Chapter 607

1989 EDITION

Stock Running at Large; Livestock Districts

DEFINITIONS

607.005 Definitions

607.007 "Estray"; "adequate fence"; "taking up" defined

LIVESTOCK DISTRICTS

607.008 Incorporated cities are livestock districts

607.010 Petition for creation of district

607.012 Boundaries of proposed district

607.013 Hearing on proposed formation of district

607.015 Election to create livestock district

607.020 Changing boundaries and dissolution of districts

607.025 Cash deposit by petitioners

607.040 Notice of creation of a livestock district; filing of documents by county clerk

607.042 Livestock district not to petition for or vote on another district covering same class of animals; only one election a year on same proposal

607.043 Land entirely inclosed by federal land

607.044 Civil liability for livestock at large in livestock district

607.045 Livestock at large in livestock districts

607.051 Status of districts designated by order of State Department of Agriculture

MALE STOCK RUNNING AT LARGE ON OPEN RANGE

607.261 Male stock running at large on open range

TAKING UP AND SELLING ANIMALS; ESTRAYS; INTERFERING WITH ANIMALS

607.300 Determining adequacy of fences

607.303 Owner or lessee of property taking up livestock unlawfully permitted to run at large; notice to owner and department

607.304 Delivery of livestock to department or owner; payment of costs to person taking up livestock; arbitration; fees

607.308 Alternative procedure for person taking up livestock

607.311 Taking up estray prohibited without giving notice

607.313 Notice to department by persons taking up estrays; recovery of costs

607.321 Investigation by department upon receipt of notice; procedure if department determines estray owner

607.328 Procedure for sale of estrays; notice

607.332 Claim by owner before sale

607.336 Title of purchaser at sale

607.337 Use of proceeds from sale

607.338 Use of proceeds where private person has taken up livestock; arbitration of costs

607.339 Liability of department

607.341 Jurisdiction of courts

607.344 "Freshly branded" defined for ORS 607.345 to 607.360

607.345 Interfering with calves and colts on open range; selling freshly branded cattle or horses

607.350 Producing, on demand, the mothers of calves or colts

607.355 Disposal of calves and colts wrongfully held

607.360 Applicability of statutes regulating handling of calves and colts

607.365 Driving domestic animals from range

REGULATION OF STOCK ON CERTAIN HIGHWAYS

607.505 Stock running at large and grazing on Klamath Falls-Malin Highway

607.510 Stock running at large and grazing on certain state highways

607.515 Stock at large or grazing on highway from Canyonville to Umpqua National Forest

607.520 Stock running at large on highways in Washington County

607.527 Stock herded or grazed on interstate and defense highways

PENALTIES

607.992 Penalties

CROSS REFERENCES

Administrative procedures and rules of state agencies, 183.310 to 183.550

Fencing provisions, Ch. 608

Hogs not permitted to run at large, 608.510

Livestock branding regulation, 604.005 to 604.071

Restrictions on use of streets by animals, incorporated communities, 810.100

Water, storage for livestock, 537.400

607.005

District election procedures, Ch. 255

607.010

Judicial examination to determine legality of any district organization and actions, 33.710 and 33.720

Population determination, 190.520

DEFINITIONS

607.005 Definitions. As used in this chapter:

(1) "Class of livestock" means a class, species, genus or sex of livestock, including a class, species or genus of neutered livestock.

(2) "Department" means the State Department of Agriculture.

(3) "Federal land" means a tract of land containing 25,000 acres or more owned or administered by, or under the jurisdiction of, the United States and not subject to the laws of this state.

(4) "Livestock" means animals of the bovine species, horses, mules, asses, sheep, goats and swine.

(5) "Livestock district" means an area wherein it is unlawful for livestock or a class of livestock to run at large.

(6) "Open range" means an area wherein livestock may lawfully be permitted to run at large. [Amended by 1957 c.604 §2; part derived from 1957 c.604 §§17, 28; 1971 c.647 §132; 1981 c 413 §5, 1983 c.83 §107]

607.007 "Estray"; "adequate fence"; "taking up" defined. As used in this chapter, unless the context requires otherwise:

(1) "Estray" means livestock of any unknown person which is unlawfully running at large or being permitted to do so, or which is found to be trespassing on land inclosed by an adequate fence.

(2) "Adequate fence" means a continuous barrier consisting of natural barriers, structures, masonry, rails, poles, planks, wire or the combination thereof, installed and maintained in a condition so as to form a continuous guard and defense against the ingress or egress of livestock into or from the lands inclosed by said fence. Such natural barriers shall include hedges, ditches, rivers, streams, ponds or lakes.

