

## **Section 151 Animal control officers; reimbursement of cities and towns for services; contracts with corporation to perform duties of officers; turning over or sale of animals; penalty**

Section 151. (a) The mayor of each city and the board of selectmen of each town shall annually designate an animal control officer, who may be a police officer or constable. The mayor or board of selectmen shall immediately submit to the commissioner the names, addresses and dates of hire of such animal control officers. Except as provided in this section, if a city or town shall fail to make such appointment, the commissioner shall appoint an animal control officer for that city or town. An animal control officer who fails to comply with the terms of such officer's warrant shall immediately be removed from office by the mayor or board of selectmen and notice of the removal shall immediately be given to the commissioner. Animal control officers shall have completed, under the supervision of a veterinarian registered under section 55 or 56C of chapter 112, a course of instruction in humane techniques for the execution of animals before euthanizing an animal. Before euthanizing or giving or turning over to another a dog or cat in the officer's possession, an animal control officer shall first examine the animal for the presence of a microchip or tattoo, check the description of the animal against descriptions within the city or town relative to the species of animal licensed or registered in the municipality in order to verify the identity of the animal and to provide notice to the owner of the animal before the animal is euthanized, given away or turned over to another. Bills for such services shall be approved by the mayor of the city or the board of selectmen of the town in which the dogs or cats are kept or euthanized and shall be paid by that city or town. An animal control officer appointed under this section shall also attend to all complaints or other matters pertaining to animals, as prescribed by the officer's respective city or town, in addition to the duties imposed upon the officer by the officer's warrant, and shall be paid for such services by the town or city treasurer upon bills approved by the mayor or board of selectmen. The mayor of a city or the board of selectmen of a town may, instead of appointing an animal control officer, enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse to perform the duties required of an animal control officer. In that case, the payments to the corporation under the terms of the contract shall be in full for all services rendered by it in that capacity.

(b) An animal control officer shall not be a licensed animal dealer registered with the United States Department of Agriculture. An animal control officer shall not give, sell or turn over any animal which may come into the officer's custody to a business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture either privately or in the course of carrying out the officer's official assignments as an agent for the officer's municipality. A municipality shall not give, sell or turn over an animal which may come into its custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates this subsection shall be punished by a fine of not more than \$1,000.

# General Laws

## **CHAPTER 49 FENCES, FENCE VIEWERS, POUNDS AND FIELD DRIVERS**

[Section 24Duties of field driver; taking up untended animals](#)

[Section 25Duties of keeper; impounding of untended animals](#)

[Section 26Fees of field driver and pound keeper](#)

[Section 27Payment of fees](#)

[Section 28Use of premises of field driver for keeping impounded animals; conditions](#)

[Section 29Remedies for damage done by untended animals](#)

[Section 30Care of distrained animals](#)

[Section 31Duties of distrainer](#)

[Section 32Release of distrained animals; conditions](#)

[Section 33Notice of impounding](#)

[Section 34Publication of notice of impounding](#)

[Section 35Determination of amount of damages in dispute](#)

[Section 36Procedure for settlement of claim](#)

[Section 37Sale of animals to satisfy claim](#)

[Section 38Disposition of proceeds](#)

[Section 39Escaped or rescued animals; right to retake](#)

[Section 40Penalty for rescuing distrained animals](#)

[Section 41Rights of owner in distress proceedings](#)

[Section 42Repealed, 1963, 185](#)

Section 24. Every **field driver** shall take up horses, mules, asses, neat cattle, sheep, goats or swine going at large in the public ways, or on common and unimproved land within his town and not under the care of a keeper; and any other inhabitant of the town may take up such cattle or beasts so going at large on Sunday, and for taking up such beasts on said day the field driver or such other inhabitant of the town may in tort recover for each beast the same fees which the field driver is entitled to receive for taking up like beasts.

Section 25. Beasts so taken up by a field driver or such inhabitant shall be forthwith impounded, and while so impounded shall be furnished with suitable food and water.

