



# The National Agricultural Law Center

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## States' Fence Statutes: *Alabama*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

# A National Agricultural Law Center Research Publication

## States' Fence Statutes: Alabama

**Ala. Code 1975 §§ 2-15-159,2-15-297, 3-2-1 to 3-5-14, 13A-7-61,37-2-89.**

*Current through Act 2021-80*

### **§2-15-159. Permitting livestock to run at large in quarantined district.**

It shall be unlawful for any person to permit livestock to run at large in a quarantined district without a written permit of the State Veterinarian or a commissioned livestock inspector, and any person convicted of violating this provision shall be guilty of a misdemeanor.

### **§2-15-297. Stray cattle, equine, or Equidae found on quarantined or tick infested ranges, pastures, etc.; condemnation and sale; redemption.**

All stray cattle and equine or equidae running at large on quarantined or tick infested ranges, commons, pastures, or fields, if the cattle and equine or equidae have not been dipped as provided in this article, shall be taken up by the sheriff, any constable or livestock inspector, quarantined and dipped regularly once every two weeks and fed and cared for at the expense and risk of the owner of the animals.

The sheriff, any constable or livestock inspector shall apply to any judge of a district court to have the animals condemned as strays and sold at public auction. The judge of the district court shall post notices of the sale of the animals in three public places in the county where the stock is taken up and in one county paper, if one is published in the county, giving the time and place of the sale, and the sale shall not be made until 10 days after the notices have been posted and printed.

The proceeds of the sale shall go to pay all the costs of taking up, feeding, confining, selling, and dipping and, if there is a balance, it shall go into the county treasury to be applied on tick eradication. Every one of the animals mentioned in this section whose owner cannot be found by the inspector shall be regarded as a legal stray and subject to this article. The owner may redeem the animal within 30 days after sale by proving ownership to the court and paying the purchase price and all cost.

### **§3-2-1. Taking up as estrays of equine, Equidae, etc., running at large about residences, etc.**

Any person who finds running at large about his or her residence or premises or the residence or premises of which he or she has charge any equine or equidae, cattle, hog, sheep, or goat, the owner of which is unknown, may take up such animal as an estray to be disposed of as provided in Sections 3-2-2 to 3-2-4, inclusive.

### **§3-2-2. Notification of Department of Agriculture and Industries as to seizure; lien of seizer for costs of keeping animal, etc.**



(a) Within five days after taking up an estray, notice of the seizure of such estray shall be furnished to the Department of Agriculture and Industries, accompanied by a complete description of the animal together with the time and place of seizure and the name and address of the seizer. The animal shall be described in such notice by kind, size, sex, markings, brands, color, stature and age.

(b) The seizer shall have a lien on the animal for the cost of keeping it and for the amount of any reasonable damages he may have suffered as a result of the animal being upon his premises.

**§3-2-3. Investigation of seizure by department' procedure for return of animal where owner located, etc.**

The Department of Agriculture and Industries, upon receipt of a notice from a person who has seized an estrayed animal as provided in Section 3-2-2, shall investigate such seizure in an effort to locate the owner of the animal. In the event the owner is located and the ownership established, the animal shall be returned to the person found to be the owner thereof upon payment by such person to the seizer the actual cost for keeping the animal, together with the actual amount of damages which he may have suffered as a result of the animal being upon his premises.

**§3-2-4. Publication and posting of notice as to strayed animal where owner not located; return to owner or sale of estray generally; procedure for sale of unclaimed estray and disposition of proceeds thereof.**

(a) If the owner of an estrayed animal seized as provided under Section 3-2-2 is not found after an investigation is conducted by the Department of Agriculture and Industries for the purpose of locating the owner thereof, a notice fully describing the estrayed animal shall be posted by the Department of Agriculture and Industries in at least three conspicuous public places in or near the vicinity where the animal was seized and such a notice shall also be published one time in a newspaper with general circulation in the county where the animal was seized. The posted and published notices of the estrayed animal shall describe such animal by kind, size, sex, markings, brands, color, stature and age.

