

CHAPTER 588

LEGAL FENCES AND LIVESTOCK AT LARGE

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588.01 Requirements of general fence.—All fences or enclosures of land shall be substantially constructed, whether with rails, logs, post and railing, iron, steel, or other material, and not less than 5 feet high; to the extent of 2 feet from the ground there shall not be a space between the material used in the construction of any fence greater than 4 inches; provided, that when any fence or enclosure shall be made with a trench or a ditch, the same shall be 4 feet wide; and in that case the fence shall be 5 feet high from the bottom of the ditch to the top of the fence.

History.—RS 875; s. 1, ch. 5038, 1901; GS 1233; RGS 2364; CGL 3773.

588.011 Legal fence; requirements.—

(1) Any fence or enclosure at least 3 feet in height made of barbed or other wire consisting of not less than three strands of wire stretched securely on posts, trees, or other supports, standing not more than 20 feet apart, shall be considered as a legal fence.

(2) Any fence or enclosure made of any other material which meets substantially the minimum requirements or specifications mentioned in subsection (1) shall be considered as a legal fence.

(3) Legal fences may include gateways or openings therein provided:

(a) That any such gateways shall be equipped with gates which are so constructed as to meet the minimum requirements or specifications of a legal fence; or

(b) That any such opening shall be equipped with a cattle or livestock guard at least 6 feet in width extending to each end of the opening.

(4) The requirements of s. 588.01, shall constitute and be a legal fence to prevent the intrusion of swine

where the running at large of swine is not prohibited by law.

History.—ss. 1, 2, 3, 8, ch. 25357, 1949.

588.07 Prohibition against stakes.—No planter or other person not having a lawful fence shall fix or cause to be fixed in any of his enclosures, any canes or stakes or anything that shall or may kill or maim, hurt, or destroy any cattle, horses, sheep, goat, or swine, under penalty of \$10 for every such offense, to be recovered before the proper court; one-half of the penalty thereof shall go to the informer and the other half to the county.

History.—s. 3, June 11, 1823; RS 878; GS 1239; RGS 2370; CGL 3779.

588.08 Right to land not in issue.—In all trials to be had by virtue of this chapter, the right to the land on which the trespass or damages shall be said to be done, of the party in possession thereof, shall not be brought into question, but the same shall be taken for granted for all intents and purposes.

History.—s. 5, June 11, 1823; RS 879; GS 1240; RGS 2371; CGL 3780.

588.09 Legally enclosed land; fenced and posted.

(1) Land shall be legally enclosed land, or posted land, when enclosed by a legal fence, and when there shall be placed along the boundary of said land in the manner herein provided posted notices to the public; provided that it shall not be necessary to erect any fence along any portion of the boundaries of the land formed by any ocean, gulf, bay, river, creek, or lake.

(2) The fences, enclosures, and the posted notices, when erected, placed, and maintained as herein required shall be notice to the public that the land enclosed thereby is private property upon which unauthorized entry for any purpose is prohibited and shall constitute a warning to unauthorized persons to remain off of or to depart from said land.

History.—ss. 4, 6, ch. 25357, 1949.

588.10 Posted notices; requirement.—Posted notices to the public as required by s. 588.09 shall be signs upon which there shall appear prominently, in letters of not less than 2 inches in height, the word "posted," and in addition thereto there shall appear the name of the owner, lessee, or occupant of said land. Said posted notices shall be placed along, on, or close within the boundaries of any legally enclosed or posted land in a manner and in such position as to be clearly noticeable from the outside of the enclosure, and said notices shall be placed not farther than 500 feet apart along, and at each corner, of the boundaries of the land, and also at each gateway or opening of the fence enclosing the same. Said notices shall be placed along all boundaries formed by the waters mentioned herein on trees or posts close to the banks of said waters in position so as they may be noticeable to persons approaching the boundary formed by said waters.

History.—s. 5, ch. 25357, 1949.

588.11 Owner to maintain fences and notices.—The owner of legally enclosed land shall maintain in rea-

sonable good condition the fence or enclosure around such land and shall maintain in legible condition any and all posted notices as required by ss. 588.09, 588.10, but a substantial or reasonably effective compliance with the provisions of ss. 588.011, 588.09, 588.10, disregarding minor or inconsequential differences in the size, shape, or condition thereof, shall be sufficient for the purpose of evidencing the legal enclosure of said land.

History.—s. 7, ch. 25357, 1949.

588.12 Livestock at large; legislative findings.—

There is hereby found and declared a necessity for a statewide livestock law embracing all public roads of the state and necessity that its application be uniform throughout the state, except as hereinafter provided.

History.—s. 1, ch. 25236, 1949.

588.13 Definitions.—In construing ss. 588.12–588.25 the following words, phrases, or terms shall be held to mean:

(1) "Livestock" shall include all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals.

