CHAPTER 7

Estrays; Livestock Trespassing or Running at Large

ARTICLE 1

Estrays

**SECTION 47‑7‑10.** “Estray” defined.

 Any domestic or domesticated animal found wandering at large or abandoned in the public ways or on the lands of any person other than its owner shall be an “estray.”

HISTORY: 1962 Code Section 6‑201; 1960 (51) 1741.

**SECTION 47‑7‑20.** Public sale of estrays.

 Any person finding an estray may take possession thereof and shall, if the owner is not found and no claim to such estray is made within three days, deliver or report the finding and taking up of such estray to the nearest magistrate, who shall sell such estray at public sale after ten days’ notice posted in three public places in the county, one of which shall be the courthouse door.

HISTORY: 1962 Code Section 6‑202; 1952 Code Sections 6‑201, 6‑203, 6‑204; 1942 Code Sections 6270, 6272‑6274; 1932 Code Sections 6270, 6272‑6274; Civ. C. ‘22 Sections 5130, 5132‑5134; Civ. C. ‘12 Sections 3386, 3388‑3390; Civ. C. ‘02 Sections 2275, 2277‑2279; G. S. 1610, 1612‑1614; R. S. 1802, 1804‑1806; 1803 (5) 465; 1839 (11) 30; 1935 (39) 226; 1960 (51) 1741.

**SECTION 47‑7‑30.** Application of proceeds of sale.

 The proceeds of sale of an estray shall be applied first to costs of sale and next to costs of care and feeding of the estray, including a reasonable compensation as determined by the magistrate for the finder’s labor for care and feeding. Any balance remaining shall be paid into the county treasury as general county funds.

HISTORY: 1962 Code Section 6‑203; 1952 Code Sections 6‑206, 6‑208; 1942 Code Sections 6275, 6277; 1932 Code Sections 6275, 6277; Civ. C. ‘22 Sections 5135, 5137; Civ. C. ‘12 Sections 3391, 3393; Civ. C. ‘02 Sections 2280, 2282; G. S. 1615, 1617; R. S. 1807, 1809; 1789 (5) 137, 138; 1803 (5) 465, 466; 1960 (51) 1741.

**SECTION 47‑7‑40.** Penalties for violations or for appropriating estrays.

 Any person violating the provisions of this article, or attempting to conceal or appropriate an estray to his own use, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned not more than thirty days for each offense.

HISTORY: 1962 Code Section 6‑204; 1952 Code Section 6‑209; 1942 Code Sections 6279, 6280; 1932 Code Sections 6279, 6280; Civ. C. ‘22 Sections 5139, 5140; Civ. C. ‘12 Sections 3395, 3396; Civ. C. ‘02 Sections 2284, 2285; G. S. 1619, 1620; R. S. 1811, 1812; 1803 (5) 466; 1960 (51) 1741.

ARTICLE 3

Livestock Trespassing or Running at Large

**SECTION 47‑7‑110.** Permitting domestic animals to run at large unlawful.

 It shall be unlawful for the owner or manager of any domestic animal of any description wilfully or negligently to permit any such animal to run at large beyond the limits of his own land or the lands leased, occupied or controlled by him. Any owner, manager or person violating the provisions of this section shall be subject to a fine for each offense of not more than twenty‑five dollars or to imprisonment for not more than twenty‑five days.

HISTORY: 1962 Code Section 6‑311; 1952 Code Section 6‑311; 1942 Code Sections 6281, 6282; 1932 Code Sections 1221, 6281, 6282, 6283; Civ. C. ‘22 Sections 3276, 3277; Civ. C. ‘12 Section 2280; Civ. C. ‘02 Section 1497; G. S. 1184; R. S. 1288; 1898 (20) 800; 1905 (24) 959; 1906 (25) 116; 1908 (25) 1048; 1913 (28) 29; 1917 (30) 330; 1918 (30) 848; 1919 (31) 152; 1920 (31) 719, 877, 1051; 1921 (32) 200; 1925 (34) 24; 1927 (35) 749; 1943 (43) 306.

**SECTION 47‑7‑120.** Stock coming into State shall not be permitted to run at large.

 It shall be unlawful for any person to drive, cause to be driven or in any other manner permit to come into this State any horse, mule, hog, cattle, sheep or other livestock and suffer it to run at large in any marsh, forest lands or range in this State. Any person so offending shall be subjected to a penalty of five dollars for each head so permitted to run at large, to be recovered for the benefit of anyone who may sue for it, or the offender shall be proceeded against by attachment in case he cannot be found in this State. But this section shall not apply to any person owning lands in this State who permits such stock to run at large, as aforesaid, upon his own lands, nor to any person driving or causing to be driven any such stock to or from market or for breeding purposes.