(3) "Taking up" means the intentional exertion of control over livestock, including but not limited to the restriction of movement, holding under herd, feeding, pasturing or sheltering of such livestock. [1971 c.579 §2]

LIVESTOCK DISTRICTS

607.008 Incorporated cities are livestock districts. All incorporated cities are livestock districts. [1957 c.604 §3]

607.010 Petition for creation of district. (1) An elector who desires to create a livestock district may petition the county court or board of county commissioners to hold an election for such purpose. The petition shall be filed with the county clerk of the county wherein the district is sought to be created, shall set forth the name by which the proposed district is to be designated, and shall describe the boundaries thereof.

(2) The petition shall contain the signatures of six or more electors from each precinct, or portion of precinct, included within the boundaries of the proposed district; but in no case shall the petitioners be required to obtain the signatures of more than 100 electors. No person shall sign the petition unless the person owns real property within the proposed livestock district.

(3) The proposed livestock district shall contain not less than 2,000 acres.

(4) The petition shall state what livestock or class or classes thereof are not to be permitted to run at large within the proposed livestock district. A class of livestock may be further designated or described by minimum or maximum age limits or by breed. [Amended by 1957 c.604 §4]

607.012 Boundaries of proposed district. The boundaries of the proposed livestock district shall follow subdivision lines of sections, section lines, township lines, donation land claim boundaries or lines, lakes, rivers, the boundary line of this state, public roads or county boundary lines, except that the boundary of an established livestock district may be used as a boundary for the proposed livestock district if the districts are adjacent to each other and will have a common boundary line. [1957 c.604 §5]

607.013 Hearing on proposed formation of district. (1) Upon receiving a petition as provided in ORS 607.010, the county court or board of county commissioners shall make an order declaring its intention to hold a hearing on the petition, naming the proposed district and describing its boundaries.

(2) The order shall fix the time and place for the hearing. The time shall be not less than 30 days after the making of the order. The county court or board of county commissioners shall direct the county clerk to publish a notice of the hearing in a newspaper of general circulation in the county. The notice shall be headed: "Notice of the Proposed Formation of _____ Livestock District, _____ County" (stating the name of the proposed district and the name of the county). It shall state the time and place of the hearing on the matter of formation of the district, shall describe the territory included therein, specify the boundaries thereof and name the livestock or class of livestock which shall not lawfully be permitted to run at large therein. The notice shall be published once a week for two successive weeks prior to the time fixed for the hearing. A

copy of the published notice shall be forwarded to the department by certified mail.

(3) At the hearing any person interested may appear and present evidence relating to the petition. If, after a full hearing, the county court or board of county commissioners is of the opinion that the boundaries of the proposed livestock district should be changed, the county court or board of county commissioners may make the necessary changes. [1957 c.604 §§6, 7]

607.015 Election to create livestock district. Within 15 days after the hearing, the county court or board of county commissioners shall call an election to be held in the proposed district. The election shall be conducted in accordance with ORS chapter 255. The notice shall clearly state that the purpose of the election is to make it unlawful to permit livestock or a class of livestock to run at large within the boundaries described. [Amended by 1957 c.604 §8; 1971 c 647 §133, 1975 c 647 §50, 1983 c.350 §317]

607.020 Changing boundaries and dissolution of districts. (1) Any area containing 2,000 acres or more may be withdrawn from a livestock district, or a complete dissolution may be effected in the same manner as creation of a livestock district as provided in ORS 607.005 to 607.045. The notice of election for withdrawal or dissolution shall clearly state that the purpose of the election is to allow livestock or a class of livestock to run at large within the boundaries described.

(2) The boundary of an area to be withdrawn from a livestock district shall be drawn in compliance with ORS 607.012, except to the extent that it follows the boundary of the livestock district.

(3) No withdrawal from a livestock district shall be allowed if the area remaining within the livestock district will be less than 2,000 acres.

(4) Any withdrawal from or dissolution of a livestock district which is the subject of an order of the department issued under section 33, chapter 604, Oregon Laws 1957, shall be made with reference to the boundaries established thereby.

(5) Any area may be annexed to an existing livestock district in the same manner as creation of a livestock district as provided in ORS 607.005 to 607.045, except that:

(a) The area may be less than 2,000 acres;

(b) The election procedures provided in ORS 607.015, and the notice and order provided in ORS 607.013, shall only apply to and be carried out in the area proposed to be annexed; and

(c) The electors on a proposed annexation shall be limited to those registered in the area to be annexed. [Amended by 1957 c.604 §9; 1977 c.308 §1; 1983 c 83 §108]

607.025 Cash deposit by petitioners. When, at the request of the petitioners, the election is to be held on a day other than one on which a regular primary or general election is scheduled to be held, and if the request is approved by the county court or board of county commissioners, one or more of the petitioners shall deposit money with the county clerk in an amount to be fixed by the county court or board of county commissioners, which shall be a sum deemed by it sufficient to defray the probable expenses of the special election. Until the money is deposited, the county clerk shall neither take action nor incur expense in connection with the special election. If the amount deposited exceeds the total expenses of the election, as ascertained by the county clerk and certified by the county clerk to the county court or board of county commissioners, the excess shall be returned to the petitioner or petitioners who deposited the money. [Amended by 1957 c 604 §10]