(b) If the owner of the estrayed animal does not file a claim for possession of the animal with the Department of Agriculture and Industries within 15 days after publication of the notice, the Department of Agriculture and Industries shall dispose of the estrayed animal by sale as provided in subsection (c) of this section. If the owner of the estrayed animal files a claim for return of the animal with the Department of Agriculture and Industries within a 15 day period and satisfactorily establishes his claim of ownership, the Department of Agriculture and Industries shall direct the seizer to return the animal to such owner upon payment to the seizer the actual cost for keeping the animal and the amount he may have suffered as actual damages by reason of the animal being upon his premises. The owner shall also pay to the Department of Agriculture and Industries the actual cost of publication of the estray notice.



(c) In the event no claim is filed with the Department of Agriculture and Industries within a 15-day period after notice and publication, the animal shall be delivered or caused to be delivered by the Department of Agriculture and Industries to the nearest public livestock market where the animal shall be sold. The proceeds received by the livestock market from the sale of the estrayed animal shall be applied to the costs of the sale, publication of the newspaper notice and to satisfy the seizer's lien for keeping the animal and any damages he may have suffered, if any; provided, however, that the total sum paid to the seizer for keep of the animal and damages, if any, shall not exceed 25 percent of the proceeds of the sale after deducting the sales commission, hauling charge and advertising expense. The remainder of the proceeds of the sale of the estrayed animal shall be held by the livestock market in trust for payment to the owner, in the event such owner establishes his right of ownership with the Department of Agriculture and Industries. If the owner fails to establish his right thereto within 90 days from the date of sale, the remainder of the sale price shall be paid by the livestock market to the Department of Agriculture and Industries for deposit in the State Treasury to the credit of the Agricultural Fund. No amounts shall be disbursed under this subsection by the livestock market unless approval in writing is given by the Department of Agriculture and Industries.

### **§3-2-20. Duty of Director of Public Safety.**

The Director of Public Safety shall provide for taking up and impounding livestock or animals running at large upon state and federal aid highways which have been officially designated as such and regularly and customarily patrolled by the state highway patrol or upon the rights-of-way of such highways and, to that end, within the limit of the funds provided by this article, the Director of Public Safety is hereby authorized and empowered to contract with persons, firms or corporations within the several counties to take possession of and impound such livestock or animals.

### **§3-2-21. Notification of owner of animal taken up and impounded; filing of notice with probate judge where owner cannot be located; procedure for recovery of animal by owner.**

(a) The owner of any livestock taken up and impounded as provided in Section 3-2-20, if known, shall be served personally with notice thereof, which notice shall specify the number and kind of livestock or animals impounded. If the owner of any livestock or animal taken up is unknown or cannot be located, the officer or person taking up the livestock or animal shall, within two days after so taking it up, file a notice in writing with the judge of probate of the county where the livestock or animals were stray. The judge of probate shall record such notice in a book showing a description of the animal and the place where picked up and the date and, for such service, shall be entitled to charge a fee of not exceeding \$.50 to be collected from the impounder.

(b) The owner of such livestock or animals shall have the right to secure the return thereof, within 10 days from the date of the notice provided for in subsection (a) of this section, upon the payment of a fee of \$10.00 for the first and \$1.00 for each additional head of livestock so taken up, not to exceed \$100.00 for any one



seizure regardless of the number of animals seized, together with the actual cost of feeding the same during the period held, and the probate recording fee.

### **§3-2-22. Sale of animals taken up and impounded.**

If the owner or his agent shall not reclaim his livestock or animal within the time allowed in this article, the poundkeeper or officer shall sell the same upon giving five days' notice of such sale by publication one time in a newspaper published in the county, said notice to contain a brief description of the livestock or animal to be sold and the time and place of sale, and out of the proceeds he shall pay the cost and expenses of taking up, keeping and caring for such livestock or animal, the cost of the sale and the fees provided for in Sections 3-2-20 through 3-2-23 and the balance, if any, shall be paid to the owner, if known. In the event no newspaper is published in the county, a copy of the notice of the sale shall be posted in at least three public places in the vicinity where the livestock was taken up. All such sales shall be conducted in the county where the livestock was taken up and impounded.

