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States' Fence Statutes: *Maine*



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Me. Rev. Stat. tit. 23 §§ 6009, 6021-23; tit. 30-A §§ 2951-66; tit. 7 §§ 4015, 4020, 4041, 4042; tit. 33 §§ 1053-58.

Current with legislation through Chapter 31 of the 2021 First Regular Session of the 130th Legislature. The First Regular Session convened December 2, 2020.

§6009. Cattle guards and passes; double damages.

The county commissioners shall order the corporation to make and maintain such cattle guards, cattle passes and farm crossings as they think reasonable and prescribe the time and manner of making them and consider this work in awarding pecuniary damages. If the corporation after 48 hours' notice in writing to its president or superintendent neglects to commence the work or complete it within a reasonable time, the owner may apply to the Superior Court and the court, after due notice to the corporation, shall issue all necessary processes to enforce the specific performance of the orders or restrain it by injunction or the party interested may recover, in a civil action, double the damage that he has sustained by the neglect.

§6021. Fences; liability for injuries.

Where a railroad passes through enclosed or improved land, or woodlots belonging to a farm, legal and sufficient fences shall be made on each side of the land taken therefor, before the construction of the road is commenced, and the fences shall be maintained and kept in good repair by the corporation. For any neglect of that duty during the construction of the road, and for injuries thereby occasioned by its servants, agents or contractors, the directors are jointly and severally personally liable. For any subsequent neglect, the corporation shall be fined a sum sufficient to make or repair the fence, to be recovered by indictment and expended by an agent appointed by the court.

§6022. Line fences built on notice of abutter.

The owner of any enclosed or improved land or woodlot belonging to a farm abutting upon any railroad, which is finished and in operation, may at any time between the 20th day of April and the end of October give written notice to the president, treasurer or any of the directors of the corporation owning, controlling or operating that railroad that the line fence against his land has not been built, or if built, that the fence is defective and needs repair. If the corporation neglects to build or repair the fence for 30 days after receiving notice, it forfeits to the owner \$100, to be recovered in a civil action.

§6023. Injuring fences; turning animals into railroad enclosure.

1. Injuring fence. A person may not take down or intentionally injure a fence erected to protect the line of a railroad.
2. Turning animals into railroad enclosure. A person may not turn a horse, cattle or other animal upon or within the enclosure of a railroad.



3. Penalty. A person who violates this section commits a Class E crime. Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

§2951. Legal fences.

All fences 4 feet high and in good repair, consisting of rails, timber, stone walls, iron or wire, and brooks, rivers, ponds, creeks, ditches and hedges, or other things which in the judgment of the fence viewers having jurisdiction thereof are equivalent thereto, are legal and sufficient fences.

§2952. Maintenance.

The occupants of lands enclosed with fences shall maintain partition fences between their own and the adjoining enclosures, in equal shares, while both parties continue to improve them.

§2953. Neglect of owners; function of fence viewers.

If any party neglects or refuses to repair or rebuild any such fence that that party is legally required to maintain, the aggrieved party may complain to 2 or more fence viewers of the town where the land is situated who, after due notice to the delinquent party, shall proceed to survey it and, if they determine that it is insufficient, they shall signify it in writing to the delinquent occupant and direct the delinquent occupant to repair or rebuild it within such time as they judge reasonable not exceeding 30 days. If the fence is not repaired or rebuilt accordingly, the complainant may make or repair it.

§2954. Double compensation for building fence.

When the complainant has completed such fence and, after notice given, it has been adjudged sufficient by 2 or more of the fence viewers, and the value thereof, with the fence viewers' fees, certified under their hands, the complainant may demand of the occupant or owner of the land where the fence was deficient double the value and fees thus ascertained.

In case of neglect or refusal for one month after demand, the complainant may recover the same by a civil action, with interest at the rate of 1% a month, and if the delinquent owner or occupant repairs or rebuilds such fence without paying the fees of the fence viewers, certified by them, double the amount thereof may be recovered by the complainant as provided.

§2955. Division of partition fences; record of assignments; fees.

When the occupants or owners of adjacent lands disagree respecting their rights in partition fences and their obligation to maintain them, on application of either party, 2 or more fence viewers of the town where the lands lie, after reasonable notice to each party, may in writing under their hands assign to each the occupants' or owners' share thereof and limit the time in which each shall build or repair each occupant's or owner's part of the fence, not exceeding 30 days. Such assignment and all other assignments of proprietors of partition fences provided for, recorded in the town clerk's office, shall be binding upon the parties and they shall thereafter maintain their part of the fence. If such fence has been built and maintained by the parties in unequal proportions and the fence viewers adjudge it to be good and sufficient, they may, after notice in writing under their hands, award to the party who built and maintained the larger portion the value of such excess, to be recovered in a civil action against the other party if not paid within 6 months after demand. Parties to assignments shall pay the fees of the fence viewers certified under their hands in equal proportions, and if either party neglects to pay the party's proportion within one month after demand, the party applying to the fence viewers



may pay the same and recover of the delinquent party, in a civil action, double the amount of that party's proportion thereof

§2956. Building of part assigned; remedy on failure.