607.030 [Amended by 1957 c.604 §11; repealed by 1971 c 647 §149]

607.035 [Repealed by 1971 c 647 §149]

607.040 Notice of creation of a livestock district; filing of documents by county clerk. (1) If a majority of all the votes cast is in favor of the creation of the livestock district, the county clerk shall give notice thereof by publication, in a newspaper of general circulation in the county, once a week for two consecutive weeks, that on and after the 60th day from the date of the first publication of the notice it shall be unlawful for livestock or a class of livestock to be permitted to run at large within the boundaries of the livestock district. The notice shall state the name by which the district is to be known, the boundaries thereof and shall also set forth the penalties for violation of ORS 607.045.

(2) The county clerk shall file a copy of the notice, copies of all other published notices, the petitions and all other data or documents relating to the district in the county records in a book, record or file identified as "Livestock Districts." No other type of data or documents shall be filed therein. The county clerk shall also mail one certified copy of the final published notice, as provided in this section, by certified or registered mail to the department. Creation, withdrawal from or dissolution of a district shall not be effective until and unless the department has been so notified. [Amended by 1957 c.604 §12]

607.042 Livestock district not to petition for or vote on another district covering same class of animals; only one election a year on same proposal. (1) The electors of a livestock district shall not petition for or vote on a proposed livestock district which includes their livestock district within its boundaries, unless the petition or election relates to a class of livestock different from that which is not permitted to run at large in their district.

(2) An election shall not be held for the creation or dissolution of or withdrawal from a livestock district in the same area within one year from the date of a prior election on the same proposal. [1957 c 604 §13]

607.043 Land entirely inclosed by federal land. The creation or dissolution of a livestock district shall not affect land entirely inclosed by federal land, unless the inclosed land is accurately and completely described in the petition. The electors residing on the inclosed land shall not vote on the creation or dissolution of such a district unless the inclosed land is accurately and completely described in the petition. [1957 c.604 §14]

607.044 Civil liability for livestock at large in livestock district. A person shall be liable to the owner or lawful possessor of land if the person permits an animal of a class of livestock to run at large upon such land and the land is located in a livestock district in which it is unlawful for such class of livestock to be permitted to run at large. [1957 c.604 §15]

607.045 Livestock at large in livestock districts. (1) No person owning or having the custody, possession or control of an animal of a class of livestock shall permit the animal to run at large or to be herded, pastured or to go upon the land of another in a livestock district in which it is unlawful for such class of livestock to be permitted to run at large.

(2) This section is not intended to prohibit a person from driving livestock along a public road.

(3) Justice, district and circuit courts have concurrent jurisdiction of actions for the prosecution of violations of this section. [Amended by 1957 c.604 §16]

607.050 [Repealed by 1957 c.604 §41]

607.051 Status of districts designated by order of State Department of Agriculture. The livestock districts designated by department order under section 33, chapter 604, Oregon Laws 1957, shall be subject in all respects to the provisions of ORS 607.005 to 607.045. [1957 c 604 §37]

607.105 [Repealed by 1957 c.604 §41]

607.110 [Repealed by 1957 c.604 §41]

607.115 [Repealed by 1957 c.604 §41]

607.120 [Repealed by 1957 c.604 §41]

607.125 [Repealed by 1957 c.604 §41]

607.130 [Repealed by 1957 c.604 §41]

607.135 [Repealed by 1957 c 604 §41]

607.140 [Repealed by 1957 c.604 §41]

607.205 [Repealed by 1957 c.604 §41]

607.210 [Repealed by 1957 c.604 §41]

607.215 [Repealed by 1957 c.604 §41]

607.220 [Repealed by 1957 c.604 §41]

607.225 [Repealed by 1957 c.604 §41]

607.230 [Repealed by 1957 c.604 §41]

607.235 [Repealed by 1957 c 604 §41]

607.240 [Repealed by 1957 c.604 §41]

607.245 [Repealed by 1957 c.604 §41]

607.250 [Repealed by 1957 c 604 §41]

607.255 [Repealed by 1957 c 604 §41]

607.260 [Repealed by 1957 c 604 §41]

MALE STOCK RUNNING AT LARGE ON OPEN RANGE

607.261 Male stock running at large on open range. (1) No person shall turn upon, or allow to run upon, the open range, any bull other than a purebred bull of a recognized beef breed. The department shall by regulation define "purebred bull of a recognized beef breed." No person shall turn upon, or allow to run upon, the open range, any female breeding cattle unless the person turns with such female breeding cattle one purebred bull of a recognized beef breed for every 25 females or fraction thereof of 10 or over.