Section 26. A city by vote of its city council, approved in accordance with the provisions of its charter, and **a town by order adopted by the selectmen** or town meeting members, **may establish**, and from time to time amend, **a scale of fees to be paid a field driver for sheep, goats and for other beasts taken up by him, and a scale of fees to be paid a pound keeper for animals impounded in the pound.**

Section 27. The pound keeper shall not deliver to the owner any beast so impounded until the owner pays him his fees, the expense of keeping the beasts, and the fees of the field driver, which, when received, he shall pay to the field driver.

Section 28. Beasts taken up by a field driver in a town which adopts this section or has adopted corresponding provisions of earlier laws may be impounded on his own premises; and for the purposes of this chapter he shall be considered a pound keeper, and such place on his premises shall be considered a town pound relative to beasts therein impounded.

Section 29. If a person is injured in his land by horses, mules, asses, neat cattle, sheep, goats or swine, he may recover his damages in an action against the owner of the beasts or by distraining the beasts doing the damage and proceeding therewith as hereinafter directed.

Section 30. Beasts so distrained shall be impounded in the pound or in some suitable place under the immediate care and inspection of the distrainer, and he shall furnish them with suitable food and water while they remain impounded.

Section 31. If the beasts are impounded in the pound, the distrainer shall leave with the pound keeper a memorandum in writing, under his hand, stating the cause of impounding and the amount which he demands from the owner for the damage done by them, and also for the daily charges of feeding them; and if they are impounded in any other place, he shall on demand give a like memorandum to the owner.

Section 32. The pound keeper shall not deliver the beasts to the owner until his fees, the amount so demanded by the distrainer for the damages and charges aforesaid, the expense, if any, of advertising, and all other legal costs and expenses have been paid to him.

Section 33. Whoever impounds beasts shall, within twenty-four hours thereafter, give notice in writing, containing a description of the beasts and a statement of the time, place and cause of impounding, to the owner or person having the care of them, if known and living within six miles of the place of impounding, by delivering it to him or leaving it at his place of abode.

Section 34. If there is no person entitled to such notice, the person impounding the beasts shall, within forty-eight hours thereafter, post a like notice in a public place in the town and in a public place in each of any two adjoining towns, if within four miles from the place where the beasts were taken; and if their value exceeds thirty dollars and no person claims them within seven days after the day of impounding, a like notice shall be published three weeks successively in a newspaper, if any, published within twenty miles of the pound, the first publication to be within fifteen days after the day of impounding.

Section 35. If the owner or keeper of the beasts is dissatisfied with the claim of the person impounding them, he may have the amount for which he is liable determined by two disinterested persons, who shall be appointed and sworn by a justice of the peace or by the town clerk.

Section 36. If the amount for which the beasts have been impounded and detained is not paid within fourteen days after notice of the impounding has been given as before directed, or after the last publication of such notice, the person who impounded them shall apply to the justice of the peace or to the city or town clerk, who shall, upon the receipt of the fee provided by clause (23) of section thirty-four of chapter two hundred and sixty-two, issue a warrant to two disinterested persons, to be

appointed and sworn by the justice or clerk, and they shall determine the amount due from the owner of the beasts for the damages, costs and expenses for which they have been impounded and detained, including fees paid by such person and reasonable compensation for their services.

Section 37. If the amount so determined is not paid forthwith, the person who impounded the beasts shall cause them to be sold by auction in the town where impounded, first advertising the sale by posting a notice thereof for twenty-four hours at some public place in such town.

Section 38. The proceeds of the sale, after paying all damages, costs, expenses and charges for advertising and selling the beasts, shall be deposited in the town treasury for the use of the owner, upon proof of his right thereto within two years from the sale.

Section 39. If beasts lawfully distrained or impounded escape or are rescued, the pound keeper, field driver or other person who distrained them may, within seven days thereafter, retake, hold and dispose of them as if there had been no escape or rescue.

Section 40. Whoever rescues beasts lawfully distrained or impounded shall be liable in tort to any person injured for all damages sustained thereby and the fees and charges incurred before the rescue; and he shall also be punished by a fine of not less than five nor more than twenty dollars.

Section 41. The defendant in an action for rescuing beasts distrained or impounded shall not be allowed to allege or give in evidence the insufficiency of the fences or any other fact or circumstance to show that the distress or impounding was illegal, but if there is such ground of objections to the proceedings he may avail himself thereof in an action of replevin.