### **§3-2-23. Disposition of fees collected under article.**

All fees collected under the provisions of this article shall be paid to the State Treasurer and be credited to the account of a special fund to be expended in furtherance of the purposes of this article.

### **§3-3-1. Prohibited.**

(a) It shall be unlawful for any person to stake, tie, hobble or pasture any animal of the cow kind, horse, mare, jack, mule, jennet or other equine animal, hog or animal of the swine kind, sheep or goat upon the right-of-way of any highway in this state.

(b) Any person having charge of or owning any such animal who knowingly permits such animal to be staked, tied, hobbled or pastured on the right-of-way of any highway in this state shall be guilty of a misdemeanor and shall be punished as provided by law for misdemeanors.

### **§3-3-2. Peace officers empowered to take up animals staked, pastured, etc., on highway.**

Every peace officer of this state is empowered to take up any such animal staked, tied, hobbled or pastured on any highway in this state in the same manner as is provided by law for the taking up of estrays or animals running at large.

### **§3-4-1. Requirements as to construction of lawful fences—Generally.**

All inclosures and fences must be made at least five feet high, unless otherwise provided in this chapter. If the fence is made of rails, the rails must be not more than four inches apart from the ground to the height of every two feet. If the fence is made of palings, the palings must be not more than three inches apart. If the fence is made with a ditch, such ditch must be four feet wide at the top and the fence, of whatever material composed, at least five feet high from the bottom of the ditch and three feet high from the top of the bank and so close as to prevent stock of any kind from getting through.

### **§3-4-2. Requirements as to construction of lawful fences—Rail fences for cattle and equine or equidae.**



A rail fence five feet high, with the rails not more than 18 inches apart from the ground to the height of every three feet, shall be a lawful fence so far as cattle and equine or equidae are concerned.

**§3-4-3. Requirements as to construction of lawful fences—Fences of three or more wires for cattle and equine or equidae.**

A fence made of three or more wires securely fastened to trees or posts not more than eight feet apart, the wires being not more than 15 inches apart and the top wire at least four feet from the ground, shall be a lawful fence so far as concerns equine or equidae and cattle.

**§3-4-4. Requirements as to construction of lawful fences—Fences of seven or more wires for livestock generally.**

A fence made of seven or more wires securely fastened to trees or posts not more than eight feet apart, the first four wires being of four-inch barb and not over four inches apart, commencing with the first wire four inches from the ground, the fifth wire not over six inches from the fourth, the sixth wire not over eight inches from the fifth and the seventh wire 15 inches from the sixth, shall be a lawful fence against all stock whatsoever.

**§3-4-5. Requirements as to construction of lawful fences—Standard woven wire fences.**

The following shall be lawful fences against all livestock:

- (1) A standard woven wire fence with 10 line wires and stay wires not over 12 inches apart 47 inches high, the bottom wire resting on the ground, the line wires, beginning at the bottom, spaced not more than three to three and a half, four to four and a half, five to five and a half, six, seven and eight inches apart;
- (2) A standard woven wire fence with stay wires not over 12 inches apart not less than 36 inches high, the bottom wire resting on the ground, the first eight wires beginning at the bottom, spaced not more than three to three and a half, four to four and a half, five to five and a half and six inches apart, with two wires being of not more than four inch barb, spaced so as to make the fence 48 inches high and securely fastened to trees or posts not more than 10 feet apart.

**§3-4-7. Penalty for setting of stakes, pits, poisons, etc., by person not having fence as prescribed in chapter.**

If any person, not having a fence as prescribed in this chapter sets in his inclosure any stakes, pits, poison or anything which may injure or kill an animal or stock, such person shall forfeit \$50.00 for every such act to any person instituting an action for the same. Any stakes, pits or poison on any such lands are presumptive evidence that the same were set by the person in charge of such land.