(2) No owner of any stallion or jackass, of the age of 18 months or more, shall permit it to run upon the open range during the period April 1 to October 31 of each year. No owner of any ram shall permit it to run at large upon the open range during the period July 1 to October 31 of each year. [1957 c.604 §18]

TAKING UP AND SELLING ANIMALS; ESTRAYS; INTERFERING WITH ANIMALS

607.300 Determining adequacy of fences. Whenever livestock has broken through a fence on the open range and a determination of the adequacy of the fence is necessary in order to determine if such livestock is an estray, the department shall make the determination of the adequacy of the fence and shall consider, among other things, the customs and practices of good husbandmen in the particular area with reference to fences. [1971 c.579 §3]

607.301 [1953 c.367 §1; 1957 c 604 §19; repealed by 1971 c.579 §9]

607.303 Owner or lessee of property taking up livestock unlawfully permitted

to run at large; notice to owner and department. (1) A person who finds livestock unlawfully being permitted to run at large upon the premises of the person, or premises of which the person has lawful possession or control, may take up the livestock if the owner thereof is known to the person.

(2) A person taking up livestock shall within five days give notice of the taking up by certified or registered mail addressed to the owner or person having control of the livestock. The notice shall:

(a) Contain a concise description of the livestock, including marks and brands, if any.

(b) State that the livestock will be released to and sold by the department as an estray unless redeemed before such sale.

(c) Designate the time and place of sale, as approved by the department. The sale shall be held not less than 30 days nor more than 45 days from the date of the taking up.

(3) A person taking up livestock shall within five days of giving the notice provided in subsection (2) of this section forward a copy of the notice to the department or give a copy of the notice to a brand inspector or other agent of the department. [1957 c 604 §24]

607.304 Delivery of livestock to department or owner; payment of costs to person taking up livestock; arbitration; fees. (1) If the owner of the livestock does not appear in response to the notice given under ORS 607.303 (2), the livestock shall be delivered to the department, at a place designated by the department, at least 48 hours in advance of the date of sale and shall thereafter be sold by the department in accordance with ORS 607.328.

(2) If the owner of the livestock does appear, the livestock shall be delivered to the owner or agent if the owner pays to the person taking up the livestock, before the date of sale:

(a) The cost of taking up the livestock;

(b) The cost of giving notice;

(c) The cost of keeping the livestock; and

(d) The cost of repairing any damage done by the livestock to the property of the person taking it up.

(3) The person taking up the livestock, upon delivery thereof to the owner, shall notify the department that such action has been taken.

(4) If the owner is unable to agree with the person taking up the livestock as to the amount of the costs payable to such person, such owner shall:

(a) Within five days of the date the owner is advised of the amount of such costs, pay an arbitration fee of $150 to the department, give written notice to the department and the person taking up the livestock that the owner disagrees with the amount of the costs, that the owner desires arbitration of such disagreement and that the owner desires the department to furnish the owner with a list of arbitrators from which the owner can appoint one arbitrator; and

(b) Within five days of the date the owner is furnished the list of arbitrators, give written notice to the department and the person taking up the livestock of the name of the person appointed by the owner as arbitrator from such list.

(5) Upon receiving the notice of the owner described in paragraph (a) of subsection (4) of this section, the department shall furnish to the owner and the person taking up the livestock the names of five arbitrators selected from the list of qualified persons maintained in accordance with subsection (10) of this section. Upon receiving the notices of appointment of arbitrators, as provided in paragraph (b) of subsection (4) and subsection (6) of this section, the department shall give written notice to each appointed arbitrator of the arbitrator's appointment.

(6) Within five days of the date of receiving the list of arbitrators, the person taking up the livestock shall give written notice to the department and to the owner of the name of the person appointed as arbitrator from such list.

(7) Upon receiving the notice provided in subsection (5) of this section, the two arbitrators shall each give the department written notice of acceptance of such appointment. The department shall thereafter appoint a third arbitrator and notify all three arbitrators of such appointment. The third arbitrator shall give the department written notice of acceptance of such appointment. The department shall pay each appointed arbitrator $50 from the money paid to the department under subsection (4) of this section for arbitration services. The three arbitrators shall act as a board of arbitration and may hear witnesses, take testimony, inspect documents, the livestock and premises and thereafter render their decision as to the amount allowable as costs. Such decision shall be by majority vote and conclusive as to the owner and person taking up the livestock upon receipt of the decision by the department. Written notice of such decision shall be given to the department, the owner and the person taking up the livestock within 30 days of the appointment of the third arbitrator.

(8)(a) If the owner gives the notice required by paragraph (a) of subsection (4) of this section, but does not therein indicate a

desire to arbitrate or a desire to have a list of arbitrators furnished to the owner, the owner's right to arbitration shall be deemed waived and the livestock shall be delivered to the department, at a place designated by the department, by the person taking up the livestock. Thereafter the livestock shall be sold by the department in accordance with ORS 607.328.

