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States' Fence Statutes: *Illinois*



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510 Ill. Comp. Stat. 55/1 to 55/5.1, 625 Ill. Comp. Stat. 5/18c-7504, 765 Ill. Comp. Stat. 130/0.01 to 130/21

Current through P.A. 101-673 of the 2020 Reg. Sess., and P.A. 102-3 of the 2021 Reg. Sess.

55/1. Prohibition.

§ 1. No person or owner of livestock shall allow livestock to run at large in the State of Illinois. All owners of livestock shall provide the necessary restraints to prevent such livestock from so running at large and shall be liable in civil action for all damages occasioned by such animals running at large; Provided, that no owner or keeper of such animals shall be liable for damages in any civil suit for injury to the person or property of another caused by the running at large thereof, without the knowledge of such owner or keeper, when such owner or keeper can establish that he used reasonable care in restraining such animals from so running at large.

55/1.1. Definitions.

§ 1.1. Definitions. As used in this Act, unless the context otherwise requires:

“Livestock”, for the purposes of this Act only, means bison, cattle, swine, sheep, goats, equidae, camelids, ratites, or fowl.

“Owner” means any person who (a) has a right of property in an animal, (b) keeps or harbors an animal, (c) has an animal in his care, or (d) acts as custodian of an animal.

“Person” means any individual, firm, association, partnership, corporation, or other legal entity, any public or private institution, the State of Illinois, or any municipal corporation or political subdivision of the State.

“Running at large” or “run at large” means livestock that strays from confinement or restraint and from the limits of the owner.

55/1.2. Notice; impoundment; liability; expenses; liens; sale; proceeds

§ 1.2. A notice of a violation of this Act shall be given to the person or owner of livestock running at large if known and a maximum of 24 hours may be granted in which to make the necessary corrections if the violation is an accidental occurrence and an investigation reveals no identifiable individual at fault. Any livestock allowed to run at large may be impounded at a facility capable of restraining such livestock. A notice of impoundment shall be delivered to the owner of such livestock in person or by certified mail.

Law enforcement officials such as State Police, County Sheriffs, municipal police officers, animal control administrators, animal control officers, or authorized agents of the Illinois Department of Agriculture, or authorized agents of the Illinois Department of Natural Resources, or the owner or occupier of land may give notice and cause stray animals which trespass to be impounded.



The person or persons having stray livestock impounded shall make every reasonable effort to notify the owner or keeper of the impounded livestock where such livestock is impounded.

The person or persons requesting impoundment shall be held harmless of any liability for injury to or for any financial responsibility for such animals.

Stray animals may be impounded at any public stockyards, livestock auction markets or any other facilities willing to accept such animals for impoundment. The impounding facility and its owner or owners shall not be held liable for any injury or accrue any financial responsibility for such impounded animals.

Any expense incurred in such impoundment shall become a lien on the livestock impounded and must be discharged before the livestock are released from the facility. The livestock may be released to the owner prior to the expiration of the impoundment period if impoundment costs are satisfied and the owner provides evidence that he is capable of restraining the livestock from running at large. If the owner refuses or fails to provide such restraints, or the impounded animals are not claimed and incurred costs paid within the period of impoundment, such animals shall be sold either at a public auction, or through a public stockyard or a livestock auction market, offered for adoption, or humanely euthanized in accordance with this Section. Before any livestock can be sold, offered for adoption, or humanely euthanized as herein provided, the person or court requesting the impoundment shall have published notice of the intended sale, adoption, or euthanization thereof in a newspaper of general circulation in the area where the impounded animals were found to be running at large. If the impounded livestock is not claimed within 10 days after the date of publication of such notice, the livestock may be sold, offered for adoption, or humanely euthanized in accordance with this Section. The proceeds of the sale shall be applied first to discharge the lien and costs associated with the sale of the livestock, and any balance shall be paid to the owner. If any court of competent jurisdiction issues any order concerning any impounded animal, such animal shall immediately pass to the jurisdiction and possession of the court bailiff of the jurisdiction in which the order was issued.

If the lien and costs of the associated sale of the livestock is determined to exceed the expected value of the animal, then the animal may be deemed adoptable by the animal control facility and may be offered for adoption. If no such placement is available, then the animal may be humanely euthanized.