If any party refuses or neglects to build and maintain the part thus assigned to that party, it may be done by the aggrieved party who is entitled to double the value and expenses, to be ascertained and recovered as provided in section 2954, and shall have a lien therefor on the land owned or occupied by the party neglecting or refusing to build or maintain the partition fence assigned to that party by the fence viewers, to be enforced by attachment made within one year from the day of division by them.

§2957. Repairs.

All division fences shall be kept in good repair throughout the year, unless the occupants of adjacent lands otherwise agree.

§2958. Fences may vary from dividing line.

When, in the opinion of the fence viewers having jurisdiction of the case, it is, by reason of natural impediments, impracticable or unreasonably expensive to build a fence on the true line between adjacent lands and the occupants disagree respecting its position, on application of either party as provided in section 2955, and after notice to both parties and a view of the premises, they may determine by a certificate under their hands communicated to each party on which side of the true line and at what distance, or whether partly on one side and partly on the other and at what distances, the fence shall be built and maintained and in what proportion by each party. Either party may have the same remedy against the other as if the fence were on the true line.

§2959. Assignment of parts before fence is built.

When adjacent lands have been occupied in common without a partition fence and either party desires to occupy in severalty or when it is necessary to make a fence running into the water and the parties liable to build and maintain it disagree, either party may apply to the fence viewers of the town, who shall proceed as in section 2955, except that the fence viewers may allow longer than 30 days for building the fence, having regard to the season of the year. In other respects, the remedy shall be as provided in section 2955.

§2960. Occupant ceasing to improve land; adjoining owner may buy fence.

When one party ceases to improve that party's land or lays open that party's enclosure, that party shall not take away any part of that party's partition fence adjoining the next enclosure improved if the owner or occupant thereof will pay therefor what 2 or more fence viewers, on due notice to both parties, determine to be its reasonable value.

§2961. Liability of owner starting to improve land lying in common.

When any land which has been unenclosed is afterwards enclosed or used for pasturing, its occupant or owner shall pay for 1/2 of each partition fence on the line between that occupant's or owner's land and the enclosure of any other occupant or owner and its value shall be ascertained in writing; if the parties do not agree, by 2 or more of the fence viewers of the town where such fence stands. After the value is so ascertained, on notice to such occupant or owner, if the occupant or owner neglects or refuses for 30 days after demand to pay it,



the proprietor of the fence may have a civil action for such value and the cost of ascertaining it.

§2962. Fences on town line.

If the line on which a partition fence is to be made or divided is the boundary between 2 or more towns, or partly in one town and partly in another, a fence viewer shall be taken from each town.

§2963. Division of fences; notice; verbal agreements.

When a fence between owners of improved lands is divided either by fence viewers or by the written agreement of the parties recorded in the town clerk's office where the land lies, the owners shall erect and support it accordingly. If any person lays that person's own lands common, and determines not to improve any part of them adjoining such fence, and gives 6 months' notice to all occupants of adjoining lands, that person shall not be required to maintain such fence while that person's land so lies common and unimproved. All partition fences divided by parol agreement and actually built in pursuance of such agreement, including fences so built heretofore, shall be deemed legal fences as if divided by fence viewers or written agreement, and the adjoining owners shall support their respective portions of fence under such agreement until otherwise ordered by the fence viewers on application to them by either party. When a party has constructed that party's part of a fence in pursuance of a parol or written agreement or assignment of fence viewers, no assignment may thereafter be made by fence viewers depriving that party of the full value of such fence or any part thereof.

§2964. Applicability to house lots or written agreements.

Nothing in this chapter extends to house lots, the contents of which do not exceed half an acre; but if the owner of such lot improves it, the owner of the adjacent land shall make and maintain 1/2 of the fence between them whether that owner of adjacent land improves or not; nor does this chapter make void any written agreement respecting partition fences.

§2965. Neglect of duty by fence viewers.

Any fence viewer who, when requested, unreasonably neglects to view any fence or to perform any other duties required of the fence viewer forfeits \$3 to any person suing therefor within 40 days after such neglect and is liable for all damages to the party injured.

§2966. Compensation of fence viewers.

Each fence viewer shall be paid by the person employing the fence viewer at the rate of \$3 a day for the time employed. If the party liable neglects to pay the same for 30 days after demand, each fence viewer may recover double the amount in a civil action.

§4041. Animal trespass

1. Deleted. Laws 1999, c. 254, § 15.

1-A. Trespass. An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer, authorized employee of the department or animal control officer that that animal was found on that property or on that local, county or state road or highway.

2. Removal. The owner or keeper of an animal is responsible, at the owner's or keeper's expense, for removing any animal found trespassing. An animal control officer,



authorized employee of the department or law enforcement officer may, at the owner's or keeper's expense, remove and control an animal found trespassing if:

A. The owner or keeper fails to remove the animal after having been notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or

B. The animal is an immediate danger to itself, persons or another's property.

3. Civil violation. A person commits a civil violation if an animal owned or kept by that person is found trespassing and:

A. That person fails to remove the animal within 12 hours, or immediately if public safety or private or public property is threatened, after having been personally notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or

B. Deleted. Laws 1999, c. 254, § 15.

C. That person owns an animal or animals that have been found trespassing on 5 or more days within a 30-day period or 3 or more days within a 7-day period.

