

TITLE 25
ANIMALS

CHAPTER 22
TRESPASS OF ANIMALS

25-2201. SPECIAL LIEN ON TRESPASSING ANIMALS. Any person having a field of [or] enclosure with a "lawful fence" as described in [chapter 1, title 35](#), Idaho Code, entirely surrounding the field or enclosure shall have a special lien upon, and may take up any domestic livestock such as cattle, horses, mules, donkeys, sheep, goats or other domestic livestock which break into the enclosure. The lien will include the care and feeding of the livestock and other charges as provided for in [chapter 23, title 25](#), Idaho Code, in relation to estrays. The lien is not dependent upon possession. It may be perfected by following the provisions of this chapter which are required of the lien claimant.

[25-2201, added 1978, ch. 168, sec. 2, p. 366.]

25-2202. PERFECTING LIEN. In order to perfect such a lien the person claiming it shall within twenty-four (24) hours of taking up the livestock, notify the owner, if known, and the county sheriff and local state brand inspector by the best means available. The sheriff and brand inspector shall make information concerning this lien available to the person claiming the lien and they shall attempt to notify the owner of the livestock of the lien and of this chapter by the best available means. The sheriff or state brand inspector shall identify the livestock and provide for the care and feeding of the livestock. They may, if they choose to do so, return such animals to the owner thereof until the viewers have made their decision.

[25-2202, added 1978, ch. 168, sec. 2, p. 367.]

25-2203. APPOINTMENT OF VIEWERS. Within two (2) days after taking up the livestock the person claiming the lien shall appoint one (1) viewer. The owner of the livestock, if known, or if the owner is unknown or cannot be found, or refuses to make such appointment within three (3) days after the livestock have been taken up, then the sheriff, shall appoint another viewer. These two (2) viewers shall appoint a third viewer. If within two (2) days after their appointment the first two (2) viewers cannot agree upon a third viewer, the state brand inspector shall appoint the third viewer.

[25-2203, added 1978, ch. 168, sec. 2, p. 367.]

25-2204. DETERMINATIONS OF VIEWERS. It shall be the duty of the viewers by majority vote to determine within three (3) days after the appointment of the third viewer whether the person claiming the lien has a "legal fence" within the provisions of [chapter 1, title 35](#), Idaho Code, entirely surrounding the enclosure. Any award of the viewers shall be itemized and made in writing, shall be signed by the viewers agreeing to it, and shall be made within the same three (3) day period within which they are to determine whether or not the enclosure has a "legal fence" surrounding it.

If it is determined that there is a "legal fence" the viewers shall then assess the lienholder's damages and the costs of care and feeding the livestock and the other charges which are to be assessed as within the terms of

the estray law, [chapter 23, title 25](#), Idaho Code. Also, the viewers are entitled to receive mileage at the current rates then in effect for state employees.

[25-2204, added 1978, ch. 168, sec. 2, p. 367.]

25-2205. FINDINGS OF AMOUNT DUE. The viewers may either determine the amount due to the lienholder as above provided for or refuse to make such a finding if the enclosure does not have a "legal fence" surrounding it, or award a nominal amount if it appears that there are minimal damages. If the enclosure does not have a "legal fence" surrounding it, the viewers may make a finding of costs against the person claiming the lien (as above provided), and the livestock shall at once be surrendered to the owner of the livestock, if known, without charge or further delay.

[25-2205, added 1978, ch. 168, sec. 2, p. 367.]

25-2206. ENFORCEMENT OF FINDING. If the viewers make any finding under this chapter, enforcement of that finding may be either by a sale as provided under the estray law, [chapter 23, title 25](#), Idaho Code, where the finding is against the livestock owner, or by court action.

[25-2206, added 1978, ch. 168, sec. 2, p. 368.]

25-2207. SALE AND DISTRIBUTION OF PROCEEDS. If the owner of the livestock cannot be found or is unknown, or if the owner of the livestock fails or refuses to pay any amount found against him within thirty (30) days after the viewers make such finding, such livestock may be sold in accordance with the estray law, [chapter 23, title 25](#), Idaho Code. The state brand inspector or sheriff may pay the lienholder the amount of damages found for him, if such a finding has been made from the proceeds of any sale under the Idaho estray law, or may pay the costs of any proceedings under this act from the proceeds of such sale. Any balance remaining after the sale shall be paid to the owner of the livestock if known, or held as provided for by the Idaho estray law, [chapter 23, title 25](#), Idaho Code.

[25-2207, added 1978, ch. 168, sec. 2, p. 368.]

25-2208. LIVESTOCK NOT TO BE MOVED. The livestock shall not be moved out of the county where the enclosure is to be found without the written approval of all three (3) viewers or upon court order.

[25-2208, added 1978, ch. 168, sec. 2, p. 368.]

25-2209. COURT PROCEEDINGS. If either the person claiming the lien or the person owning the livestock commence any civil action in court in regard to the seizure of the livestock, the "viewer" proceedings taken under this chapter may be terminated by the court or the court may require an oral or written report from the viewers, if it chooses to do so, and may either accept the report and act upon it or take the matter on to trial de novo as the court determines.

[25-2209, added 1978, ch. 168, sec. 2, p. 368.]

25-2210. PENALTIES. Removal of the livestock from the custody of the sheriff, brand inspector or any person holding the livestock for the sheriff or brand inspector without payment in full of all charges or costs that have been incurred under this chapter shall be a misdemeanor and the livestock may be recovered to be disposed of as provided for by this chapter by the sheriff, brand inspector, or person authorized by either of them to hold the livestock.

[25-2210, added 1978, ch. 168, sec. 2, p. 368.]

25-2211. VIEWERS' QUALIFICATIONS. The viewers provided for by this chapter shall not be related to the person appointing that viewer by consanguinity [consanguinity] or affinity within the second degree under the civil system of determining relationship.

[25-2211, added 1978, ch. 168, sec. 2, p. 369.]