

This section shall expire September 1, 1989.

Passed the House March 15, 1989.

Passed the Senate April 18, 1989.

Approved by the Governor May 8, 1989.

Filed in Office of Secretary of State May 8, 1989.

## CHAPTER 286

[House Bill No. 2001]

### LIVESTOCK—TRESPASS BY

AN ACT Relating to livestock; amending RCW 16.04.010, 16.16.020, 16.24.010, 16.24.020, 16.24.030, 16.24.050, 16.24.060, 16.24.065, 16.24.070, 16.13.020, 16.13.030, 16.13.050, 16.24.090, 16.20.010, 16.28.160, 16.20.035, 16.04.025, 16.57.010, 16.57.290, 16.57.300, and 16.57.410; adding a new section to chapter 16.04 RCW; recodifying RCW 16.16.020, 16.13.020, 16.13.030, 16.13.050, 16.28.160, 16.20.010, 16.13.040, 16.13.060, 16.13.070, 16.13.080, 16.20.020, 16.20.030, 16.20.035, and 16.28.165; repealing RCW 16.28.170, 16.12.010, 16.12.020, 16.12.030, 16.12.070, 16.12.080, 16.12.090, 16.12.100, 16.12.110, 16.13.010, 16.13.090, 16.16.010, 16.16.030, 16.16.040, 16.16.050, 16.16.060, 16.20.040, 16.13.025, and 16.57.295; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 31, Laws of 1893 as amended by section 1, chapter 56, Laws of 1925 ex. sess. and RCW 16.04.010 are each amended to read as follows:

Any person suffering damage done by any horses, ~~((mares;))~~ mules, ~~((asses))~~ donkeys, cattle, goats, sheep, swine, or any such animals, which shall either trespass upon any ~~((cultivated))~~ land ~~((;-inclosed))~~ enclosed by lawful fence ~~((or situated within any district created pursuant to RCW 16.24.010 through 16.24.065;))~~ as provided in chapter 16.60 RCW or trespass while running at large in violation of chapter 16.24 RCW may retain and keep in custody such offending animals until the owner or person having possession of such animals shall pay such damage and costs, or until good and sufficient security be given for the same.

NEW SECTION. Sec. 2. A new section is added to chapter 16.04 RCW to read as follows:

Whenever any animals trespass as provided in RCW 16.04.010, the owner or person having possession of such animal shall be liable for all damages the owner or occupant may sustain by reason of such trespass.

Sec. 3. Section 2, chapter 124, Laws of 1895 and RCW 16.16.020 are each amended to read as follows:

In any prosecution under ~~((RCW 16.16.010 through 16.16.030))~~ chapter 16.24 RCW proof that the animal running at large is branded with the registered or known brand of the defendant shall be prima facie evidence that the defendant is the owner of said animal ~~((;-and proof that said animal is found at large shall be prima facie evidence that the owner permitted the same to be at large)).~~

Sec. 4. Section 1, chapter 25, Laws of 1911 as amended by section 1, chapter 40, Laws of 1937 and RCW 16.24.010 are each amended to read as follows:

The ~~((board of county commissioners))~~ county legislative authority of any county of this state shall have the power to designate by an order made and published, as provided in RCW 16.24.030, certain territory as stock restricted area within such county in which it shall be unlawful to permit livestock of any kind to run at large ~~((:PROVIDED, That))~~. No territory so designated shall be less than two square miles in area ~~((:AND PROVIDED FURTHER, That))~~. RCW 16.24.010 through 16.24.065 shall not affect counties having adopted township organization. All territory not so designated shall be range area, in which it shall be lawful to permit ~~((livestock))~~ cattle, horses, mules, or donkeys to run at large: PROVIDED, That the county legislative authority may designate areas where it shall be unlawful to permit any livestock other than cattle to run at large.