(b) If the person taking up the livestock fails to give the notice required by subsection (6) of this section, such person's right to arbitration shall be deemed waived and the livestock shall not be sold. The owner shall be entitled to the immediate possession thereof without payment of any of the costs described in subsection (2) of this section.

(9) At any time during the arbitration provided for in this section, the owner of the livestock may give written notice to the department and the person taking up the livestock of the owner's desire to regain immediate possession and custody of such livestock. If the owner gives such notice, and at the same time deposits with the department a cash deposit in an amount equal to the accrued costs claimed by the person taking up the livestock as of the date such notice is given, the livestock shall be released to the owner or agent within 48 hours after the giving of such notice and cash deposit. The department is authorized to pay the costs determined by the arbitrators pursuant to subsection (7) of this section to the person taking up the livestock and return the balance, if any, to the owner.

(10) The department shall establish and maintain a list of persons qualified by experience and knowledge to act as arbitrators in accordance with subsection (7) of this section. In furnishing the names of five arbitrators, as provided in subsection (5) of this section, the department shall first determine that none of such persons named:

(a) Is related to either the owner or person taking up the livestock;

(b) Is, or has been, an agent, employee or business associate of either the owner or person taking up the livestock; or

(c) Has for any reason bias or prejudice towards either the owner or person taking up the livestock.

(11) If either the owner or person taking up the livestock intentionally fails to disclose to the department that any of the five arbitrators furnished to them as provided in subsection (5) of this section does not meet the criteria described in subsection (10) of this section, the department shall upon determining such intentional failure to disclose:

(a) Declare the arbitrator disqualified and any arbitration decision previously rendered void and of no effect;

(b) Select a person from its list to replace the disqualified arbitrator; and

(c) Direct the arbitration be undertaken with the newly appointed arbitrator as a member of the board of arbitration. [1957 c.604 §25, 1971 c.579 §6; 1975 c.65 §1; 1981 c.413 §1]

607.305 [Amended by 1953 c 367 §13, renumbered 607.344]

607.306 [1953 c 367 §2, repealed by 1957 c 604 §41]

607.308 Alternative procedure for person taking up livestock. A person taking up livestock of a known owner, in lieu of following the procedure established by ORS 607.303 and 607.304, may, within five days after the taking up, deliver the livestock and the notice described in ORS 607.313 (1) to the department at a place designated by the department. The livestock shall thereafter be disposed of by the department in accordance with ORS 607.321 or 607.328. [1957 c.604 §26; 1975 c.65 §2]

607.310 [Repealed by 1953 c 367 §13]

607.311 Taking up estray prohibited without giving notice. (1) A person who finds an estray upon the premises of the person or premises of which the person has lawful possession or control may take up the estray.

(2) No person shall knowingly take up or retain possession, custody or control of an estray without giving the notice required by ORS 607.313. [1953 c.367 §9, 1975 c.65 §3]

607.313 Notice to department by persons taking up estrays; recovery of costs. (1) Any person taking up an estray shall, within five days thereof, give written notice to the department of the taking up. Such notice shall include:

(a) A statement of the description of the livestock, including marks and brands or other identifying characteristics.

(b) The date of the taking up.

(c) The location of the taking up and present location of the livestock.

(2) In the event any person gives the notice required by subsection (1) of this section, but fails to do so within the time allowed therein, such person taking up an estray shall only be entitled to recover those costs verified by the department of taking up the livestock, of giving notice thereof and of keeping the livestock, as provided in ORS 607.304 (2), 607.332 and 607.338 incurred within five days immediately preceding the giving of such notice, but not such costs incurred prior thereto. [1971 c.579 §4, 1975 c.65 §4; 1981 c.413 §1]

607.315 [Repealed by 1953 c.367 §13]

607.316 [1953 c.367 §3; repealed by 1971 c.579 §9]

607.320 [Repealed by 1953 c.367 §13]

607.321 Investigation by department upon receipt of notice; procedure if department determines estray owner. (1) The department, when it receives a notice as described in ORS 607.313, shall attempt to determine the owner of the estray from the recorded brand, marks, other identifying characteristics and other relevant information tending to establish ownership.

(2) A record of the findings of the department supporting its determination of ownership shall be made and retained by the department for three years.