55/3.1. Violations; corporations and partnerships.

§ 3.1. Any person who violates this Act shall be guilty of a Class C misdemeanor, except a 10th or subsequent violation of this Act is a Class 4 felony and the court may order the livestock impounded.

In the event the person who violates this Act is a corporation or partnership, any officer, director, manager or managerial agent of the partnership or corporation who violates this Section or causes the partnership or corporation to violate this Section shall be guilty of a Class C misdemeanor.

55/5.1. Short title.

§ 5.1. This Act shall be known and may be cited as the "Illinois Domestic Animals Running At Large Act".

5/18c-7504. Construction of Fences, Farm Crossings, and Damages.



§ 18c-7504. Construction of Fences, Farm Crossings, and Damages.

(1) Fencing. Every rail carrier shall, within 6 months after any part of its line is open for use, erect and thereafter maintain fences on both sides of its road or so much thereof as is open for use, suitable and sufficient to prevent cattle, horses, sheep, hogs or other livestock from getting on such railroad, provided that the other 3 sides of the property are enclosed, except at the crossings of public roads and highways, and within such portion of cities and incorporated towns and villages as are or may be hereafter laid out and platted into lots and blocks, with gates at the farm crossings of such railroad, which farm crossings shall be constructed by such rail carrier when and where the same may become necessary, for the use of the proprietors of the lands adjoining such railroad; and when such fences are not made as aforesaid, or when such fences are not kept in good repair, such rail carrier shall be liable for all damages which may be done by the agents, engines or cars of such rail carrier, to such cattle, horses, sheep, hogs or other livestock thereof, and reasonable attorney's fees in any court wherein suit is brought for such damages, or to which the same may be appealed; but where such fences have been duly made and kept in good repair, such rail carrier shall not be liable for any such damages, unless negligently or willfully done.

(2) Enforcement. If the rail carrier, after being notified, shall refuse to build or repair such fence, gates, or farm crossings, in accordance with the provisions of this Section, the owner or occupant of the land required to be fenced shall be entitled to an order from any court of competent jurisdiction requiring the rail carrier to build or repair such fence, gates, or farm crossing and may recover interest at one percent per month of the cost of such building or repair, from the time the crossing or repair was requested, as damage in the circuit court, together with costs to be taxed by the court.

130/0.01. Short title.

§ 0.01. Short title. This Act may be cited as the Fence Act.

130/1. Fence viewers.

§ 1. In counties under township organization the board of trustees shall be ex officio fence viewers in their respective towns. In counties not under township organization the presiding officer of the county board, with the advice and consent of the county board, at the annual meeting of the county board in December, shall appoint three fence viewers in each precinct, who shall hold their office for one year, and until their successors are appointed.

130/2. Lawful fence.

§ 2. Fences four and one-half feet high, and in good repair, consisting of rails, timber boards, stone, hedges, barb wire, woven wire or whatever the fence viewers of the town or precinct where the same shall lie shall consider equivalent thereto suitable and sufficient to prevent cattle, horses, sheep, hogs and other stock from getting on the adjoining lands of another, shall be deemed legal and sufficient fences: Provided, that in counties under township organization, the electors, at any annual town meeting, may determine what shall constitute a legal fence in the town; and in counties not under township organization, the power to regulate the height of fences shall be vested in the county board.

130/3. Division fence.



§ 3. When 2 or more persons have lands adjoining, each of them shall make and maintain a just proportion of the division fence between them, and if such fence shall be a hedge fence, then the owner or owners of such hedge fence shall, during the year after such hedge has attained the age of 7 years, cut back or trim such hedge fence to a height not to exceed 4 feet, and shall at least once in every 2 years thereafter, cut back or trim such hedge fence to the height of 5 feet. The provisions of this section shall not apply to any hedge fence protecting either an orchard, buildings or wind break, nor shall the provisions of this Section apply to any such fence for the preservation of wildlife and protection against soil erosion. Such hedge fences protecting wildlife, or orchards, or buildings or windbreaks, and such fences protecting against soil erosion shall not exceed 60 rods in length. If the owner or owners of such hedge fence shall fail or refuse to comply with the provisions of this act, on or before the 15th day of June in the year that such hedge should be cut or trimmed, any one of the owners of such division fence having complied with the provisions of this act may give the owner or owners, or their agents, of any such uncut or untrimmed hedge, 10 days notice, in writing to cut or trim such hedge. And should the owner or owners, or their agents so notified fail or refuse to comply with such notice it shall be lawful for the person giving the notice to cut or trim or cause to be cut or trimmed, in accordance with law, and the cost and damage of cutting or trimming such hedge may be recovered off of the owner or owners of such hedge before any court of competent jurisdiction.