**§3-5-1. “Livestock” or “animal” defined.**

The term “livestock” or “animal,” where it occurs in this chapter, shall be held to be limited to and to refer to equine or equidae, cows, calves, yearlings, bulls, oxen, sheep, goats, lambs, kids, hogs, shoats, and pigs.



**§3-5-2. Permitting livestock or animals to run at large upon premises of another without permission or upon public lands, highways, etc., generally.**

(a) It shall be unlawful for the owner of any livestock or animal, as defined in Section 3-5-1, to knowingly, voluntarily, negligently or wilfully permit any such livestock or animal to go at large in the State of Alabama either upon the premises of another or upon the public lands, highways, roads or streets in the State of Alabama.

(b) Nothing in this section or elsewhere in this chapter shall be construed to make it unlawful for livestock or other animals to run at large on the premises of another when the owner or person in charge of the premises has consented in writing to let livestock or other animals run at large on the same or to subject the owner of such livestock or other animals to criminal prosecution therefor.

(c) There shall be no “open range” counties in this state. This section shall apply to all counties within the state.

(d) Any person or persons owning or having the possession, custody or control of any livestock who unlawfully and knowingly permit the same to run or be at large, shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than double the damages sustained by the injured party or parties, but in no case more than \$50.00, one half of such fine to go to the injured party or parties, and may also be imprisoned in the county jail or sentenced to hard labor for the county for a term not exceeding six months at the discretion of the court trying the case.

**§3-5-3. Liability of owner for damages done by livestock or animals running at large; judgment lien upon animal or livestock causing damage.**

(a) The owner of such livestock or animal being or running at large upon the premises of another or upon the public lands, roads, highways or streets in the State of Alabama shall be liable for all damages done to crops, shade or fruit trees or ornamental shrubs and flowers of any person, to be recovered before any court of competent jurisdiction; provided, that the owner of any stock or animal shall not be liable for any damages to any motor vehicle or any occupant thereof suffered, caused by or resulting from a collision with such stock or other animal, unless it be proven that such owner knowingly or willfully put or placed such stock upon such public highway, road or street where such damages were occasioned.

(b) The judgment of the court against the owner of such livestock or animal so depredating shall be a lien superior to all other liens on the livestock or animal causing the damage, except as to taxes.

**§3-5-4. Taking up of livestock or animals running at large by highway patrol, etc.; notification of owner thereof generally.**

Any state trooper, the sheriff and his deputies of any county, or the constable of any precinct or any law enforcement officer of any municipality shall take possession of any livestock or animal found at large upon the premises of another or upon the public lands, roads, highways or streets in the State of Alabama, and the owner of such livestock or animal, when so



taken up, shall be notified personally or the owner may be notified by leaving a written notice at the usual place of residence of such owner, within 24 hours after the taking up of such livestock or animal.

**§3-5-5. Recovery of livestock or animals by owner upon payment of fees, damages and costs of feeding animals; disposition of fees, damages, etc.**

The owner of the livestock or animal shall have the right to secure such livestock or animal upon the payment of a fee of \$1.00 for each head of livestock or animal taken up to the officer taking up such livestock or animal upon the public lands, highways, streets or roads in the State of Alabama, together with such damages, if any, as may have been suffered by any person and the actual cost of feeding such animal during the period held by such officer if there have been no proceedings in court. Upon such payment being made, the fee of \$1.00 for taking up the animal shall be paid to the officer making the seizure and the amount collected as damages and the actual cost of feeding the animal shall be paid over to the person damaged and to the person at whose expense such animal was fed during the period of retention; provided, that for any seizure, if more than one animal be taken up, an additional fee of \$.50 shall be paid for each such additional head of livestock or animal so taken up, but no fee shall be paid over and above \$5.00, notwithstanding the number of animals so taken up.

