a penalty not less than 25 dollars and not more than 100 dollars, which penalty may be recovered by such owner for his benefit, in an action on the case in any court of competent jurisdiction.

History: 1879, Act 248, Eff. Aug. 30, 1879 ;-- How. 3072 ;-- CL 1897, 5617 ;-- CL 1915, 7297 ;-- CL 1929, 9051 ;-- CL 1948, 433.55

433.56 Appeals.

Sec. 6.

An appeal may be taken by either party who shall have appeared and contested in the proceeding to the circuit court for the county, and the jurisdiction, powers, and duties of circuit courts, to hear and determine such appeals, and the proceedings therein shall be applicable to appeals under this act, so far as the same can be applied and are consistent with this act. But such appeal can only be taken from the finding or determination that cause exists or does not exist for the sale aforesaid; and such appeal when made by the claimant shall not be effectual for any purpose unless the bond required on appeals to the circuit court contains a clause that in case the finding or determination shall be affirmed, the claimant will pay all such sums as the court shall determine and adjudge for the costs, penalties, and allowances, so as aforesaid authorized to be made. In case of appeal by a claimant as aforesaid, and after the approval by the district or municipal court of such bond, the judge shall forthwith direct the sale not to be had, and shall order the animal to be delivered to the appellant, if it shall appear to him or her that the appellant is the owner, or is entitled to the possession thereof.

History: 1879, Act 248, Eff. Aug. 30, 1879 ;-- How. 3073 ;-- CL 1897, 5618 ;-- CL 1915, 7298 ;-- CL 1929, 9052 ;-- CL 1948, 433.56 ;-- Am. 1991, Act 142, Imd. Eff. Nov. 25, 1991

433.57 Animals impounded; feeding; record, contents, inspection.

Sec. 7.

The pound-master or other person in charge of said pound shall purchase all necessary supplies for the sustenance of all animals impounded, and all animals impounded or seized under this act shall be supplied with suitable food and drink for their sustenance; and such pound-master or other person in charge of the pound, shall keep a record in a book kept for that purpose and which shall at all reasonable times be open for public inspection, of the time when each animal was received into such pound, and the time when discharged therefrom, and of the name of the person to whom the same was delivered, and also a record of all moneys paid to him.

History: 1879, Act 248, Eff. Aug. 30, 1879 ;-- How. 3074 ;-- CL 1897, 5619 ;-- CL 1915, 7299 ;-- CL 1929, 9053 ;-- CL 1948, 433.57

433.58 Replevin.

Sec. 8.

The provisions of this act shall not be construed to deprive the party claiming the ownership of said property from bringing his action in replevin for the recovery of the same in case the same has been unlawfully seized.

History: 1879, Act 248, Eff. Aug. 30, 1879 ;-- How. 3075 ;-- CL 1897, 5620 ;-- CL 1915, 7300 ;-- CL 1929, 9054 ;-- CL 1948, 433.58

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433.61 Provisions governing.

Sec. 11.

The distraining and impounding of animals under this act shall be governed by chapter 214 of the Compiled Laws of 1871, for "distraining and replevying beasts," except as otherwise provided in this act.

History: Add. 1881, Act 196, Eff. Sept. 10, 1881 ;-- How. 3078 ;-- CL 1897, 5623 ;-- CL 1915, 7303 ;-- CL 1929, 9057 ;-- CL 1948, 433.61
Compiler's Notes: For provisions of chapter 214 of the Compiled Laws of 1871, referred to in this section, see MCL 433.101 et seq.

433.62 City attorney; duty.

Sec. 12.

In all criminal matters under this act, it shall be the duty of the city attorney to appear before the magistrate entering [entertaining] the complaint and act as counsel on behalf of the people of this state, and in case of his absence, neglect, or refusal to so act on request of the magistrate, any attorney at law, on request of such magistrate, may act as such counsel for the people.

History: Add. 1881, Act 196, Eff. Sept. 10, 1881 ;-- How. 3079 ;-- CL 1897, 5624 ;-- CL 1915, 7304 ;-- CL 1929, 9058 ;-- CL 1948, 433.62

433.63 Authority under MCL 433.14a not limited; swine running as public nuisance.

Sec. 13.

This act does not limit authority provided under section 4a of 1976 PA 328, MCL 433.14a, to kill swine running at large. Swine running at large are a public nuisance.

History: Add. 2010, Act 71, Imd. Eff. May 13, 2010

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