(3) The department shall have 20 days after it receives a notice described in ORS 607.313 to determine ownership of an estray. In the event the department determines the owner of the estray within this time limit, it shall at that time give written notice to such owner and the person taking up the estray, at their last-known addresses, which shall contain the matters described in ORS 607.328 (2)(b). If such owner does not appear and claim the estray prior to sale, in accordance with ORS 607.332, the sale shall be carried out as provided in ORS 607.328. [1953 c.367 §4; 1975 c 65 §5; 1981 c.413 §2]

607.325 [Repealed by 1953 c 367 §13]

607.326 [1953 c.367 §5, repealed by 1971 c.579 §9]

607.328 Procedure for sale of estrays; notice. (1) The department shall cause livestock to be sold at public sale:

(a) In the event the department does not determine the owner of an estray pursuant to ORS 607.321; or

(b) In the event livestock of a known owner is delivered to it pursuant to ORS 607.304 (1) or (8); or

(c) In the event livestock of a known owner is delivered to it pursuant to ORS 607.308, and sale thereof is required because of the owner's failure to appear and claim the same as provided in ORS 607.332.

(2) Prior to the holding of any public sale, as provided in subsection (1) of this section, the department shall:

(a) Designate a time and place of public sale, which shall be held not less than five days after receiving the notice of taking up.

(b) Cause a notice of such public sale to be given by posting a written or printed notice of the time and place of sale, a description of the livestock and that such sale shall take place if the livestock is not claimed by the owner thereof prior to the sale. Said posting shall be in two public places of the county where the livestock was taken up for not less than 48 hours prior to the date of sale. If the department is satisfied that adequate notice has been given an owner pursuant to ORS 607.303 (2), notice need not be posted. [1971 c 579 §5; 1975 c.65 §6, 1981 c.413 §3]

607.330 [Repealed by 1953 c 367 §13]

607.331 [1953 c.367 §6; repealed by 1957 c.604 §41]

607.332 Claim by owner before sale. (1) If the owner of livestock appears and claims it prior to sale, the owner shall pay to the department all costs described in ORS 607.337 (1) and, except as limited by ORS 607.313 (2), shall pay to the person taking up the livestock all costs described in ORS 607.304 (2) which have accrued theretofore. Upon such payment, the livestock shall be released to the owner or the agent of the owner. Except as provided in subsection (2) of this section, if the owner fails to pay the costs, the sale shall be carried out in accordance with ORS 607.328.

(2) If the owner is unable to agree with the person taking up the livestock as to the amount of the costs payable to such person, such owner and person taking up shall proceed with arbitration of such disagreement as provided by ORS 607.304 (4) to (10). [1957 c.604 §21; 1975 c.65 §7]

607.335 [Repealed by 1953 c.367 §13]

607.336 Title of purchaser at sale. The purchaser of livestock sold in accordance with ORS 607.328 shall have clear and absolute title to such livestock. [1953 c 367 §8, 1975 c 65 §8]

607.337 Use of proceeds from sale. (1) All costs incurred by the department in the taking up and sale of an estray shall be paid from the proceeds thereof in the following priority:

(a) Cost of publication of notice.

(b) Cost of the sale.

(c) Cost of transportation of the estray to the point of sale.

(d) Reasonable cost of feed and care prior to sale.

(e) All other costs including the time and mileage of the employees of the department.

(2) If the proceeds of the sale are inadequate to pay all of the costs mentioned in subsection (1) of this section, the department shall pay the deficiency.

(3) Subject to ORS 607.338 (1) and (3), any balance remaining from the proceeds of sale shall be transmitted to the department which shall deposit it in the Department of Agriculture Account in the General Fund. Proceeds so deposited shall be held in such account for a period of three years subject to claim by the owner.

(4) If the owner fails to establish the right of the owner to the proceeds of sale

within three years, all right, title and claim thereto shall be transferred to the department to expend and use in carrying out this chapter and ORS chapter 604. Proceeds now being held by the department as the result of sale of estrays are subject to this subsection. [1957 c 604 §§22, 23, 1967 c.113 §1, 1967 c.637 §21]

607.338 Use of proceeds where private person has taken up livestock; arbitration of costs. (1) If the department sells livestock pursuant to ORS 607.328, it shall from the proceeds of the sale first reimburse itself for the costs described in ORS 607.337 (1), and from the balance, if any, pay to the person taking up the livestock the costs described in ORS 607.304 (2), except as limited by ORS 607.308, 607.313 (2) and subsection (2) of this section.

(2) If the department sells livestock pursuant to ORS 607.328 which has been delivered to it pursuant to ORS 607.304 (1), it shall allow to the person taking up the livestock only reasonable costs, and the department's determination of the reasonableness thereof shall be final. However, the department may, upon written request of the person taking up the livestock, submit the question of the amount of reasonable costs to arbitration. In such event, the department shall furnish to the person taking up the livestock the names of five arbitrators selected from the list of qualified persons maintained in accordance with ORS 607.304 (10), and the person taking up the livestock shall appoint one arbitrator from such list within five days of receiving such list. The department shall thereafter appoint one arbitrator and the two arbitrators shall jointly appoint a third arbitrator from such list. Written notice of the appointment of such third arbitrator shall be given by such two arbitrators to the department and the person taking up the livestock within five days of the date they are furnished such list. The three arbitrators shall act as a board of arbitration and may hear witnesses, take testimony, inspect documents, the livestock and the premises and thereafter render their decision as to the amount of reasonable costs. Their decision shall be final. Written notice of such decision shall be given to the department and the person taking up the livestock within 30 days of the appointment of the third arbitrator. The person taking up the livestock shall pay an arbitration fee of $150 to the department at the time of submitting the written request for arbitration, from which the department shall pay each appointed arbitrator $50 for arbitration services.