**§3-5-6. Taking up of livestock or animals running uncontrolled on lands of another by owner, etc., of said lands; notification of owner**

Any person who is the owner of or in the lawful possession of any land or the agent of any such person shall have the right to take possession of any livestock or animal found at large, uncontrolled, on his premises or on premises of which he has charge and the owner of such livestock or animal, when so taken up, shall be personally notified or, if the owner cannot be found, the owner may be notified by leaving a written notice at the usual place of residence of such owner, within 24 hours after the taking up of such livestock or animal, and by posting notice as provided in Section 3-5-8.

Anything in this chapter to the contrary notwithstanding, the word “uncontrolled,” as used in this chapter shall in no case be construed to prohibit the driving of any animal or stock over, upon or along the public streets and highways of this state by the owner thereof or his duly authorized agent.

**§3-5-7. Filing of statement where owner of livestock or animal taken up unknown, not resident of county, etc.**

(a) If the owner of any livestock or animal found at large and uncontrolled on the premises of another or upon the public lands, highways, roads or streets in the State of Alabama is unknown or if the owner is known but has no place of residence within the county where the livestock or animal is taken up or cannot be located, the officer or person taking up the livestock or animal shall, within two days after so taking up, file a statement in writing with the district court.

(b) Such statement shall set forth:



- (1) The name and address of the person taking up the livestock or animal, or, if an officer, the name, address and official designation of the officer taking up the livestock or animal;
- (2) A description of the livestock or animal as to kind, sex, marks, brand, color and apparent age;
- (3) Where the livestock or animal was taken up and where it is impounded;
- (4) The amount of damage claimed;
- (5) The amount of charges claimed for taking up and caring for the livestock or animals; and,
- (6) The amount of the officer's fee and the cost of feeding and caring for such livestock or animal during such detention if the livestock or animal is taken up by an officer.

**§3-5-8. Posting of notice as to taking, etc., and hearing thereupon; proceedings where owner appears and claims livestock or animal generally; proceedings and entry of judgment for sale where livestock or animal not claimed and adjudged to be unlawfully at large generally.**

(a) The district court shall give notice, by posting in three public places in the county, setting forth the fact of such taking up, the description of the livestock or animal and the fact that the owner is unknown or, if known, that he cannot be located, and notifying any person claiming to be the owner of such livestock or animal to appear before the court at a place named not less than three days nor more than six days from the date of such notice and prove such claim of ownership.

(b) If such person appears at any time and if the judge of the district court is satisfied that such person is the actual owner of such livestock or animal, then the judge shall require the owner of the livestock or animal to pay the officer's fee, together with the cost of feeding and caring for such animal, as provided in this chapter, and to pay for all damages done to crops, shade or fruit trees or ornamental shrubs of any person, which damage shall be ascertained by the judge of the district court and, after such ascertainment, shall be paid to the person damaged or to the judge of the district court for the use of the person damaged, whereupon such livestock or animal shall be delivered to such claimant.

(c) If no person claiming to be the owner appears on the day set for hearing, the judge of the district court shall proceed to ascertain and determine whether or not such livestock or animal was unlawfully at large upon the premises of another or upon the public lands, highways, roads or streets in Alabama and shall proceed to inquire and ascertain the amount of damages and charges. If the judge of the district court shall ascertain and determine that such livestock or animals were unlawfully at large on the premises of another or on the public lands, highways, roads or streets in the State of Alabama, he shall make and enter the following order: "It appearing on complaint of A B (or any state trooper or any sheriff or his deputies, constable of any precinct or the



law enforcement officer of any municipality, as the case may be) that a cow (or hog or other animal, as the case may be) was unlawfully on the premises or land of A B (or C D, as the case may be, or upon the public lands, highways, roads or streets in the State of Alabama, as the case may be), and that the owner thereof is unknown, and that the said animal has damaged the crop or shade or fruit trees or ornamental shrubbery of A B, (or C D, as the case may be) to the amount of \$....., it is hereby ordered and adjudged that the said A B (or such state trooper or such sheriff or his deputy, constable or law enforcement officer of any municipality, as the case may be) is entitled to \$.....

