

CHAPTER 92

(HB 251)

AN ACT relating to stray animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 259 IS CREATED TO READ AS FOLLOWS:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) *"Local government" means any city, county, urban-county, charter county, consolidated local government, or unified local government;*
- (2) *"Stray cattle" means any animal of the bovine, ovine, porcine, or caprine species for which the owner is no longer claiming ownership or for which the owner cannot be determined, but not including any member of the equine species; and*
- (3) *"Stray equine" means any animal of the equine species for which the owner is no longer claiming ownership or for which the owner cannot be determined.*

➔Section 2. KRS 259.110 is amended to read as follows:

~~A~~~~(1)~~ stray ~~equine~~~~cattle~~ may be taken up and posted by any *person or entity if it is found running at large outside of its enclosure or if it can be determined from the circumstances that its owner has abandoned it. Stray cattle may be taken up and posted by any* freeholder by legal or equitable title or by a tenant of an unexpired lease for not less than three (3) years when found on his place of residence.

~~(2)~~ Stray horses, mules, jacks or jennets may be posted at any time of the year. Other stray cattle shall not be taken up or posted between April 1 and November 1 unless they are taken within the inclosure of the taker-up, after they have broken into it.

➔Section 3. KRS 259.120 is amended to read as follows:

Stray equines and stray cattle~~Strays~~ shall be taken up and posted in the following manner:

- (1) ~~If a~~ stray ~~equines~~~~over two (2) years old is taken up, it~~ shall be taken before a justice of the peace of the district, who shall administer to the taker-up an oath, in substance, that the ~~equine~~~~animal~~ was taken up by him as a stray ~~on his premises within the preceding ten (10) days~~ and that he has not defaced or altered the marks or brands of the ~~equine~~~~animal~~. *Stray cattle shall be taken before a justice of the peace of the district, who shall administer to the taker-up an oath, in substance that the cattle were taken by him as strays on his premises within the preceding ten (10) days and that he has not defaced or altered the marks or brands of the cattle.* The justice shall then value the stray *equine or cattle* himself and take a correct description of the flesh-marks, age and brands of the same, all of which, together with the name and residence of the taker-up, he shall record in a book to be kept by him for that purpose. He shall give to the taker-up a copy of the record and deliver to the county clerk a certified copy of the same record within thirty (30) days~~, for the whole of which service he shall be paid by the taker-up fifty cents (\$0.50).~~
- (2) The clerk shall immediately record the stray certificate of the justice in a book to be kept by him for that purpose~~, and he shall cause a true copy of the certificate to be posted at the door of the courthouse at the next two (2) succeeding court days of his county~~. His fee for this service shall be seventy-five cents (\$0.75) to be paid by the taker-up.
- (3) The taker-up shall *cause to be posted a copy of the justice's certificate in the sheriff's office with jurisdiction over the area where the stray cattle or stray equine was taken up* ~~within one (1) month after he has posted the stray, cause to be published pursuant to KRS Chapter 424, a copy of the justice's certificate~~.
- (4) ~~If the stray is under two (2) years old the justice shall, in addition to the oath required by subsection (1), take, on the oath of the taker-up, a description of the stray and also the oath of some honest housekeeper of the value of the stray, and proceed as directed by subsection (1) when the stray is over two (2) years old.~~
- ~~(5)~~ The taker-up shall be paid by the owner of the stray, if and when he claims the stray or its value, the ~~fee~~~~fees~~ paid the ~~justice and~~ clerk~~, the cost of advertising~~ and *the actual costs incurred by the taker-up for keeping the stray equine or cattle. The taker-up may have the stray equine gelded, in which case the owner shall also pay the taker-up for the actual cost incurred for the gelding* ~~also a reasonable sum for keeping the stray,~~

~~where the animal has not been used. The owner shall also pay the taker up a fee of one dollar (\$1) for each horse, mule, jack or jennet, and twenty five cents (\$.25) for any other stray posted].~~

➔Section 4. KRS 259.130 is amended to read as follows:

The absolute ownership of a stray *equine*~~[horse, mule, jack or jennet]~~ shall vest in the taker-up at the expiration of *ninety (90) days*~~[two (2) years]~~ after the justice has received the evidence of the valuation and administered the oath to the taker-up. The absolute ownership of~~[other]~~ stray cattle shall vest in the taker-up after the expiration of twelve (12) months from the day on which the cattle have been posted.

➔Section 5. KRS 259.140 is amended to read as follows:

- (1) *If stray equines or cattle taken up under Section 3 of this Act are sold for a profit before absolute ownership of the stray equines or stray cattle has vested in the taker-up as provided by Section 4 of this Act, then the taker-up*~~[of any stray cattle]~~ shall pay to the owner *upon demand and proof of ownership the amount received for the stray equine or stray cattle less the amount owed by the owner to the taker-up under Section 3 of this Act. The owner shall not be entitled to any payment from the taker-up under this section if demand for payment is made more than ninety (90) days after the posting of the stray equine or more than twelve (12) months after the posting of the stray cattle under Section 3 of this Act*~~[the valuation of the stray, if it is a horse, jack, jennet or mule, upon proof of his right to payment, at any time within three (3) years from the day the right of property in the stray vests in the taker up. The valuation of all other stray cattle shall be paid in the same manner, upon proof of ownership, at any time within one (1) year after the right of property is vested in the taker up. If the stray dies or escapes from the possession of the taker up before the owner claims the same, he need not pay the valuation or account for the stray. The proof of death or escape shall rest upon the taker up].~~
- (2) *Justices of the peace, county clerks, and all other local government employees acting in good faith in the discharge of the duties imposed by Sections 1 to 5 of this Act shall be immune from criminal and civil liability for any act related to the taking up and posting of stray equines or stray cattle.*

➔Section 6. KRS 259.990 is amended to read as follows:

- (1) ~~[Any person who violates any of the provisions of KRS 259.110 to 259.140 shall be fined ten dollars (\$10).~~
- (2) ~~Any person who violates KRS 259.150 shall be fined fifty dollars (\$50).~~
- (3) ~~Any person who violates KRS 259.200 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), and each head of cattle trespassing shall constitute a separate offense.~~
- (2)~~(4)~~ Any person who violates KRS 259.210 shall be fined not less than five dollars (\$5) nor more than twenty-five dollars (\$25).

➔Section 7. The following KRS sections are repealed:

- 259.150 Altering marks, removal and destruction of strays prohibited.
- 259.160 Horse, jack or bull running at large may be taken up -- Notice when owner known.
- 259.170 Animal taken up to be gelded.
- 259.180 Owner of animal unknown -- Notice -- Gelding.
- 259.190 Fees of taker-up -- Property vests in taker-up, when -- Recovery by owner.

Signed by Governor April 8, 2010.