(3) Any balance remaining from the proceeds of the sale after the department has reimbursed itself and has paid the costs of the person taking up the livestock shall be paid to the owner of the livestock. If the owner fails to establish the right to the remaining proceeds within one year after the sale, all rights thereto shall vest in the department to use in carrying out the provisions of this chapter and ORS chapter 604.

(4) Nothing contained in this section is intended to require the department to pay the costs of the person taking up the livestock if the proceeds of the sale thereof are not sufficient to pay such costs. [1957 c.604 §27; 1971 c 579 §7, 1975 c.65 §9, 1981 c 413 §4]

607.339 Liability of department. Except for gross negligence the department shall not be liable for the payment of the proceeds of sale or return of custody of an estray to a person claiming to be the true owner of such estray. [1953 c 367 §7]

607.340 [Repealed by 1953 c 367 §13]

607.341 Jurisdiction of courts. Justice courts and district courts shall have concurrent jurisdiction with circuit courts of proceedings brought on violations of ORS 607.303 to 607.341. [1953 c.367 §11]

607.344 "Freshly branded" defined for ORS 607.345 to 607.360. As used in ORS 607.345 to 607.360, "freshly branded" means any animal on which there is a brand that has not been peeled off or entirely healed. [Formerly 607.305]

607.345 Interfering with calves and colts on open range; selling freshly branded cattle or horses. No person shall:

(1) Hold under herd, confine in any pasture, building, corral or other inclosure, or picket out, hobble or tie together, or in any manner interfere with the freedom of calves or neat cattle or colts of horses, on the open range, which are less than seven months old, unless such animals are accompanied by their mothers.

(2) Sell or offer to sell any freshly branded neat cattle or horses.

607.350 Producing, on demand, the mothers of calves or colts. The person, separating calves or colts from their mothers shall, upon demand of the sheriff, inspector or other officer, produce, within a reasonable time, the mother of each such animal, so that the interested parties may ascertain if the animal, so produced as the mother thereof, does or does not claim or suckle such calf or colt.

607.355 Disposal of calves and colts wrongfully held. All animals held in violation of ORS 607.345 or 607.350 shall be considered estrays. The nearest stock inspector, as soon as the stock inspector has knowledge thereof, shall cause them to be

disposed of as estrays under the estray laws in force in the stock inspector's county or district.

607.360 Applicability of statutes regulating handling of calves and colts. ORS 607.345 to 607.355 do not apply to:

(1) The calves of milch cows where such cows are actually used to furnish milk for household purposes or for carrying on a dairy.

(2) Any freshly branded animal which has been branded previously with an older and duly recorded brand, and for which animal the claimant has a legally executed bill of sale from the owner of the older brand on such animal.

(3) Young animals under the age of 10 months which are accompanied by their mothers.

(4) Animals other than cattle or horses, or the offspring thereof, which during some period of the year run at large upon the public range.

607.365 Driving domestic animals from range. (1) No person, who is not the owner of such animal, shall take or drive, cause to be taken or driven, or assist in driving or taking away any horse, gelding, mare, foal, mule, ass, jenny, bull, cow, heifer, steer, calf, sheep, hog or any other domestic animal from the range or place where it is lawfully grazing, pasturing or ranging, or in the habit of ranging, or where it has been herded or placed by the owner thereof, for a distance of more than 10 miles from such place.

(2) Persons violating this section shall be liable to the owner of such animal for all damages sustained by reason of such driving or taking away of such domestic animal.

(3) All fines collected for violations of this section shall be paid over to the county treasurer of the county in which the offense was committed, and used for the support of common schools within such county. [Formerly 606.210]

607.405 [Repealed by 1957 c.604 §41]

607.410 [Repealed by 1957 c.604 §41]

607.415 [Repealed by 1957 c.604 §41]

607.420 [Repealed by 1957 c 604 §41]

607.425 [Repealed by 1957 c.604 §41]

607.430 [Repealed by 1957 c.604 §41]

607.435 [Repealed by 1957 c.604 §41]

607.440 [Repealed by 1957 c.604 §41]

607.445 [Repealed by 1957 c.604 §41]

REGULATION OF STOCK ON CERTAIN HIGHWAYS

607.505 Stock running at large and grazing on Klamath Falls-Malin Highway. (1) No person shall permit cattle, horses, mules, sheep, goats or hogs to run at large, be pastured, staked or tethered upon the state highway extending from the easterly boundary of the incorporated City of Klamath Falls to the westerly boundary of the incorporated City of Malin.