Sec. 5. Section 2, chapter 25, Laws of 1911 as last amended by section 2, chapter 40, Laws of 1937 and RCW 16.24.020 are each amended to read as follows:

Within sixty days after the taking effect of RCW 16.24.010 through 16.24.065, the county ~~((commissioners))~~ legislative authority of each of the several counties of the state may make an order fixing a time and place when a hearing will be had, notice of which shall be published at least once each week for two successive weeks in some newspaper having a general circulation within the county. It shall be the duty of the ~~((board of county commissioners))~~ county legislative authority at the time fixed for such hearing, or at the time to which such hearing may be adjourned, to hear all persons interested in the establishment of range areas or stock restricted areas as defined in RCW 16.24.010 through 16.24.065.

Sec. 6. Section 3, chapter 25, Laws of 1911 as last amended by section 3, chapter 40, Laws of 1937 and RCW 16.24.030 are each amended to read as follows:

Within thirty days after the conclusion of any such hearing the county ~~((commissioners))~~ legislative authority shall make an order describing the stock restricted areas within the county where livestock may not run at large, which order shall be entered upon the records of the county and published in a newspaper having general circulation in such county at least once each week for four successive weeks.

Sec. 7. Section 1, chapter 93, Laws of 1923 as amended by section 4, chapter 40, Laws of 1937 and RCW 16.24.050 are each amended to read as follows:

When the county ~~((commissioners))~~ legislative authority of any county deem it advisable to change the boundary or boundaries of any stock restricted area, a hearing shall be held in the same manner as provided in

RCW 16.24.020. If the county (~~(commissioners)~~) legislative authority decides to change the boundary or boundaries of any stock restricted area or areas, (~~(they)~~) it shall within thirty days after the conclusion of such hearing make an order describing said change or changes. Such order shall be entered upon the records of the county and published in a newspaper having general circulation in such county once each week for four successive weeks.

Sec. 8. Section 5, chapter 40, Laws of 1937 and RCW 16.24.060 are each amended to read as follows:

At the point where a public road enters a range area, and at such other points thereon within such area as the county (~~(commissioners)~~) legislative authority shall designate, there shall be erected a road sign bearing the words: "RANGE AREA. WATCH OUT FOR LIVESTOCK."

Sec. 9. Section 6, chapter 40, Laws of 1937 as amended by section 20, chapter 415, Laws of 1985 and RCW 16.24.065 are each amended to read as follows:

(1) No person owning or in control of any livestock shall willfully or negligently allow such livestock to run at large in any stock restricted area (~~(; nor shall any person owning or in control of any livestock allow such livestock)~~) or to wander or stray upon the right-of-way of any public highway (~~(of two or more lanes)~~) lying within a stock restricted area when not in the charge of some person.

(2) Livestock may run at large upon lands belonging to the state of Washington or the United States only when the owner of the livestock has been granted grazing privileges in writing.

Sec. 10. Section 127, chapter 189, Laws of 1937 and RCW 16.24.070 are each amended to read as follows:

~~((It shall be unlawful for any person to cause or permit any livestock to graze or stray upon any portion of the right-of-way of any public highway of this state, within any stock restricted area.))~~ It shall be unlawful for any person to herd or move any livestock over, along or across the right-of-way of any public highway, or portion thereof, within any stock restricted area, without having in attendance a sufficient number of persons to control the movement of such livestock and to warn or otherwise protect vehicles traveling upon such public highway from any danger by reason of such livestock being herded or moved thereon.

~~((In the event that any livestock is allowed to stray or graze upon the right-of-way of any public highway, or portion thereof, within any stock restricted area, unattended, the same may be impounded for safekeeping and, if the owner be not known, complaint may be instituted against such stock in a court of competent jurisdiction. Notice shall be published in one issue of a paper of general circulation published as close as possible to the location where the livestock were found, describing as nearly as possible the stock, where found, and that the same are to be sold. In the event that the~~

owner appears and convinces the court of his right thereto, the stock may be delivered upon payment by him of all costs of court, advertising and caring for the stock. In the event no person claiming the right thereto shall appear by the close of business on the tenth day following and exclusive of the date of publication of notice, the stock may be sold at public or private sale, all costs of court, advertising and caring therefor paid from the proceeds thereof and the balance certified by the judge of the court ordering such sale, to the treasurer of the county in which located, to be credited to the county school fund:))