HISTORY: 1962 Code Section 6‑315; 1952 Code Section 6‑315; 1942 Code Section 5806‑45; 1932 Code Section 1341; Cr. C. ‘22 Section 230; Cr. C. ‘12 Section 524; 1903 (24) 124.

**SECTION 47‑7‑130.** Liability of owners of trespassing stock.

 Whenever any domestic animals shall be found upon the lands of any other person than the owner or manager of such animals, the owner of such trespassing stock shall be liable for all damages sustained and for the expenses of seizure and maintenance. Such damages and expenses shall be recovered, when necessary, by action in any court of competent jurisdiction. And the trespassing stock shall be held liable for such damages and expenses, in preference to all other liens, claims or encumbrances upon it.

HISTORY: 1962 Code Section 6‑316; 1952 Code Section 6‑316; 1942 Code Section 6284; 1932 Code Section 6284; Civ. C. ‘22 Section 3278; Civ. C. ‘12 Section 2281; Civ. C. ‘02 Section 1498; G. S. 1185; R. S. 1289; 1881 (17) 592.

**SECTION 47‑7‑140.** Right to seize trespassing stock.

 Any freeholder or tenant of land, his agent or representative, may seize and hold possession of any domestic animal which may be trespassing upon his premises and as compensation for such seizure may demand of the owner of every such horse, mule, ass, jennet, bull, ox, cow, calf, swine, sheep, goat, or other animal not herein named, just damages for injuries sustained. Such claim shall, when possible, be laid before the owner of the trespassing stock within forty‑eight hours after seizure of the stock.

HISTORY: 1962 Code Section 6‑317; 1952 Code Section 6‑317; 1942 Code Section 6285; 1932 Code Section 6285; Civ. C. ‘22 Section 3279; Civ. C. ‘12 Section 2282; Civ. C. ‘02 Section 1499; G. S. 1186; R. S. 1290; 1881 (17) 592; 1972 (57) 2482.

**SECTION 47‑7‑150.** Liability of owner for maintenance; bond; recovery of possession.

 In case the claim shall not be amicably or legally adjusted and the trespassing animals recovered by the owner within twelve hours after the receipt of such notification, the owner shall further become liable in a sum sufficient to cover the maintenance and care of his stock up to the time of its removal. But the owner shall be entitled to recover immediate possession of his stock on due execution of such bond to cover expenses and claimed damages as any magistrate shall decide to be good and sufficient.

HISTORY: 1962 Code Section 6‑318; 1952 Code Section 6‑318; 1942 Code Section 6286; 1932 Code Section 6286; Civ. C. ‘22 Section 3280; Civ. C. ‘12 Section 2283; Civ. C. ‘02 Section 1500; G. S. 1187; R. S. 1291; 1881 (17) 592.

**SECTION 47‑7‑160.** Rescuing animal from custody of person impounding it unlawful.

 Whenever any animal shall be taken up under the provisions of this article, it shall be unlawful for any person to rescue it or deliver it from the custody of the person impounding it; and whoever shall violate this provision shall be guilty of a misdemeanor and be punished by a fine of not less than five nor more than thirty dollars or by imprisonment in the county jail not less than five nor more than thirty days.

HISTORY: 1962 Code Section 6‑321; 1952 Code Section 6‑321; 1942 Code Sections 1222, 1223; 1932 Code Sections 1222, 1223; Cr. C. ‘22 Sections 110, 111; Cr. C. ‘12 Sections 229, 230; Cr. C. ‘02 Sections 176, 177; G. S. 1190, 1191; R. S. 171, 172; 1881 (17) 593; 1903 (24) 111; 1921 (32) 200.

**SECTION 47‑7‑170.** Satisfaction as defense in criminal prosecutions.

 In any criminal prosecution for violation of the provisions of Section 47‑7‑160, the defendant may plead, as a matter of defense, the full satisfaction of all reasonable demands of the party or parties aggrieved by such violation; and upon such plea being legally established and upon payment of all costs accrued up to the time of such plea he shall be discharged from further penalty.

HISTORY: 1962 Code Section 6‑322; 1952 Code Section 6‑322; 1942 Code Section 1225; 1932 Code Section 1225; Cr. C. ‘22 Section 113; Cr. C. ‘12 Section 233; Cr. C. ‘02 Section 179; G. S. 1193; R. S. 173; 1881 (17) 594.