(2) As used in this section, "state highway" includes only those highways over which the Department of Transportation has control.

607.510 Stock running at large and grazing on certain state highways. No person shall allow cattle, horses, mules, sheep, goats, swine or other livestock of any kind, to run at large, be pastured, staked or tethered upon the following state highways:

(1) That part of the Oregon Coast Highway, State Highway No. 9, extending from the north boundary of Tillamook County to the south boundary of Lane County.

(2) That part of the Alsea Highway, State Highway No. 27, from its junction with the Corvallis-Newport Highway in Benton County to Waldport in Lincoln County.

(3) That part of the Corvallis-Newport Highway, State Highway No. 33, from Corvallis in Benton County to Newport in Lincoln County.

(4) That part of the Salmon River Highway, State Highway No. 39, from Valley Junction in Polk County to a connection with the Oregon Coast Highway at or near Otis in Lincoln County.

(5) That part of the Wilson River Highway, State Highway No. 37, from the east boundary of Tillamook County to the intersection of the Wilson River Highway with the Oregon Coast Highway, which is State Highway No. 9. [Amended by 1971 c.579 §8, 1977 c.176 §1]

607.515 Stock at large or grazing on highway from Canyonville to Umpqua National Forest. No person shall permit any cattle, horses, mules, sheep, goats, hogs or other livestock, to run at large, be pastured, staked or tethered upon the state highway extending from the easterly boundary of the incorporated City of Canyonville easterly to the west boundary of the Umpqua National Forest.

607.520 Stock running at large on highways in Washington County. No person, either as owner or in possession or control of any horses, mules, cattle, swine, sheep or goats shall permit them to run at large on

any highway or public road in Washington County.

607.525 [Repealed by 1957 c.604 §41]

607.527 Stock herded or grazed on interstate and defense highways. (1) Notwithstanding ORS 366.460, 366.465, 374.340 and 607.045 (2) and notwithstanding the existence of an open range area, except as provided by subsection (2) of this section, no person, except in case of emergency, shall drive, herd, pasture, graze, range, tether or stake any livestock, as defined by ORS 607.005, within the boundaries of the right of way for a state highway that is part of the national system of interstate and defense highways, to wit: Interstate 5, Interstate 80 N, or Interstate 82. This section is not intended to prohibit the hauling of livestock, in vehicles, on a highway or the use of structures or undercrossings, constructed and approved as provided by law, as stock ways, nor to abrogate a duty provided under ORS 607.303 to 607.341.

(2) Upon application by an owner or person in charge of livestock, the State Highway Engineer or duly authorized local representative may issue written permits, on such terms as the person finds proper, authorizing the owner or person in charge of livestock to herd or drive the livestock on a single trip across or within the boundaries of a right of way for a highway as described in subsection (1) of this section. [1963 c.350 §1]

607.530 [Amended by 1955 c 275 §1; repealed by 1957 c 604 §41]

607.535 [Repealed by 1957 c.604 §41]

607.540 [Repealed by 1957 c.604 §41]

607.545 [Repealed by 1957 c.604 §41]

607.550 [Repealed by 1957 c.604 §41]

607.555 [Repealed by 1957 c.604 §41]

607.560 [Repealed by 1957 c.604 §41]

607.565 [Repealed by 1957 c.604 §41]

607.570 [Repealed by 1957 c.604 §41]

607.575 [Repealed by 1957 c.604 §41]

607.605 [Repealed by 1957 c.604 §41]

607.610 [Repealed by 1957 c 604 §41]

607.615 [Repealed by 1957 c.604 §41]

607.620 [Repealed by 1957 c 604 §41]

607.625 [Repealed by 1957 c 604 §41]

607.630 [Repealed by 1957 c.604 §41]

607.635 [Repealed by 1957 c 604 §41]

607.640 [Repealed by 1957 c.604 §41]

607.645 [Repealed by 1957 c 604 §41]

607.650 [Repealed by 1957 c.604 §41]

607.655 [Repealed by 1957 c.604 §41]

PENALTIES

607.990 [Amended by 1953 c.367 §13; subsection (2) of 1963 Replacement Part enacted as 1957 c 604 §39; subsection (3) of 1963 Replacement Part enacted as 1953 c.367 §10; subsection (5) of 1963 Replacement Part formerly 606.990; subsection (10) of 1963 Replacement Part enacted as 1963 c.350 §2; repealed by 1967 c 113 §2 (607.992 enacted in lieu of 607.990)]

607.992 Penalties. Violation of any provision of this chapter is a misdemeanor. [1967 c.113 §3 (enacted in lieu of 607.990)]