Sec. 11. Section 2, chapter 31, Laws of 1951 as last amended by section 16, chapter 415, Laws of 1985 and RCW 16.13.020 are each amended to read as follows:

Any horses, mules, donkeys, or cattle of any age running at large or trespassing in violation of ~~((RCW 16.13.010))~~ chapter 16.24 RCW as now or hereafter amended, which are not restrained as provided by RCW 16.04.010, are declared to be a public nuisance~~((, and shall be impounded by the))~~. The sheriff of the county where found(:) and the nearest brand inspector shall ((also)) have authority to impound ((class I estrays as defined in RCW 16.13.025)) such animals which are not restrained as provided by RCW 16.04.010.

Sec. 12. Section 3, chapter 31, Laws of 1951 as last amended by section 7, chapter 154, Laws of 1979 and RCW 16.13.030 are each amended to read as follows:

Upon taking possession of ~~((a class I stray))~~ any livestock at large contrary to the provisions of RCW 16.13.020, or any unclaimed livestock submitted or impounded, by any person, at any public livestock market or any other facility approved by the director, the sheriff or brand inspector shall cause it to be transported to and impounded at the nearest public livestock market licensed under chapter 16.65 RCW or at such place as approved by the director. If the sheriff has impounded ((a class I stray)) an animal in accordance with this section, he shall forthwith notify the nearest brand inspector of the department of agriculture, who shall examine the animal and, by brand, tattoo, or other identifying characteristic, shall attempt to ascertain the ownership thereof.

Sec. 13. Section 5, chapter 31, Laws of 1951 and RCW 16.13.050 are each amended to read as follows:

Upon claiming any animal impounded under this chapter, the owner shall pay ~~((the))~~ all costs of transportation, advertising, legal proceedings, and keep ((thereof)) of the animal.

Sec. 14. Section 5, chapter 25, Laws of 1911 and RCW 16.24.090 are each amended to read as follows:

~~((The owner of swine shall not))~~ Except as provided in chapter 16.24 RCW, a person who owns or has possession, charge, or control of horses,

mules, donkeys, cattle, goats, sheep or swine shall not negligently allow them to run at large at any time or within any territory~~((, and any violation of this section shall render such owner liable to the penalties provided for in RCW 16.24.040))~~. It shall not be necessary for any person to fence against such animals, and it shall be no defense to any action or proceedings brought pursuant to this chapter or chapter 16.04 RCW that the party injured by or restraining such animals did not have his or her lands enclosed by a lawful fence: PROVIDED, That ~~((swine))~~ such animals may be driven upon the highways while in charge of sufficient attendants.

Sec. 15. Section 1, page 453, Laws of 1890 as amended by section 4, chapter 66, Laws of 1965 and RCW 16.20.010 are each amended to read as follows:

It shall be lawful for any person having cows or heifers running at large in this state to take up or capture and castrate, at the risk of the owner, at any time between the first day of March and the fifteenth day of May, any bull above the age of ten months found running at large out of the enclosed grounds of the owner or keeper~~((, and))~~. It shall be lawful for any person to take up or capture and geld, at the risk of the owner, between April 1 and September 30 of any year, any stud horse or jackass or any male mule above the age of eighteen months found running at large out of the enclosed grounds of the owner or keeper. If the said animal shall die, as a result of such castration, the owner shall have no recourse against the person who shall have taken up or captured and castrated, or caused to be castrated, the said animal: PROVIDED, Such act of castration shall have been skillfully done by a person accustomed to doing the same: AND PROVIDED FURTHER, That if the person so taking up or capturing such ~~((bull))~~ animal, or causing ~~((him))~~ it to be so taken up or captured, shall know the owner or keeper of such animal, and shall know that said animal is being kept for breeding purposes, it shall be his duty forthwith to notify such owner or keeper of the taking up of said animal, and if such owner or keeper shall not within two days after being so notified pay for the reasonable costs of keeping of said animal ~~((at the rate of fifty cents per day))~~, and take and safely keep said animal thereafter within his own enclosures, then it shall be lawful for the taker-up of said animal to castrate the same, and the owner thereof shall pay a reasonable sum for such act of castration ~~((the sum of one dollar and fifty cents))~~, if done skillfully, as hereinbefore required, and shall also pay for the keeping of said animal as above provided, and the amount for which he may be liable therefor may be recovered in an action at law in any court having jurisdiction thereof: AND PROVIDED FURTHER, That if said animal should be found running at large a third time within the same year, and within the prohibited dates hereinbefore mentioned, it shall be lawful for any person to capture and castrate ~~((him))~~ the animal without giving any notice to the owner or keeper whatever. For purposes of this section, geld and castrate shall have the same meaning.