4. Fines. A person who violates this section is subject to the following fines.

A. A person who violates this section commits a civil violation for which a fine of not less than \$50 nor more than \$500 must be adjudged.

B. A person who violates this section after having been adjudicated as having committed a violation of this section commits a civil violation for which a fine of \$1,000 must be adjudged.

C. A person who violates this section after having been adjudicated as having committed 2 or more violations of this section commits a civil violation for which a fine of \$2,500 must be adjudged.

4-A. Restitution; court costs and fees. In addition to fines, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the animal. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the property owner against the owner or keeper of the animal based on the same facts. When an owner or keeper violates this section 3 or more times within a 90-day period, the court shall order restitution of all costs incurred by the department in responding to a violation of this section or assisting an animal control officer or law enforcement officer responding to a violation of this section. Upon application of the department, municipality or law enforcement agency enforcing this section, the owner or keeper of the animal must also pay reasonable court costs and attorney's fees of the department, municipality or law enforcement agency if the department, municipality or law enforcement agency is the prevailing party in any court proceeding.

4-B. Forfeiture. If the department, a municipality or a law enforcement agency determines that a repeated violation of this section by an owner or keeper of an animal jeopardizes the public health, welfare or safety of the community, the department, municipality or law enforcement agency may bring a forfeiture action in the county in which the violations occurred under Title 14, section 506. In an action brought under this subsection, the



burden of proof is on the department, municipality or law enforcement agency. If a court determines that a repeated violation of this section jeopardizes the public health, welfare or safety of the community, the court may order any animal that is the subject of the violation sold in a commercially reasonable manner and apply the proceeds to any fine, fee, restitution or cost owed by the owner or keeper under this section with any remaining balance returned to the owner or keeper of the animal.

5. Exemption. A person is not liable under this section if, at the time of the alleged trespass, that person was licensed or privileged to allow the animal to be on the property.

6. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. “Animal” does not include cats.

B. “Authorized employee of the department” means a humane agent or any other employee of the department designated by the commissioner to assist with compliance and enforcement of this section.

§ 4042. Stray livestock.

1. Ownership of livestock unknown. If the ownership of any stray livestock cannot be established, the livestock must be handled as a stray and an animal control officer shall seize, impound or restrain the livestock and:

A. Deliver the livestock to an animal shelter, farm or holding facility that is capable of safely containing the number, type and size of the livestock; or

B. Arrange for the safe confinement of the livestock at a location designated by the municipality in which the livestock was found.

2. Municipal procedure for stray livestock. A municipality shall retain custody of stray livestock under subsection 1 for a period of 10 days. The municipality is responsible for ensuring the proper care of the livestock while confined, including providing proper sustenance, shelter and necessary medical care. If ownership of the stray livestock is not claimed by any person, after 10 days, ownership of the livestock vests with the municipality or an animal shelter designated by the municipality, and the municipality or designated animal shelter may sell, adopt, give away or humanely euthanize the stray livestock. A municipality may reimburse a farm, holding facility or animal shelter for the care and housing of stray livestock pursuant to this section at the same rates as in section 3919-C. For purposes of this section, “municipality” includes a county under Title 30-A, section 7501 if the stray livestock has been found in the unorganized territory of that county.

For purposes of this section, “livestock” does not include feral swine or domesticated cervids.

§1053. Appraisal if value \$10 or more.

A finder of lost goods of the value of \$10 or more shall, within 2 months after finding and before using the lost goods to the disadvantage of the owner, procure a warrant from the town clerk or a notary public, directed to 2 persons appointed by the clerk or notary, not interested except as inhabitants of the town, returnable at the clerk’s office within 7 days from the date of the warrant, to appraise the goods under oath.



§1054. Restitution to appearing owner; money or goods.

If the owner of lost money or goods appears within 6 months after notice to the town clerk under section 1051 is made by the finder and gives reasonable evidence of ownership to the finder, the owner must have restitution or the value of the lost money or goods, paying all necessary charges and reasonable compensation to the finder for keeping, to be adjudged by the district court if the owner and finder cannot agree.

§1056. Finder's rights when no owner appears.

If no owner appears within 6 months, such money or lost goods shall belong to the finder by paying 1/2 their value after deducting all necessary charges to the treasurer of said town; but if he neglects to pay it on demand, it may be recovered in an action brought by said treasurer in the name of the town.

§1058. Failure to give notice; penalty.

If the finder of lost money or goods of the value of \$3 or more neglects to give notice to the town clerk and to cause the lost money or goods to be advertised as provided under section 1051, the finder forfeits to the owner the full value of the lost money or goods unless the finder delivers or accounts for the lost money or goods to the owner, in which case the finder must forfeit not more than \$20, 1/2 to the town and 1/2 to the prosecutor.

