

ANIMALS RUNNING AT LARGE (EXCERPT)
Act 248 of 1879

433.53 Keeping animal after seizure; complaint against owner; summons; show cause hearing; sale of animal; costs and damages; disposition of surplus.

Sec. 3. Whenever any such officer or person shall seize and take into his or her possession any animal under the preceding sections, such animal shall be received and kept in such pound, if there shall be one, and if not the same may be kept by any such officer or person in any other suitable place, and if such animal shall not be claimed, and the fees hereinafter provided for, paid within 2 days thereafter, the pound-master or other person in charge of the pound, if such animal shall have been received at such pound; and if not, then the person by whom such animal was seized or taken into custody shall make immediate complaint in writing, stating the name of the owner of such animal, if known to him or her, and the facts, to the district or municipal court having jurisdiction to hear and determine such matter and shall thereupon proceed in the same manner as in civil action, except as especially changed in this act, and shall forthwith issue a summons, directed to the owner if he or she shall have been named in said complaint, and stating the fact that such seizure has been made, and requiring the owner of such animal, or any party having an interest in the same, to show cause before the court, at a time and place to be specified in such summons, why such animal should not be sold and the proceeds applied as directed by this act, and such time shall not be less than 6 nor more than 12 days from the issuing of such summons. The summons may be served by any marshal, deputy marshal, or constable of the city or village, or by any elector thereof authorized so to do by the court in writing thereon. Such service shall be made by delivering a copy thereof to the owner, if named in the summons and if he or she can be found in the city or village 6 days before the return day thereof, and if the owner shall not be named in the summons, or if he or she cannot be found then the summons shall be served by posting copies thereof in at least 3 public and conspicuous places in the city or village, at least 5 days before the return day thereof, and 1 of the places shall be in the office of the clerk of such city or village. At the time and place appointed for the return of the summons, the officer or person by whom such complaint was made, shall appear, and any party or persons owning or having an interest in the animal shall be allowed by the court to appear in the proceeding, and on his or her filing with the court, an answer under oath, subscribed by him or her or by his or her agent, denying any or all of the facts in the complaint, an issue shall be deemed joined in the proceeding, and the subsequent proceedings shall be as in civil actions so far as they can be except as otherwise provided in this act, and it is hereby made the duty of the city or village attorney of all cities and villages included within this act, to appear and conduct all proceedings under this act on behalf of the person making such complaint. If no one shall appear to show cause and the summons shall be returned duly served, or if the jury, or judge shall find, after a trial that no sufficient cause is shown why such sale should not be made, as directed by this act, then the judge shall issue his or her warrant under his or her hand, directed to any marshal, deputy marshal, or constable of the city or village, commanding him or her to sell the animal at public auction for the best price he or she can obtain therefor, and make return thereof to the court at a time and place therein specified, not less than 10 nor more than 20 days thereafter. The sale shall be on the like notice as on constable's sale on civil process, and the sheriff, deputy sheriff or constable shall make return as required by the warrant, and pay the proceeds of the sale to the court. The court shall thereupon adjudge the costs of the proceedings, the same amounts being allowed as in civil actions, and in addition, he or she shall allow to the officer or person making such seizure, for every horse, mule or colt, 1 dollar; for every cow, calf or other cattle, each 50 cents, and for every goat, sheep, or swine, 25 cents, together with the actual damages sustained by such person by reason of the trespass or breaking of such animal into his or her premises, and compensation to such person or officer for the care and keeping of such animals from the time of the seizure thereof to the sale at the rate specified in the next section of this act, and the marshal, deputy marshal, or constable, the same fees as for service of a summons and execution in civil actions. If, after paying the sums aforesaid, there shall be any surplus of the proceeds of the sale, the judge shall pay the same to the owner or person establishing before him or her, on the return of such summons, or at such other time as he or she shall appoint, the right to the same. If no person shall claim the surplus within 1 year after such seizure, the court shall pay the same to the treasurer of such city or village for the benefit of the contingent fund. If such owner or person interested, shall not appear and demand such surplus within the year, he or she shall be forever precluded from recovering any part of such moneys, and the receipt of the treasurer of the city or village, given at any time after the expiration of the year, shall be a full discharge to the court for the same.

History: 1879, Act 248, Eff. Aug. 30, 1879;—How. 3070;—CL 1897, 5615;—CL 1915, 7295;—CL 1929, 9049;—CL 1948, 433.53;—Am. 1991, Act 142, Imd. Eff. Nov. 25, 1991.