Sec. 16. Section 2537, Code of 1881 as last amended by section 181, chapter 202, Laws of 1987 and RCW 16.28.160 are each amended to read as follows:

It shall be the duty of any and all persons searching or hunting for stray horses, mules or cattle, to drive the band or herd in which they may find their stray horses, mules or cattle, into the nearest corral before separating their said stray animals from the balance of the herd or band; that in order to separate their said stray animals from the herd or band, the person or persons owning said stray shall drive them out of and away from the corral in which they may be driven before setting the herd at large. ~~((Any person violating this section shall be deemed guilty of a misdemeanor, and on conviction thereof, before a district judge, shall be fined in any sum not exceeding one hundred dollars, and half the costs of prosecution; said fine so recovered to be paid into the school fund of the county in which the offense was committed, and in addition thereto shall be imprisoned until the fine and costs are paid: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended:))~~

Sec. 17. Section 19, chapter 415, Laws of 1985 and RCW 16.20.035 are each amended to read as follows:

RCW 16.20.020 and 16.20.030, each as recodified by this 1989 act, shall not apply to counties lying west of the summit of the Cascade mountains.

NEW SECTION. Sec. 18. The following sections, as amended by this 1989 act, are each recodified as sections in chapter 16.24 RCW: RCW 16.16.020, 16.13.020, 16.13.030, 16.13.050, 16.28.160, and 16.20.010.

NEW SECTION. Sec. 19. RCW 16.13.040, 16.13.060, 16.13.070, 16.13.080, 16.20.020, 16.20.030, 16.20.035, and 16.28.165 are each recodified as sections in chapter 16.24 RCW.

NEW SECTION. Sec. 20. The following acts or parts of acts are each repealed:

- (1) Section 2, chapter 12, Laws of 1891 and RCW 16.28.170;
- (2) Section 1, page 454, Laws of 1890 and RCW 16.12.010;
- (3) Section 2, page 454, Laws of 1890, section 1, chapter 86, Laws of 1927, section 178, chapter 202, Laws of 1987 and RCW 16.12.020;
- (4) Section 3, page 454, Laws of 1890, section 1, chapter 39, Laws of 1899, section 179, chapter 202, Laws of 1987 and RCW 16.12.030;
- (5) Section 7, page 456, Laws of 1890 and RCW 16.12.070;
- (6) Section 8, page 456, Laws of 1890 and RCW 16.12.080;
- (7) Section 1, chapter 115, Laws of 1888, section 1, chapter 53, Laws of 1907, section 1, chapter 159, Laws of 1913, section 1, chapter 33, Laws of 1945 and RCW 16.12.090;

(8) Section 2, chapter 115, Laws of 1888, section 2, chapter 53, Laws of 1907, section 2, chapter 159, Laws of 1913, section 2, chapter 33, Laws of 1945 and RCW 16.12.100;

(9) Section 3, chapter 115, Laws of 1888 and RCW 16.12.110;

(10) Section 1, chapter 31, Laws of 1951, section 13, chapter 7, Laws of 1975 1st ex. sess., section 15, chapter 415, Laws of 1985 and RCW 16.13.010;

(11) Section 9, chapter 31, Laws of 1951 and RCW 16.13.090;

(12) Section 1, chapter 124, Laws of 1895 and RCW 16.16.010;

