

## Introduction to Statutes Governing Animals Running at Large

*5 V.S.A. chapter 68, subchapter 4 (Farm crossings, cattle guards, fences, and watercourses)*

- The statutes within subchapter 4 deal with the duties of railroad corporations, abutting landowners, and the owners of animals that may cross or turn upon the railroad.
- In general, the duty to maintain fences and cattle guards falls upon the railroad corporation. Under 5 V.S.A. § 3647, the person “through whose fault or negligence such horse or other animal is so at large shall forfeit not more than \$20.00 for every [animal] is found going at large[.]” The railroad corporation may bring an action to recover the \$20.00 and any damages caused by the animal.
  - However, § 3647 does not relieve the railroad company of liability under § 3645 for damage to animals on the railroad by railroad agents or engines. Aldrich v. Boston & Maine Railroad, 100 A. 765, 768 (Vt. 1917).

*20 V.S.A. part 8, chapter 191 (Control generally)*

- Subchapter 1, article 1 (general provisions) provides the following fines for the running at large of animals:
  - For cattle, horses, sheep, goats or swine knowingly permitted to run on public yard, public highway, or the yard of a townhouse, church, or schoolhouse: \$3.00 - \$10.00. 20 V.S.A. §§ 3341 or 3343.
  - For cattle, horses, sheep, goats or swine permitted to run on public park, common, or green: \$5.00 - \$25.00. 20 V.S.A. § 3342.
  - For cattle, horses, sheep, goats or swine turned or knowingly permitted to run on burial ground: \$25.00. 20 V.S.A. § 3344.
  - For cattle, horses, sheep, goats, swine, or domestic fowls knowingly permitted to go upon the lands of another, after notice is provided by the owner: \$2.00 - \$10.00. 20 V.S.A. § 3345.
  - For bulls more than 9 months old, if found unattended outside the premises of the bull’s owner: \$100.00. 20 V.S.A. § 3346.
  - For rams allowed to go at large, between August 1 and December 1, that are found with sheep other than those of its owner: \$5.00. 20 V.S.A. § 3347.

- For stallions more than one year old, willfully or negligently permitted to run at large out of the enclosure: \$100.00 - \$500.00.
- Subchapter 2 (pounds and impounding), articles 1 and 2 provide the general provisions for the impounding of animals:
  - If a town does not have a pound, a person may use his or her own enclosure for the purpose of impounding the animal. 20 V.S.A. § 3383.
  - A person may impound an animal found in his or her enclosure doing damage. 20 V.S.A. § 3411.
    - General definition for “person” means “any natural person, corporation, municipality, the State of Vermont or any department, agency, or subdivision of the State, and any partnership, unincorporated association, or other legal entity.” 1 V.S.A. § 128.
    - “Enclosure” means that the land is occupied; it is not required to be fenced. Davis v. Mudgett, 69 A. 762 (Vt. 1908).
    - “If the words, ‘doing damage’, are to have any effect, it would seem that they should be construed to mean, doing actual and substantial damage, to the exclusion of theoretical and presumptive damage; or, in other words, doing damage in fact only, and not damage in law as well. A beast may stray into the inclosure of another on the crust in midwinter, when it can do no possible damage, and it be a technical trespass, for which nominal damages could be recovered; but can the beast be impounded for damage feasant?” Dudley v. McKenzie, 54 Vt. 685, 687 (Vt. 1882).
  - Within 24 hours of impounding an animal, the person must provide notice to the owner. If the owner is unknown, then the impounder shall post notice within 48 hours in a public place in the town, and in two adjoining towns. 20 V.S.A. §§ 3413 and 3420.
- Subchapter 2, article 3 (animals running at large)
  - When neat cattle, horses, or swine run at large on the highways or commons, any person may impound them. The owner shall pay the charges due to the impounder. 20 V.S.A. § 3451.
    - “Neat cattle” is a term of art. Black’s Law Dictionary defines neat cattle as “oxen or heifers. “Beeves” may include neat stock, but all neat stock are not beeves.”
    - “Charges” likely refers to the cost of failure to replevy or the costs of impounding, keeping, and advertising. *See* 20 V.S.A. §§ 3418 and 3421.

TA; 1/22/2020

- When a person impounds an animal, the poundkeeper shall post a notice in a public place within 24 hours that sets the time and place of a sale. The owner has 20 days to pay fees and retrieve the animal, after which the animal may be sold by the poundkeeper. 1 V.S.A. §§ 3452 and 3453. A separate procedure is established for stallions.