(2) "Owner" shall include any person, association, firm, or corporation, natural or artificial, owning or having custody of or in charge of livestock.

(3) Livestock "running at large" or "straying" shall mean any livestock found or being on any public road of this state and either apparently a neglected animal or not under manual control of a person.

(4) "Public roads" as used herein shall mean those roads within the state which are, or may be, maintained by the state, a political subdivision of the state, or a municipality, including the full width of the right-of-way, except those maintained, and expressly exempted from provisions of this chapter, by ordinance of the county or municipality having jurisdiction.

History.—s. 2, ch. 25236, 1949; ss. 23, 35, ch. 69–106; s. 1, ch. 77–200; s. 230, ch. 79–400; s. 3, ch. 92–206.

588.14 Duty of owner.—No owner shall permit livestock to run at large on or stray upon the public roads of this state.

History.—s. 3, ch. 25236, 1949.

588.15 Liability of owner.—Every owner of livestock who intentionally, willfully, carelessly, or negligently suffers or permits such livestock to run at large upon or stray upon the public roads of this state shall be liable in damages for all injury and property damage sustained by any person by reason thereof.

History.—s. 4, ch. 25236, 1949.

588.16 Authority to impound livestock running at large or strays.—It shall be the duty of the sheriff or his deputies or any other law enforcement officer of the county, the county animal control center, or state highway patrolmen, where livestock is found to be running at large or straying, to take up, confine, hold, and impound any such livestock, to be disposed of as hereinafter provided.

History.—s. 5, ch. 25236, 1949; s. 2, ch. 77–200.

588.17 Disposition of impounded livestock.—

(1) Upon the impounding of any livestock by the sheriff or his deputies or any other law enforcement officers of the county, the county animal control center, or state highway patrolmen, the sheriff shall forthwith serve written notice upon the owner, advising such owner of the location or place where the livestock is being held and impounded, of the amount due by reason of such impounding, and that unless such livestock be redeemed within 3 days from date thereof that the same shall be offered for sale.

(2) In the event the owner of such livestock is unknown or cannot be found, service upon the owner shall be obtained by once publishing a notice in a newspaper of general circulation where the livestock is impounded (Sundays and holidays excluded). If there be no such newspaper then by posting of the notice at the courthouse door and at two other conspicuous places within said county.

Such notice shall be in substantially the following form:

"To Whom It May Concern:

You are hereby notified that the following described livestock (giving full and accurate description of same, including marks and brands) is now impounded at (giving location where livestock is impounded) and the amount due by reason of such impounding is _____ dollars. The above described livestock will, unless redeemed within 3 days from date hereof, be offered for sale at public auction to the highest and best bidder for cash.

_____(Date) _____(Sheriff)_____
of _____County, Florida"

(3) Unless the impounded livestock is redeemed within 3 days from date of notice, the sheriff shall forthwith give notice of sale thereof which shall be held not less than 5 days nor more than 10 days (excluding Sundays and holidays) from the first publication of the notice of sale. Said notice of sale shall be published in a newspaper of general circulation in the said county (excluding Sundays and holidays) and by posting a copy of such notice at the courthouse door. If there be no such newspaper then by posting such copy at the courthouse door and at two other conspicuous places in said county.

Such notice of sale shall be in substantially the following form:

"_____(Name of owner, if known, otherwise 'To Whom It May Concern') YOU are hereby notified that I will offer for sale and sell at public sale to the highest and best bidder for cash the following described livestock (giving full and accurate description of each head of livestock) at _____ o'clock, _____ m. (the hour of sale to be between 11 a.m. and 2 p.m. Eastern Standard Time) on the _____ day of _____ at the following place _____ (which place shall be where the livestock is impounded or at the place provided by the county commissioners for the taking up and keeping of such livestock) to satisfy a claim in the sum of _____ for fees, expenses for feeding and care and costs hereof.

_____(Date) _____(Sheriff)_____
of _____County, Florida"

History.—s. 6, ch. 25236, 1949; s. 3, ch. 77–200.

588.18 Livestock at large; fees.—The fees allowed for impounding, serving notice, care and feeding, advertising, and disposing of impounded animals shall be as follows:

(1) For impounding each animal, the sum of \$20 and mileage incurred, at the rate of 20 cents per mile.

(2) For serving any notice and making return thereon, the sum of \$10 and mileage incurred, at the rate of 20 cents per mile.

(3) For feed and care of impounded animals, the sum of \$5 per day per animal.

(4) For advertising or posting notices of sale of impounded animals, the same as provided by law for advertising property for sale under process.

(5) For sale or other dispositions of impounded animals, the sum of \$5.

(6) For report of sale of impounded animals, the sum of \$2.50.