(13) Section 3, chapter 124, Laws of 1895 and RCW 16.16.030;

(14) Section 2549, Code of 1881 and RCW 16.16.040;

(15) Section 4, page 90, Laws of 1871, section 2547, Code of 1881 and RCW 16.16.050;

(16) Section 4, page 90, Laws of 1871, section 2548, Code of 1881, section 180, chapter 202, Laws of 1987 and RCW 16.16.060;

(17) Section 3, chapter 111, Laws of 1917 and RCW 16.20.040;

(18) Section 22, chapter 154, Laws of 1979 and RCW 16.13.025; and

(19) Section 25, chapter 154, Laws of 1979 and RCW 16.57.295.

Sec. 21. Section 3, chapter 31, Laws of 1893 as last amended by section 24, chapter 415, Laws of 1985 and RCW 16.04.025 are each amended to read as follows:

If the owner or the person having in charge or possession such animals is unknown to the person sustaining the damage, the person retaining such animals shall, within twenty-four hours, notify the county sheriff or the nearest state brand inspector as to the number, description, and location of the animals. The county sheriff or brand inspector shall examine the animals by brand, tattoo, or other identifying characteristics and attempt to ascertain ownership. If the animal is marked with a brand or tattoo which is registered with the director of agriculture, the brand inspector or county sheriff shall furnish this information and other pertinent information to the person holding the animals who in turn shall send the notice required in RCW 16.04.020 to the animals' owner of record by certified mail.

If the county sheriff or the brand inspector determines that there is no apparent damage to the property of the person retaining the animals, or if the person sustaining the damage contacts the county sheriff or brand inspector to have the animals removed from his or her property, such animals shall be removed in accordance with chapter (~~16.13~~) 16.24 RCW. Such removal shall not prejudice the property owner's ability to recover damages through civil suit.

Sec. 22. Section 1, chapter 54, Laws of 1959 as last amended by section 15, chapter 296, Laws of 1981 and RCW 16.57.010 are each amended to read as follows:

For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or ~~((his))~~ a duly appointed representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent or employee thereof. This term shall import either the singular or the plural as the case may be.

(4) "Livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, poultry and rabbits.

(5) "Brand" means a permanent fire brand or any artificial mark, other than an individual identification symbol, approved by the director to be used in conjunction with a brand or by itself.

(6) "Production record brand" means a number brand which shall be used for production identification purposes only.

(7) "Brand inspection" means the examination of livestock or livestock hides for brands or any means of identifying livestock or livestock hides and/or the application of any artificial identification such as back tags or ear clips necessary to preserve the identity of the livestock or livestock hides examined.

~~(8) ("Class I estray" means any cattle or horses at large contrary to the provisions of RCW 16.13.010 as now or hereafter amended, or any unclaimed cattle or horses submitted or impounded by any person at any public livestock market or any other facility approved by the director.~~

~~(9) "Class II estray" means any cattle or horses identified as estray that are offered for sale and as provided for in RCW 16.57.290 as now or hereafter amended.~~

~~(+0))~~ "Individual identification symbol" means a permanent mark placed on a horse for the purpose of individually identifying and registering the horse and which has been approved for use as such by the director.

~~((++))~~ (9) "Registering agency" means any person issuing an individual identification symbol for the purpose of individually identifying and registering a horse.

Sec. 23. Section 29, chapter 54, Laws of 1959 as last amended by section 20, chapter 296, Laws of 1981 and RCW 16.57.290 are each amended to read as follows:

All unbranded cattle and horses and those bearing brands not recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit, and those bearing brands recorded, in the current edition of this state's brand book, which are not accompanied by a certificate of permit signed by the owner of the brand when presented for inspection, ~~((are hereby declared to be class II estrays))~~ shall be sold by the director or the director's representative, unless other satisfactory proof of ownership is presented showing the person presenting them to be lawfully in



possession. ~~((Such estrays shall be sold by))~~ Upon the sale of such cattle or horses, the director or ~~((his))~~ the director's representative ~~((who))~~ shall give the purchasers a bill of sale therefor, or, if theft is suspected, the ~~((horse))~~ cattle or horses may be impounded by the director or the director's representative.

