

1877

An act to amend an act entitled "An act providing for the payment for stock killed by railroads or railway companies," approved February 9, 1872, and to enact other provisions in lieu thereof.

Colorado General Assembly

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What counties
excepted.

blood, shall be deemed a Mexican ram; *and, provided, further*, that this section shall not take effect and be in force within the counties of Huerfano, Las Animas, Costilla and Conejos.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT PROVIDING FOR THE PAYMENT FOR STOCK KILLED BY RAILROADS OR RAILWAY COMPANIES," APPROVED FEBRUARY 9, 1872, AND TO ENACT OTHER PROVISIONS IN LIEU THEREOF.

Be it enacted by the General Assembly of the State of Colorado:

Amendment of
act of 1872.

2569. SECTION 1. That an act entitled "an act providing for the payment for stock killed by railroads or railway companies," approved February 9, 1872, be and the same is hereby amended so as to read as follows:

Liability of rail-
way corporation
for damages to
owner of ani-
mals killed or
damaged.

2570. SEC. 2. That every railroad or railway corporation or company operating any line of railroad or railway or any branch thereof, with the limits of this state, which shall damage or kill any horse, mare, gelding, filly, jack, jenny or mule, or any cow, heifer, bull, ox, steer or calf, or any other domestic animal, by running any engine or engines, car or cars, over or against any such animal, shall be liable to the owner of such animal for the damages sustained by such owner by reason thereof.

Affidavit of own-
ership, and cer-
tificate of brand;
what payment to
be on delivery of
to corporation,

2571. SEC. 3. If the owner of the animal or animals so killed, or his or her authorized agent shall make affidavit before some officer authorized to administer oaths, that he or she was the owner or authorized agent of the owner of the recorded brand found upon the animal or animals so damaged or killed, at the time of such killing or damaging, and such person shall, within six months after such killing or damaging, deliver such affidavit to the agent or an officer of such company or corporation, together with a certificate of his or her mark or brand, under official seal of the county clerk of the county in which such person resides, or shall make affidavit that the animal damaged or killed as aforesaid had no recorded mark or brand, and that he or she is the owner of such animal, describing it; and the corporation or company shall pay to such person

delivering such affidavit and certificate, or such affidavit last aforesaid, as follows:—

SCHEDULE.

Texas yearlings	\$ 7 00
Texas two (2) years old	12 00
Texas three (3) years old, and over	15 00
American yearlings	10 00
American two (2) years old	18 00
American three (3) years old, and over	25 00
American work cattle	25 00
American sheep, each	2 50
Mexican sheep, each	1 50

All half-blood Texan, Mexican and American cattle shall be counted as Texas cattle, and all three-quarter ($\frac{3}{4}$) blood American cattle shall be considered American cattle. Throughbred cattle and sheep shall be paid for at their cash value. Horses, mules and asses shall be paid for at their cash value. *Provided*, that no railroad company shall at any time be required to pay more than the market value of any animal killed or damaged. In all cases where such railroad company or corporation shall kill any of the stock mentioned in this act, and for which no price or sum is fixed, the owner or agent of such stock shall, after the filing of such affidavit and certificate of brand or affidavit of ownership as aforesaid, select some disinterested freeholder of the county where such killing took place, and shall notify such company or corporation of said selection, and such company or corporation shall within three days thereafter, select some suitable person to act with the person so selected, and the two so selected shall select a third, and the three so selected shall without delay proceed to appraise the value of the stock so killed, a majority of which three appraisers shall be sufficient to determine the same, and shall certify under oath such appraisalment to an agent or superintendent of such company or corporation. In case such railroad or corporation shall refuse or neglect to appoint such appraiser, it shall be the duty of the justice of the peace nearest to the place where such stock is so killed, to select three disinterested persons as appraisers, and administer to them an oath to honestly appraise the

Appraisal of
value of animal
killed.

Proceedings in
case railway
corporation re-
fuse to appoint.

Time within which payment for stock killed shall be made.

value of such stock, which appraisers shall without delay appraise and forward to such justice the result of such appraisal; which justice shall within ten (10) days thereafter forward to an agent or superintendent of such railroad or corporation a certificate of the result of such appraisal and all the costs thereof; and such railroad or corporation shall, within thirty (30) days after the receipt of such certificate, pay to the owner of the stock so killed, or his or her agent, the amount of such appraisal together with all the costs as aforesaid; and in all cases where the value of such stock is established by this act, such company or corporation shall pay for such stock within thirty (30) days after the delivery of the affidavit and certificate of ownership of brand or affidavit of ownership of stock, as hereinbefore provided.

Record of animals killed to be kept by railway corporation at some station in each county.

