



# The National Agricultural Law Center

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## States' Fence Statutes: *Alaska*



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# A National Agricultural Law Center Research Publication

## States' Fence Statutes: Alaska

### **AS §§ 03.30.020 – 03.30.060, 03.35.010-03.35.070, 42.30.150- 42.30.190.**

*Current with legislation through Chapter 32 and Ballot Measure 2 of the 2020 Second Regular Session of the 31st Legislature.*

#### **§03.30.020. Duty to keep barbed wire fences in repair.**

A person having a barbed wire fence shall keep it in good repair. When a domesticated animal is killed or injured by coming in contact with a barbed wire fence that is not at the time of injury kept in substantial compliance with this section and AS 03.30.030, the owner of the animal may recover from the owner of the fence a sum equal to the amount of damages sustained in the killing or injury to the animal.

#### **§03.30.030. Fence as nuisance.**

Any wire fence so dilapidated as to be of no practical use as a fence that is a menace to livestock is a public nuisance and may be abated by a court in a proceeding instituted for that purpose.

#### **§03.30.060. Failure to close roadside gate used for retaining livestock.**

A person failing to close a roadside gate after opening the same is presumed to be negligent and liable for all consequent damage upon proof thereof. For the purposes of this section, a roadside gate is a contrivance located alongside or near a public or private road made for the purpose of passing through a fence that is used for or intended to be used for the retention of livestock.

#### **§ 03.35.010. Establishment of controlled livestock districts; prohibition against animals at large.**

(a) A district judge may establish a controlled livestock district within a municipality or in other settled areas of the state, as provided in this chapter, to consist of a contiguous area of not less than 1,280 acres.

(b) The owner and the person having custody and control of a domestic animal kept within a controlled livestock district may not with criminal negligence permit the domestic animal to graze or run at large.

(c) Violation of (b) of this section is a class B misdemeanor.

#### **§ 03.35.020. Petition for establishment, addition, elimination, or dissolution.**

(a) A controlled livestock district may be established upon petition of not less than 60 percent of the resident owners and lessees of the land within the area to be included in the district who own or lease 30 percent of the land described in the



petition. The petition must contain a statement of its purpose, define the boundaries of the area to be included within the district, be signed by the required resident owners and lessees within the area described, and be filed with the district judge for the district within which the land is situated.

(b) An addition to an established controlled livestock district may be made under the same procedures set out for creating the district if the addition has at least 160 acres and is contiguous to the established district.

(c) A portion of a controlled livestock district may be eliminated or a district may be dissolved if 60 percent of the resident owners and lessees of the land within the district who own or lease 30 percent of the land within the district petition for the elimination or dissolution under the procedure set out in this section for the establishment of a controlled livestock district.

#### **§ 03.35.030. Notice, hearing, and order.**

Upon receipt of a petition for the establishment, addition, elimination, or dissolution of a controlled livestock district, the district judge shall set a time for hearing the petition not less than 30 days after its receipt. Notice of the time and place of the hearing and its purpose shall be posted in not fewer than three conspicuous public places within the proposed district for a period of at least 30 days before the hearing. If, at the hearing, the district judge finds that the petition meets the requirements established under AS 03.35.020 and that notice of the hearing has been given, the district judge shall enter an order granting the request contained within the petition. The boundaries of the district are those proposed within the petition. The district judge shall certify to the clerk of the superior court for the judicial district a copy of the findings and order. The district judge shall send a copy of the order to the commissioner.

#### **§ 03.35.035. Identification of domestic animals within controlled livestock district.**

(a) Within 60 days of the establishment of a controlled livestock district or of the addition to an established controlled livestock district under AS 03.35.010, the person having custody and control of domestic animals located within the district shall identify the animals under AS 03.40, use identification collars to indicate ownership, or otherwise use a reliable system for the identification of the ownership of the animal.

(b) A person who violates (a) of this section commits a violation.

#### **§ 03.35.040. Liability for damages; lien**

(a) The owner of land within a controlled livestock district, whether the land is fenced or unfenced, is entitled to recover, from the owner or person having custody and control of a domestic animal, for any injury done by the animal when grazing or running at large within a controlled livestock district contrary to the provisions of this chapter, and has a lien upon the domestic animal for the amount of the damage done.