**§3-5-9. Proceedings and entry of judgement discharging livestock or animal, etc., where same adjudged not unlawfully at large.**

If on the trial of any action or proceeding brought under this chapter it is ascertained and adjudged by the judge of the district court that the livestock or animal taken up by the party complaining was not unlawfully at large upon the premises of another or upon the public lands, highways, roads or streets in the State of Alabama, he shall enter a judgment directing that such livestock or animal be discharged and taxing the party complaining with all the costs.

**§3-5-10. Officer or person taking up livestock or animal entitled to possession thereof until judgment and costs of keeping and caring for livestock or animal paid.**

The person or officer taking up such livestock or animal shall be entitled to possession thereof until the judgment which may be recovered as provided in this chapter is paid, together with the costs of the same and the cost of keeping and caring for such livestock or animal after such judgment or until the same is sold under execution to satisfy said judgment; provided, that the cost of keeping and caring for such livestock or animal under such circumstances shall be upon the same basis as that previously determined as a proper charge for the maintenance of such livestock or animal prior to the entering of such judgment.

**§3-5-11. Refunding of counties or municipalities where livestock or animals kept and fed in county or municipal pounds.**

In counties or municipalities where livestock or animal pounds are maintained, any person or officer seizing any livestock or animal may deliver such livestock or animal so seized to the poundkeeper for safekeeping and the county or municipality shall be refunded any amounts which may be expended for keeping and feeding any livestock or animal as provided in this chapter.

**§3-5-12. Proceedings for recovery of livestock or animal by owner; determination of validity of seizure, amount of damages, etc., where owner unknown, etc.; fees and costs of district court judge and officer making seizure; appeals from judgment of district court.**

(a) The owner of any livestock or animal which has been seized shall have the right to possession of the same by paying such judgment and the costs thereof or, if no judgment has been entered, by paying such damages as may be agreed upon together with fees and costs and expenses due on account of such seizure to the person or officer so seizing such livestock or animal or to the person who may at the time of



such payment have such livestock or animal in his possession and by paying to the court the costs of the court incurred to the time of such payment.

Should the parties be unable to agree upon the amount of damages, fees, costs and expenses due, either party shall have the right to go before any district court judge within the county where said livestock or animal is seized or taken up and have the issue tried after first giving the opposite party one day's notice thereof on the day following or as soon thereafter as may be practicable on a written statement or complaint setting forth in substance the facts of such seizure, and said issue shall involve the validity of such seizure and the amount of damages, fees, costs and expenses under the provisions of this chapter and the judgment of the district court judge shall have all the force and effect of a judgment in any other civil action and shall be executed in the same manner as any other judgment of a district court is enforced. When the owner of such livestock or animal so taken up gives bond in double value of the same, payable to the person so taking up said property and approved by the district court judge before whom the proceedings are pending, conditioned to deliver such property to the constable or other legal officer having the right of execution or order of sale within five days after such judgment to satisfy such judgment as to damages and costs, such livestock or animal shall be released to the owner.

If upon the trial it is shown that the owner of said livestock or animal tendered to the plaintiff full and fair compensation for damages before the institution of the action and such party pays the same into court, then the action shall be dismissed at the cost of plaintiff. On the trial of such issues the party taking up such livestock or animal shall be the plaintiff in the action.

If such livestock or animal is taken up upon the public lands, highways, roads or streets in the State of Alabama by any member of the state highway patrol or by the sheriff of any county or the constable of any precinct or by the law enforcement officer of any municipality, such livestock or animal shall be released to its owner upon the payment of the fee of \$1.00 to the officer taking up such animal or the additional fee as provided in Section 3-5-5, together with damages, if any, suffered by any person, which shall be paid to such person and the actual cost of feeding such livestock or animal during the period held by such officer or by any person acting in behalf of himself or under the direction of such officer. Upon such payment being made there shall be prepared a receipt in duplicate on forms prepared by the Attorney General of the State of Alabama, one copy of which shall be delivered to the owner upon payment of such fee, costs and damages, if any, and one copy of which shall be retained by the officer to whom payment is made. At the time of delivering such livestock or animal to the owner, the owner shall be furnished with an itemized account of the damage done, if any, and of the cost of keeping such livestock or animal during such detention and a duplicate of such statement and a statement of the amount collected shall be retained by the officer to whom payment is made; provided, that the amount for keeping and feeding shall not exceed the actual cost of feeding and caring for such livestock or animal and, in no case shall exceed \$.50 per day per head.

