

CHAPTER XIII.

*An Act to Regulate the Taking Up and Disposition of
Estrays, and to repeal Contravening acts.*

- SECTION**
1. Duty of persons taking up any estray animals.
 2. Duty of taker up after the expiration of ten days.
 3. Duty of Town Clerk.
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 6. Compensation to persons taking up estrays.
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 8. Penalty to owners of estrays for driving away estrays without first paying charges and damages against such estray.
 9. Duty of Supervisors.
 10. Mileage and fees of Supervisors or fence viewers.
 11. When estrays may be sold at public auction.
 12. Disposition of money received from such sales.
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 14. When such money may revert to the town.
 15. Repeal of former acts.
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Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That any person who shall take up any estray horse, mule, ass, neat cattle, hog, sheep or goat, or who shall have at any time upon his enclosed land, an estray horse, mule ass, neat cattle, hog sheep or goat, shall within five days thereafter, advertise the same by posting up in writing, in three of the most public places in the town where such estray was taken up or found, giving a particular description of such estray, its age, color and marks, natural and artificial, as near as may be, together with the name and place of residence of the taker up or finder of such estray.

Duty of persons
taking up any
estrays animals

Seco. 2. If within ten days after such notice of the taking up or finding, the owner shall not have claimed such estray, and have paid all reasonable charges and damages which the taker up or finder may have sustained by reason of any depredations committed by such estray, upon the crops growing or otherwise, on the enclosed land of the taker up or finder, the taker up or finder shall file with the clerk of the town where such estray was taken up or found, a notice in writing, containing the name and place of abode of such person, and also the

Duty of taker up
after expiration
of ten days

age, color, and marks, natural and artificial, of such estray, as near as may be.

Duty of Town Clerk

SEC. 3. The Town Clerk shall, upon receipt of the notice as required in the preceding section, enter the same at large, in a book to be provided by him for that purpose, for which entry he shall receive ten cents each, for all horses, mules, asses, and neat cattle, and five cents each for all hogs, sheep, and goats, to be paid by the person delivering the notice.

Duty of fence viewers

SEC. 4. The taker up or finder shall within ten days after the taking up or finding such estray, notify two of the fence viewers of the town wherein such estray was taken up or found, who shall immediately proceed to the place where such estray is kept, and shall then appraise the value of such estray, and also all damages which the taker up or finder may have sustained by reason of depredations committed by such estray as before stated, in section two of this act, and shall certify in writing to the taker up or finder, the value of such estray, together with the damages which such estray may have committed as before stated.

Penalty for neglecting to file notice with Town Clerk

SEC. 5. Any person upon whose enclosed land, any such horse, mule, ass, neat cattle, hog, sheep or goat may come, or who shall have taken up any of the above named animals, and shall neglect to post up notices as before required in section one of this act, or who shall neglect to file the notice with the Town Clerk, as required by this act, he shall be subject to a fine of not less than five nor more than fifty dollars, to be sued for and collected by any person aggrieved, before any Justice of the Peace of the proper county, and shall be precluded from all the benefits of this act, and from all claim to damages or compensation for keeping such estray.

Compensation to persons taking up estrays

SEC. 6. The person delivering the notice shall be entitled to receive therefor, ten cents each for all horses, mules, asses, or neat cattle, and five cents each for all hogs, sheep, or goats described therein, and he may detain such estray until the owner thereof shall appear, and pay such fees, together with the fees paid or due the Clerk, or which he may have paid, or which may be due the fence viewers or Super visors, and all damages and reasonable compensation for keeping and advertising such estray.

SEC. 7. When the value of such estray, appraised as provided for in this act, shall exceed the sum of twenty-

five dollars, and the owner shall not have claimed such estray, and paid the charges and damages as above required, within thirty days from the time of filing the notice with the Town Clerk, as required by this act, then the person detaining such estray, shall advertise in a newspaper of the county, if there be one, or if not, in a paper within the State, published nearest thereto, and the Town Clerk shall forward to the publisher a copy of the register thereof, marked outside "Estray Papers," together with a fee of one dollar and fifty cents, which shall be advanced by the keeper of the estray, and out of which the postage shall be paid, which shall also be a legal charge against such estray.

When taker up shall cause estray to be advertised

SEC. 8. If any person claiming the ownership of such estray, when the taker up shall have complied with the foregoing provisions of this act, shall drive away or cause to be driven away from the place where such estray is kept, without first paying all charges and damages against such estray, as provided in this act, he shall be guilty of a misdemeanor, and upon conviction before any Justice of the Peace, having jurisdiction, shall be fined double the sum of said charges and damages, and imprisoned in the county jail not less than ten nor more than thirty days, at the discretion of the court.

Penalty to owners of estrays for driving away estrays previous to paying charges

SEC. 9. Every person who shall have filed any such notice, and have kept any such estray described therein, shall, if the same be not sooner claimed and redeemed between the first day of May and the twentieth day thereafter, give notice to one of the Supervisors of the town, whose duty it shall be to ascertain according to the best of his knowledge and judgment, the reasonable charges for keeping such estray; a certificate whereof shall be given by him to the person applying for the same.

Duty of Supervisors

SEC. 10. Each Supervisor or fence viewer shall be entitled to receive six cents for every mile he shall be obliged to travel from his house to the place where such estray is kept, and twenty-five cents for the certificate of the charges and damages, and twenty-five cents for a certificate of appraisal, as ascertained or appraised by him, such fees to be paid by the owner of the estray.

Mileage and fees of Supervisors

SEC. 11. If no owner shall appear to claim such estray on or before the first day of May next, after the

When estrays
may be sold at
public auction

making of such entry as before provided, or neglect to pay the sums charged against such estray, then the person who shall have filed such notice and kept such estray, may proceed to sell the same by public auction to the highest bidder; such person shall give at least twenty days previous notice of the time and place of such sale, by advertisement, to be posted up in three of the most public places in the town where such estray shall have been kept, and when the value of such estray shall exceed twenty-five dollars, also in a newspaper published in the county where the estray was so found, and if no paper is published in the county, then in one of the adjoining counties, two weeks successively before the day of sale.

Disposition of
money received
at such sales

SEC. 12. Out of the moneys arising from such sale, he shall retain for his own use, the sums charged on such estrays, according to the provisions of this act, and the like charges for sale as are allowed on sales under execution issued out of Justice's Court. He shall pay the residue of said money, on demand, to the owner of the estray, if he shall appear and demand the same.

Disposition of
money in case
owner does not
appear

SEC. 13. If the owner shall not appear, and demand the residue of such money, at the time of such sale, he shall deposit the said residue of money with the Treasurer of the town where such estray was kept, taking a receipt for the same, which shall be a legal discharge to the keeper of such estray.

When such
money may re-
vert to town

SEC. 14. If the owner shall not within six months after the deposit of the residue of the money, as provided in section 13 of this act, appear and claim such money, he shall be forever precluded from recovering any part of said money, and such money shall thereafter belong to the town, to be used under the discretion of the Supervisors of such town.

Repeal of former
acts

SEC. 15. All acts and parts of acts, inconsistent with this act, are hereby repealed.

SEC. 16. This act shall be in force from and after its passage.

Approved, March 5, 1863.