130/4. Inclosed lands; contribution.

§ 4. When any person wishes to inclose his land, located in any county having less than 1,000,000 population according to the last preceding federal census and not within the corporate limits of any municipality in such county, each owner of land adjoining his land shall build, or pay for the building of, a just proportion of the division fence between his land and that of the adjoining owner and each owner shall bear the same proportion of the costs of keeping that fence maintained and in good repair. The provisions of this Section shall not apply to fences on lands held by public bodies for roadway purposes.

130/5. Value of fence, etc., ascertained.

§ 5. The value of such fence, and the proportion thereof to be paid by such person, and the proportion of the division fence to be made and maintained by him, in case of his inclosing his land, may be determined by 2 fence viewers of the town, in counties under township organization, and in other counties by any 2 fence viewers of the precinct; or, at the option of the aggrieved party, such value or proportion may be ascertained in an action brought by him before any court of competent jurisdiction.

130/6. Neglect to repair or rebuild.

§ 6. If any person neglect to repair or rebuild a division fence, or portion thereof, which he ought to maintain, any two fence viewers of the town or precinct, as the case may be, shall, on complaint by the party aggrieved, after giving due notice to each party, examine such fence, and if they deem the same to be insufficient, they shall so notify the delinquent party, and direct him to repair or rebuild the same within such time as they may deem reasonable.

130/7. Disputes; settlement.

§ 7. If disputes arise between the owners of adjoining lands concerning the proportion of fence to be made or maintained by either of them, such dispute may be settled by any two of the fence viewers of the town or precinct, as the case may be, and in such cases it shall be the duty of the two fence viewers to distinctly mark and define the proportion of the fence to be made or maintained by each.



130/8. Choice of viewers; notice.

§ 8. When any of the above mentioned matters shall be submitted to fence viewers, each party shall choose one; and if either neglect, after eight days' notice in writing, to make such choice, the other party may select both. And for all purposes of notice under this act, it shall be sufficient to notify the tenant or person in possession of said adjoining premises, when the owner thereof is not a resident of the town in which such fences are situated.

130/9. Viewing fence; disagreement.

§ 9. The two fence viewers so chosen shall examine the premises, and hear the allegations of the parties. In case of their disagreement, they shall select another fence viewer to act with them; and the decision of any two of them shall be final upon the parties to such dispute, and upon all parties holding under them.

130/10. Decision; filing.

§ 10. The decision of the fence viewers shall be reduced to writing; shall contain a description of the fence, and of the proportion to be maintained by each, and their decision upon any other point in dispute between the parties, submitted to them as aforesaid; and shall be forthwith filed in the office of the town clerk, or in the office of the county clerk in counties which shall not have adopted township organization.

130/10.1. Failure to decide; assumption of jurisdiction.

§ 10.1. If for any reason the fence viewers shall fail to make a decision within 90 days after the matter has been submitted to them, either the county board or the township board of trustees may assume jurisdiction of the matter and make a decision thereon. If neither the county board nor the township board of trustees makes a decision thereon within 60 days after the expiration of such 90 day period, either party may petition the circuit court of the county in which the fence is located to make the decision thereon and in such case the circuit court shall have original jurisdiction to hear and decide the matter.

130/11. Neglect; damages.

§ 11. If any person who is liable to contribute to the erection or reparation of a division fence shall neglect or refuse to make or repair his proportion of such fence, the party injured, after giving 60 days' notice, in writing, that a fence should be erected, or 10 days' notice, in writing, that the reparation of a fence is necessary, may make or repair the same at the expense of the party so neglecting or refusing, to be recovered from him, with costs of suit, in the circuit court; and the party so neglecting or refusing, after notice in writing, shall be liable to the party injured for all damages which shall thereby accrue.

130/12. Making and repairing fences destroyed.