(b) In case the owner is unknown or, if known, cannot be located, the judge of the



district court shall determine the validity of the seizure and the amount of damages, fees, costs and expenses under the provisions of this chapter from such evidence as shall be adduced before him.

(c) From any judgment entered by the judge of the district court under the provisions of this chapter an appeal may be taken to the circuit court in such county within 14 days from the entry of such judgment or denial of a post-trial motion, whichever is later, in the same manner as appeals are taken from judgments of the district court in other cases.

**§3-5-13. Procedure for sale of livestock or animal when not reclaimed by owner, etc.; disposition of proceeds of sale.**

If the owner or his agent shall not, when he has made no bond, reclaim his livestock or animal within 24 hours after the judge of the district court shall have ascertained such damages, then the judge of the district court shall order the same sold by a constable of the precinct or by someone appointed to act as such or by the sheriff or his deputy or by the law enforcement officer of a municipality. Such officer, upon the making of such order, shall sell the same upon giving five days' notice of such sale by publication one time in a newspaper published in the county, said notice to contain a brief description of the livestock or animal to be sold and the time and place of sale. But out of the proceeds such officer shall pay the costs and expenses and damages due the plaintiff and the expenses of taking up, keeping and caring for such livestock or animal, and the balance must be paid to the owner of such livestock or animal, if known, and if not known, then into the county treasury or the treasury of the municipality. The officer making the sale shall be entitled to \$1.00 for making such sale and posting the notices.

**§3-5-14. Authority of municipalities to adopt ordinances; municipals ordinances not repealed.**

(a) The governing bodies of all cities or towns may adopt all such ordinances and laws as shall be necessary to prevent the running at large within the limits of the municipality of all livestock or animals and to take up and impound all such livestock or animals found so running at large and to fix, prescribe and provide for the collection of penalties and impounding fees for all such livestock or animals so taken up and impounded.

(b) This chapter shall not be construed to repeal any municipal stock law.

**§13A-7-61. Allowing stock to run at large under common fence.**

Any one of several persons occupying or cultivating lands under a common fence who turns stock of any kind into such inclosure, or knowingly suffers such stock to go at large therein without the consent of all the persons owning or cultivating such lands, shall, on conviction, be punished by a fine of not less than \$5.00 nor more than \$50.00, and also the amount of damages inflicted by the stock, which damages shall be held as a part of the penalty imposed by the court, and shall go to the party injured.

Whenever a conviction shall be had under this section, unless the full amount of the penalty is immediately paid, it shall be the duty of the sheriff, or other officer charged with the execution of the judgment of the court, to seize and hold the stock committing the trespass, and after giving five days' notice by posting at three or more public places in the neighborhood, to



sell the same, and out of the proceeds to collect the amount of such penalty and costs; and the surplus shall be paid to the owner of such stock.

**§37-2-89. Railroad fences; liability for injury to stock.**

(a) Whenever the Public Service Commission deems it necessary that any railroad in this state, or any portion thereof, shall be fenced, it shall notify the person or corporation operating such railroad of their conclusion.

(b) Upon failure, after a reasonable notice, to fence such railroad or the portion thereof designated, the person or corporation operating such railroad shall be liable in damages for the value of any stock killed or injured upon the portion of the line so designated to be fenced, whether with or without negligence; but if the fence is erected in conformity to the notice, no liability shall attach for stock killed or injured upon the portion of the line so fenced, unless the killing or injury was committed willfully.