Sec. 24. Section 30, chapter 54, Laws of 1959 as amended by section 21, chapter 296, Laws of 1981 and RCW 16.57.300 are each amended to read as follows:

The proceeds from the sale of ~~((class H estrays))~~ cattle and horses as provided for under RCW 16.57.290, after paying the cost thereof, shall be paid to the director, who shall make a record showing the brand or marks or other method of identification of the animals and the amount realized from the sale thereof. However, the proceeds from a sale of ~~((class H estrays))~~ such cattle or horses at a licensed public livestock market shall be held by the licensee for a reasonable period not to exceed thirty days to permit the consignor to establish ownership or the right to sell such cattle or horses. If such consignor fails to establish legal ownership or the right to sell such cattle or horses, such proceeds shall be paid to the director to be disposed of as any other stray proceeds.

Sec. 25. Section 35, chapter 296, Laws of 1981 and RCW 16.57.410 are each amended to read as follows:

(1) No person may act as a registering agency without a permit issued by the department. The director may issue a permit to any person or organization to act as a registering agency for the purpose of issuing permanent identification symbols for horses in a manner prescribed by the director. Application for such permit, or the renewal thereof by January 1 of each year, shall be on a form prescribed by the director, and accompanied by the proof of registration to be issued, any other documents required by the director, and a fee of one hundred dollars.

(2) Each registering agency shall maintain a permanent record for each individual identification symbol. The record shall include, but need not be limited to, the name, address, and phone number of the horse owner and a general description of the horse. A copy of each permanent record shall be forwarded to the director, if requested by the director.

(3) Individual identification symbols shall be inspected as required for brands under RCW 16.57.380 and 16.57.390. Any horse presented for inspection and bearing such a symbol, but not accompanied by proof of registration and certificate of permit, shall be ~~((considered a class H stray))~~ sold as provided under RCW 16.57.290 through 16.57.330.

(4) The director shall adopt such rules as are necessary for the effective administration of this section pursuant to chapter ~~((34.04))~~ 34.05 RCW.

**NEW SECTION.** Sec. 26. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 17, 1989.

Passed the Senate April 7, 1989.

Approved by the Governor May 8, 1989.

Filed in Office of Secretary of State May 8, 1989.

## CHAPTER 287

[House Bill No. 2053]

### PROPERTY TAX—EXCESS LEVY FOR REDEMPTION PAYMENTS ON BONDS— AUTHORIZATION FOR UP TO NINE YEARS

AN ACT Relating to limiting the one hundred six percent property tax lid; and amending RCW 84.55.050.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 24, chapter 288, Laws of 1971 ex. sess. as last amended by section 1, chapter 169, Laws of 1986 and RCW 84.55.050 are each amended to read as follows:

(1) Subject to any otherwise applicable statutory dollar rate limitations, regular property taxes may be levied by or for a taxing district in an amount exceeding the limitations provided for in this chapter if such levy is authorized by a proposition approved by a majority of the voters of the taxing district voting on the proposition at a general election held within the district or at a special election within the taxing district called by the district for the purpose of submitting such proposition to the voters. Any election held pursuant to this section shall be held not more than twelve months prior to the date on which the proposed levy is to be made. The ballot of the proposition shall state the dollar rate proposed and shall clearly state any conditions which are applicable under subsection (3) of this section.

(2) After a levy authorized pursuant to this section is made, the dollar amount of such levy shall be used for the purpose of computing the limitations for subsequent levies provided for in this chapter, except as provided in subsection (4) of this section.

(3) A proposition placed before the voters under this section may:

(a) Limit the period for which the increased levy is to be made;

(b) Limit the purpose for which the increased levy is to be made, but if the limited purpose includes making redemption payments on bonds, the period for which the increased levies are made shall not exceed nine years;

(c) Set the levy at a rate less than the maximum rate allowed for the district; or

(d) Include any combination of the conditions in this subsection.