§ 12. Whenever a division fence shall be injured or destroyed by fire, floods, or other casualty, the person bound to make and repair such fence, or any part thereof, shall make or repair the same, or his just proportion thereof, within ten days after he shall be thereto required by any person interested therein--such requisition to be in writing, and signed by the party making the same: Provided, that when a flood gate or that portion of a division fence which crosses a stream or natural water course is destroyed by flood, the person bound to make or repair the same shall make or repair the same or his just proportion thereof within two days after he shall be thereto required by any interested person.



130/13. Refusing to make or repair.

§ 13. If such person shall neglect or refuse to make or repair his proportion of such fence or flood gate within the periods specified in section 12 of this Act, the party injured may make or repair the same at the expense of the party so refusing or neglecting, to be recovered with costs of suit.

130/14. Removal of division fence; notice; use of new fence; landlord's responsibility.

§ 14. If any person is disposed to remove a division fence, or part thereof, owned by him or her, and allow his or her lands to be uncultivated and not used for pasture purposes, after having first given the adjoining owner one year's notice, in writing, of his or her intention so to do and having received such adjoining owner's permission, he or she may, at any time thereafter, remove the same, unless such adjoining owner shall previously cause the value of the fence to be ascertained by fence viewers, selected as hereinbefore provided, and pay or tender the same to such person; provided that if, in accordance with such provisions, the fence has been removed entirely and a new one erected, any person who seeks to make use of the new fence shall pay to the owner one-half of the original cost thereof. With reference to the removal or use of a fence as set forth in this Section, a landlord shall be responsible for the acts of a tenant.

130/15. Removal without notice.

§ 15. If any such fence shall be removed without such notice, the party removing the same shall pay to the party injured all such damages as he may thereby sustain, to be recovered with costs of suit.

130/16. Mistake in locating fence; removal.

§ 16. When a person has made a fence on an enclosure which afterward on making division lines is found to be on the land of another, and the same has occurred through mistake, such first person may enter on the land of the other and remove his fence and material within six months after such line has been run.

130/17. When removal may not be made.

§ 17. But such fence shall not be removed if it was made of material taken from the land on which it is built, until the party pays or tenders to the owner of the land the value of such material, to be ascertained by the fence viewers; nor shall a fence be removed at a time when the removal will throw open or expose the crops of either party, but it may be removed within a reasonable time after the crops are secured, although the six months above specified have passed.

130/18. Viewers may examine witnesses, etc.

§ 18. Fence viewers may examine witnesses on any and all questions submitted to them, and either of such fence viewers shall have power to issue subpoenas for, and administer oaths to such witnesses.

130/19. Fees.

§ 19. Fence viewers shall be entitled to \$15 per day, each, for the time necessarily spent as above provided, to be paid in the first instance by the party requiring the services; and all expenses of the view shall be borne equally between the parties, except in case of view to appraise damages for neglect or refusal to make or maintain a just proportion of a



division fence, in which case the costs of view shall be paid by the party in default, and may be recovered as part of the damages assessed.

130/20. Damages by animals entering fenced inclosure.

§ 20. If any horse, mule or ass, or any neat cattle, hogs or sheep, or other domestic animals, shall break into any person's inclosure, the fence being good and sufficient, the owner of such animal or animals shall be liable, in a civil action, to make good all damages to the owner or occupier of the inclosure. This section shall not be construed to require such fence, in order to maintain an action for injuries done by animals running at large contrary to law.

130/21. Damages feasant; rescue; actions; notice.

§ 21. If any such animal or animals shall break into an enclosure surrounded by a fence of the height and sufficiency prescribed by this act, or shall be wrongfully upon the premises of another, the owner or occupier of such enclosure or premises may take into possession such animal or animals trespassing, and keep the same until damages, with reasonable charges for keeping and feeding, and all costs of action be paid, to be recovered in the circuit court, and any person who shall take or rescue any such animal so taken up from the possession of the holder of the animal without such holder's consent, shall be liable to a fine of not less than 3 nor more than 5 dollars for each of such animals so rescued, to be recovered in the circuit court of the county where such offense has been committed, for the use of the school fund of the proper county. Within 24 hours after taking such animal into his or her possession, such holder of the animal shall give notice to the owner thereof, if known, or if unknown, he or she shall post notices at some public place near the premises.