2572. SEC. 4. Every railroad company shall keep a book, at some station in each county through which their road runs, to be designated by the company, and a notice of the station so designated shall be filed with the county clerks of the counties in which such stations are located; and it is hereby made the duty of the said company to cause to be entered in said book, within fifteen days after the killing of any animal, a description as nearly as may be of such animal, its color, age, marks and brands, and shall keep said book subject to the inspection of persons claiming to have had animals killed. Should any company fail to keep said book, or to file such notice in the manner herein provided, or to enter therein such description of any animal killed for a period of fifteen days thereafter, such company shall be liable to the owner of such animal to an amount twice the full value thereof.

Penalty for driving animals on line of railroad with intent to injure corporation; liability for damages to corporation.

2573. SEC. 5. If the owner of any stock shall drive any stock on the line of the track of any such company or corporation, with intent to injure such company or corporation, and such stock shall be killed or injured, such owner shall not receive any damage from such railroad company or corporation therefor, and shall be liable to such company or corporation for all damage such company or corporation may suffer in consequence of such act, and shall also be criminally guilty of a felony and liable to indictment there-

for, and on conviction shall be imprisoned in the penitentiary not less than one or more than five years; but nothing herein shall be construed to prevent any person from allowing his or her stock to pasture on the lands adjacent to the line of such railroads, or to drive his stock over or across any such track at suitable times and places.

2574. SEC. 6. In every case of the wounding or killing of any such cattle or sheep, the price of the damages for which is fixed by this act, the body of such animal shall belong to such company unless the owner thereof shall elect to take the same in lieu of said damages or part thereof within twenty-four hours after said wounding or killing; but in every other case the railway or railroad company may proceed to take care of and preserve the body of said animal, and it shall be the duty of such company to preserve the hide of such animal for at least thirty (30) days after such killing, such hide or hides to be kept for thirty (30) days for inspection by said railroad company or corporation at the station house nearest to the place where such killing occurred. If any agent or employé of such company shall bury any animal killed or wounded by such company without skinning the same, or shall neglect to keep for thirty (30) days for inspection any hide so taken off as herein provided, such agent or employé or such company shall be fined in any sum not less than one hundred or more than three hundred dollars for each and every animal, to be collected in the name of the people of the state of Colorado before any court of competent jurisdiction, one half of the amount so received to go to the county treasury of the county wherein the recovery is had, and the other half to the person at whose instance the suit was brought.

Disposition of
body of animal
killed or
wounded.

Penalty for bury-
ing animal with-
out skinning and
keeping hide for
inspection: dis-
position of fine.

2575. SEC. 7. Any person falsely making an affidavit of ownership of any animal killed or damaged shall, on conviction thereof, be liable to a fine of not less than five hundred dollars and imprisonment in the penitentiary for not less than one year.

Punishment for
making false
affidavit of
ownership of
animal killed.

2576. SEC. 8. All other parts of an act providing for the payment for stock killed by railroad or railway com-

Repeal.

panies, approved February 9, 1872, be and the same are hereby repealed.

Approved, March 17, 1877.

AN ACT TO PROVIDE FOR THE BRANDING, HERDING AND CARE OF STOCK, AND TO REPEAL CERTAIN ACTS IN RELATION THERETO.

Be it enacted by the General Assembly of the State of Colorado:

Punishment for driving animals from usual range; what proof requisite.

2577. SECTION 1. Any person or persons not being the owner or owners, or having the right of possession of any animal or animals, who shall be found driving or leading any such animal or animals from its or their usual range, such person or persons may be arrested by any constable, officer, or other person, specially deputed for such purpose, by a judge or justice of the peace, and such person or persons may be taken before any court of competent jurisdiction for examination and trial, and if found guilty, shall be punished as for larceny. In prosecutions for a violation of the provisions of this section, it shall not be necessary, in order to warrant a conviction, for the people to prove that the offense was committed knowingly, or wilfully, or to show an intent, purpose or motive on the part of the accused; but if it shall be shown that the accused had in his possession, or under his control or supervision, any animal so being wrongfully lead or driven from its usual range, as aforesaid, or that the accused assisted in so leading or driving away any such animal without having the right of possession thereof, as aforesaid, such showing shall be sufficient to warrant a conviction, unless the accused shall by testimony in his behalf explain the case made against him in such manner as to show good faith and an innocent purpose on his part.

Liability for damages done by dog.

2578. SEC. 2. Any dog found running, worrying or injuring sheep or cattle, may be killed, and the owner or harbinger of such dog, shall be liable for all damages done by it.

2579. SEC. 3. Any person or persons owning or keeping any flock or herd of sheep, any portion of which flock