History.—s. 7, ch. 25236, 1949; s. 1, ch. 74-54; s. 1, ch. 83-90.

588.19 Failure to secure purchaser or insufficient funds to defray certain costs.—If there be no bidder for such livestock at the sale aforesaid, the sheriff shall either offer the livestock for adoption or kill, or cause to be killed, the same and shall dispose of the carcass thereof; if there be any money received by him on account of the said disposal, the same shall be disbursed in the manner hereinafter provided; and, if there be no ready sale for said carcass, the sheriff shall forthwith deliver the carcass to a public institution of the county, state, or municipality within said county or to any private charitable institution, in the order herein set forth, according to their needs.

History.—s. 8, ch. 25236, 1949; s. 4, ch. 77-200.

588.20 Report of sale and disposition of proceeds.

(1) The sheriff, upon making a sale or other disposal as herein provided, shall forthwith make a written return thereof to the clerk of the circuit court of such county, with a full and accurate description of the livestock sold or disposed of by him, to whom, and the sale price thereof, which report shall be filed by said clerk.

(2) At the time of making his return the sheriff shall pay over to the clerk of the circuit court the entire proceeds of the sale.

(3) The clerk of the circuit court shall pay all costs and fees as allowed in s. 588.18 if there be any balance remaining, such balance shall be paid to the owner of such livestock, provided the owner shall make satisfactory proof of ownership to the board of county commissioners within 90 days from the date the sheriff reports the sale. If proof of ownership, as aforesaid, be not made within the time mentioned, the clerk shall pay such proceeds into the fine and forfeiture fund of said county. The clerk shall keep a permanent record of all sales, disbursements, and distributions made under ss. 588.12-588.25.

(4) If the amount realized from the sale or other disposition of the animal is insufficient to pay all fees, costs and expenses as provided in ss. 588.12-588.25, the deficit shall be paid by the county from its fine and forfeiture fund.

History.—s. 9, ch. 25236, 1949.

588.21 Duty of commissioners to provide places for impounding of livestock and transportation of same.—The county commissioners of the several counties of Florida shall establish and maintain pounds or suitable places for the keeping of any livestock taken up and impounded hereunder until the same shall be sold, redeemed, or otherwise disposed of, which pounds or other suitable places may be a part of or operated in conjunction with a county animal control center. In any case, such county commissioners shall provide truck transportation for the impounded animals.

History.—s. 10, ch. 25236, 1949; s. 5, ch. 77-200.

588.22 Duty of impounder.—The sheriff or county animal control center, whichever is designated by the board of county commissioners, shall provide feed for the impounded animals and see that such livestock shall have feed and water not less than twice a day and that all milk cows and milk goats are milked twice a day. The sheriff or county animal control center shall employ poundmasters, guards, or other persons as may be necessary to protect, feed, care for, and have custody of, the impounded animals and the sheriff or county animal control center shall be entitled to the fees herein allowed for such feed and care.

History.—s. 11, ch. 25236, 1949; s. 6, ch. 77-200.

588.23 Right of owner.—The owner of any impounded livestock shall have the right at any time before sale thereof to redeem the same by paying to the sheriff all impounding expenses, including fees, keeping charges, advertising, or other costs incurred therewith which sum shall be deposited by the sheriff with the clerk of the circuit court who shall pay all fees and costs as allowed in s. 588.18. In the event there is a dispute as to the amount of such costs and expenses, the owner may give bond with sufficient sureties to be approved by the sheriff, in an amount to be determined by the sheriff, but not exceeding the fair cash value of such livestock, conditioned to pay such costs and damages; thereafter, within 10 days, the owner shall institute suit in equity to have the damage adjudicated by a court of equity or referred to a jury if requested by either party to such suit.

History.—s. 12, ch. 25236, 1949.

588.24 Penalty.—Any owner of livestock who unlawfully, intentionally, knowingly or negligently permits the same to run at large or stray upon the public roads of this state or any person who shall release livestock, after being impounded, without authority of the impounder, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 13, ch. 25236, 1949; s. 612, ch. 71-136.

588.25 Application; limitation.—The provisions of ss. 588.12-588.25 shall not apply to counties having special laws or general laws of local application requiring the confinement and restraint of livestock; provided, however, where the provisions of such special laws or general laws of local application do not prohibit livestock from running upon or straying upon the public highways, or the provisions of such special laws or general laws of

local application do not provide for liability of owners of livestock for damages and injuries caused by such livestock, or provide less severe penalties than imposed by s. 588.24, the provisions of this act shall apply in each such case as if the provisions hereof were inserted in full in any such special law or general law of local applica-

tion. Provided, further, that if any such special law or general law of local application is found unconstitutional or in any way inoperative, then this act shall be in full force and effect in the county, or counties, affected.

History.—s. 14, ch. 25236, 1949.