(b) A claim for damages may not exceed \$500 against any one animal for any one trespass.

#### **§ 03.35.050. Impounding and public sale of animals running at large.**



The owner of any land within a controlled livestock district may impound a domestic animal trespassing upon that land and keep the animal until damages, together with reasonable charges for keeping and feeding it, are paid. Within 24 hours after impounding an animal, the person impounding it shall give notice in writing to the owner or claimant of the animal, if the owner is known, or, if the owner is unknown, file a notice of impounding with the district judge for the district and post a copy of the notice in a public place nearest to the enclosure of the impounded animal. If, within five days after receipt of the notice of impoundment or posting of the notice of impoundment, the owner or claimant fails to claim the animal and pay the reasonable charges for keeping and feeding it, together with damages and costs, the animal may be sold at public auction as provided in AS 03.35.055.

#### **§ 03.35.055. Public auction.**

(a) Before the sale of the animal at public auction, notice of the sale shall be given by the impounder by posting a written or printed notice of the time and place of sale in a public place nearest to the enclosure of the impounded animal not less than 10 days before the day of the sale. The owner or claimant of the animal may redeem the animal at any time before the sale by paying the reasonable charges for keeping and feeding the animal, together with damages and costs, to the person impounding the animal.

(b) The impounder, or an agent, shall sell the animal at public auction to the highest bidder in the manner provided for the sale of personal property on execution.

(c) Proceeds of the sale in excess of all reasonable charges and costs shall be paid over to the district judge for the district to be disposed of as provided in AS 34.45.070.

#### **§ 03.35.070. Definitions.**

As used in this chapter,

(1) “domestic animal” includes goats, sheep, cattle, horses, and swine;

(2) “owner of land” includes a freeholder, tenant, contract vendee, or other person in actual possession of land.

#### **§ 42.30.150. Liability of railroad for injury to or death of livestock**

A person or the lessee or agent of a person owning or operating a railroad in the state is liable for the value of or injury to a horse, mule, colt, cow, bull, calf, hog, sheep, or other domesticated animal killed or injured upon or near an unfenced track of a railroad in the state, whenever the death or injury is caused by a moving train, engine, or car upon a track.

#### **§ 42.30.160. When railroad track considered fenced.**

A railroad track is not fenced within the meaning of AS 42.30.150 - 42.30.190 unless the track is guarded against the entrance of the livestock on either side and not more than 100 feet distant from the track by a fence constructed as required by law. Complete natural defenses against the entrance of stock, such as natural walls or deep ditches, are lawful fences within the meaning of AS 42.30.150 - 42.30.190 when they form, in connection with other legal fences, a continuous guard and defense against the entrance of livestock upon the track.



### **§ 42.30.170. Notice and filing of killing or injury**

Whenever livestock mentioned in AS 42.30.150 is killed or injured upon an unfenced railroad track, the person owning or operating the railroad, or that person's lessee or agent, or an authorized agent or employee, shall immediately have a notice of killing or injury filed by filing a concise description of the animal killed or injured, including brand, earmark, or other marks of ownership with the railroad agents at the two extremities of the section on which the killing or injury took place. If the animal is injured, the notice must describe the nature of the injury. The description shall be open to inspection at all reasonable hours of each week day for one month after the killing or injury.

### **§ 42.30.180. Penalty for failure to file notice.**

A person who neglects or fails to file or have filed the notice provided for in AS 42.30.170 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$200 for each offense.

### **§ 42.30.190. Action for killing or injury.**

In an action for the recovery of the value of livestock referred to in AS 42.30.150, proof of death or injury is conclusive evidence of negligence upon the part of the person or the person's lessee or agent owning or operating the railroad. Contributory negligence on the part of the plaintiff in the action is a defense. However, allowing stock to run at large upon common unfenced range or upon enclosed land owned or in possession of the owner is not contributory negligence. Proof of willful intent on the part of the plaintiff to procure the death or injury of stock defeats the recovery of damages for death or injury.

