

Chapter 16.04 RCW
TRESPASS OF ANIMALS—GENERAL

Sections

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Dangerous dogs: RCW 16.08.070 through 16.08.100.

Disturbance on public highway: RCW 9A.84.030.

Fences: Chapter 16.60 RCW.

RCW 16.04.010 Trespassing animals—Restraint—Damages and costs.

Any person suffering damage done by any horses, mules, donkeys, cattle, goats, sheep, swine, or any such animals, which shall either trespass upon any land enclosed by lawful fence 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. [1989 c 286 § 1; 1925 ex.s. c 56 § 1; 1893 c 31 § 1; RRS § 3090.]

Severability—1989 c 286: "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." [1989 c 286 § 26.]

Damages to stock on unfenced railroad: RCW 81.52.050 through 81.52.070.

Pleading answer in action to recover property distrained: RCW 4.36.140.

RCW 16.04.015 Damages, liability. Except as provided under RCW 16.04.100, 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. [1994 c 263 § 1; 1989 c 286 § 2.]

Severability—1989 c 286: See note following RCW 16.04.010.

RCW 16.04.020 Notice of restraint—Owner known. Whenever any animals are restrained as provided in RCW 16.04.010, the person restraining such animals shall within twenty-four hours thereafter notify in writing the owner, or person in whose custody the same was at the time the trespass was committed, of the seizure of such animals, and the probable amount of the damages sustained: PROVIDED, He or she knows to whom such animals belong. [2011 c 336 § 418; 1893 c 31 § 2; RRS § 3091. FORMER PART OF SECTION: 1925 ex.s. c 56 § 2; 1893 c 31 § 3; RRS § 3092, now codified as RCW 16.04.025.]

RCW 16.04.025 Owner of animals unknown—Procedure. 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 16.24 RCW. Such removal shall not prejudice the property owner's ability to recover damages through civil suit. [1989 c 286 § 21; 1985 c 415 § 24; 1925 ex.s. c 56 § 2; 1893 c 31 § 3; RRS § 3092. Formerly RCW 16.04.020, part.]

Severability—1989 c 286: See note following RCW 16.04.010.

RCW 16.04.030 Actions for damages. If the owner or person having such animals in charge fails or refuses to pay the damages done by such animals, and the costs, or give satisfactory security for the same within twenty-four hours from the time the notice was served, if served personally, or in case of horses, mares, mules and asses, within twenty-four hours from the time such notice was posted, if served by posting the same, and in case of cattle, goats, sheep and swine within ten days from the time of such posting, the person damaged may commence a suit, before any court having jurisdiction thereof, against the owner of such animals, or against the persons having the same in charge, or possession, when the trespass was committed, if known; and if unknown the defendant shall be designated as John Doe, and the proceedings shall be the same in all respects as in other civil actions, except as modified in RCW 16.04.010 through 16.04.070. If such suit is commenced in superior court the summons shall require the defendant to appear within five days from the date of service of such summons, if served personally. [1925 ex.s. c 56 § 3; 1893 c 31 § 4; RRS § 3093.]

RCW 16.04.040 Jurisdiction—Appeal. District judges shall have exclusive jurisdiction of all actions and proceedings under RCW 16.04.010 through 16.04.070 when the damages claimed do not exceed one hundred dollars: PROVIDED, HOWEVER, That any party considering himself or herself aggrieved shall have the right of appeal to the superior court as in other cases. [1987 c 202 § 177; 1893 c 31 § 9; RRS § 3098.]

Intent—1987 c 202: See note following RCW 2.04.190.

RCW 16.04.045 Continuance. If upon the trial it appears that the defendant is not the owner or person in charge of such offending animals, the case shall be continued, and proceedings had as in RCW 16.04.050 provided, if the proper defendant be unknown to plaintiff. [1893 c 31 § 6; RRS § 3095. Formerly RCW 16.04.050, part.]

RCW 16.04.050 Substituted service. If the owner or keeper of such offending animals is unknown to plaintiff at the commencement of the action, or if on the trial it appears that the defendant is not the proper party, defendant, and the proper party is unknown, service of the summons or notice shall be made by publication, by publishing a copy of the summons or notice, with a notice attached, stating the object of the action and giving a description of the animals seized, in a newspaper of general circulation in the area where the plaintiff resides less than ten days previous to the day of trial. [1985 c 469 § 8; 1893 c 31 § 7; RRS § 3096. FORMER PART OF SECTION: 1893 c 31 § 6; RRS § 3095, now codified as RCW 16.04.045.]

RCW 16.04.060 Sale—When costs may be charged to plaintiff. Upon the trial of an action as herein provided [RCW 16.04.010 through 16.04.070] the plaintiff shall prove the amount of damages sustained and the amount of expenses incurred for keeping the offending animals, and any judgment rendered for damages, costs, and expenses against the defendant shall be a lien upon such animals committing the damage, and the same may be sold and the proceeds shall be applied in full satisfaction of the judgment as in other cases of sale of personal property on execution: PROVIDED, That no judgment shall be continued against the defendant for any deficiency over the amount realized on the sale of such animals, if it shall appear upon the trial that no damage was sustained, or that a tender was made and paid into court of an amount equal to the damage and costs, then judgment shall be rendered against the plaintiff for costs of suit and damage sustained by defendant. [1893 c 31 § 5; RRS § 3094.]

RCW 16.04.070 Surplus—Disposition. If when such animals are sold, there remains a surplus of money, over the amount of the judgment and costs, it shall be deposited with the county treasurer, by the officer making the sale, and if the owner of such animals does not appear and call for the same, within six months from the day of sale, it shall be paid into the school fund, for the use of the public schools of said county. [1893 c 31 § 8; RRS § 3097.]

RCW 16.04.080 Stock on United States military reservation. It shall be unlawful for the owner of any livestock to allow such livestock to run at large or be upon any United States military reservation upon which field artillery firing or other target practice with military weapons is conducted. Any owner who permits livestock to run at large or be upon any such reservation shall do so at the risk of such owner and such owner shall have no claim for damages if such livestock is injured or destroyed while so running at large on such reservation: PROVIDED, HOWEVER, That the commanding officer of any such United States military reservation may issue permits for specific areas and for specific periods of time when firing will not be conducted thereon authorizing the owner of such livestock to permit the same to run at large or be upon any such military reservation. [1937 c 101 § 1; RRS § 3068-1.]

RCW 16.04.100 Trespass via fence damaged by wildlife. If damages are caused by a trespassing animal, neither the state nor the owner of the animal shall be liable if the owner of the animal can prove that the trespass is due to damage caused by wildlife to a lawful fence and, in a stock restricted area, the owner of the animal did not have a reasonable opportunity to repair the fence. The state shall pay all costs of transportation, advertising, legal proceedings, and keep of an animal that has been restrained pursuant to RCW 16.04.010. Claims filed under this section shall be processed according to the procedures under chapter 4.92 RCW. [1994 c 263 § 3.]