



# The National Agricultural Law Center

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## States' Fence Statutes: *Nevada*



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# A National Agricultural Law Center Research Publication

## States' Fence Statutes: Nevada

**Nev. Rev. Stat. §§ 206.150 568.230 to 568.370, 569.005 to 569.130, 569.431 to 569.471, 705.120 to 705.200**

*Current through legislation of the 81st Regular Session (2021) effective as of May 21, 2021. Text subject to revision and classification by the Legislative Counsel Bureau.*

### **206.150. Killing, maiming, disfiguring or poisoning animal of another person; killing stray or livestock.**

1. Except as otherwise provided in subsections 2 and 3, any person who willfully and maliciously kills, maims or disfigures any animal belonging to another, or exposes any poison or noxious substance with intent that it should be taken by the animal is guilty of a category D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$10,000.
2. Except as otherwise provided in NRS 205.220, a person who willfully and maliciously kills an stray or one or more head of livestock, without the authority to do so, is guilty of a category C felony and shall be punished as provided in NRS 193.130.
3. The provisions of subsection 1 do not apply to any person who kills a dog pursuant to NRS 575.020.

### **Regulation of Grazing on Federal Lands.**

#### **568.230. Grazing interfering with customary use of land unlawful; exceptions.**

1. It is unlawful to graze livestock on any part of the unreserved and unappropriated public lands of the United States in the State of Nevada, when grazing will or does prevent, restrict or interfere with the customary use of the land for grazing livestock by any person who, by himself or herself or the person's grantors or predecessors, has become established, either exclusively or in common with others, in the grazing use of the land by operation of law or under and in accordance with the customs of the graziers of the region involved.
2. NRS 568.230 to 568.290, inclusive, does not prohibit the grazing on any public lands of livestock owned, kept or used for work or milking purposes by any ranch owner or bona fide settler, for the owner or settler's domestic use, as distinguished from commercial use, or prohibit the grazing of any livestock necessary for and used in connection with any mining or construction work or other lawful work of similar character.

#### **568.240. Customary or established use: Definition; change.**

1. Customary or established use as graziers, otherwise than under operation of law, as used in NRS 568.230 to 568.290, inclusive, shall be deemed to include the continuous, open, notorious, peaceable and public use of such range seasonally for a period of 5 years or longer immediately before March 30, 1931, by the



person or the person's grantors or predecessors in interest, except in cases where initiated without protest or conflict to prior use or occupancy thereof.

2. Any change in customary use so established must not be made after March 30, 1931, so as to prevent, restrict or interfere with the customary or established use of any other person or persons.

#### **568.250. Continued use by established user not prohibited.**

NRS 568.230 to 568.290, inclusive, does not prohibit any such established user from continuing his or her grazing use, as established by operation of law or in accordance with such customs.

#### **568.260. Penalty; liability for damages.**

Any person violating any of the provisions of NRS 568.230 to 568.290, inclusive, is guilty of a misdemeanor, and, independently of the foregoing penalty, is liable to any person injured for all damages sustained by reason of the violation, and for such exemplary damages as the circumstances may warrant.

#### **568.270. Restraint of violation by injunction.**

The violation of any provision of NRS 568.230 to 568.290, inclusive, may be restrained by injunction, issued by a court of competent jurisdiction, pursuant to the provisions of law and principles of equity relating to injunctions.

#### **568.280. Free transit over and rights in public domain not prohibited**

Nothing contained in NRS 568.230 to 568.290, inclusive, prohibits free transit over and rights in the public domain where provided by the Acts of Congress.

#### **568.290. Purpose; construction**

1. NRS 568.230 to 568.290, inclusive, shall be deemed an exercise of the police power of the state, for the protection of the economic welfare and peace of the people of the state, and all of their provisions must be liberally construed for the accomplishment of its purposes.
2. Nothing in NRS 568.230 to 568.290, inclusive, amends or repeals existing law regarding the grazing use of the public lands or of water for the purpose of watering livestock, or modifies or compromises any valid rights or priorities which exist therein on March 30, 1931.

#### **Unlawful Acts and Penalties; Liability for Damages.**

#### **568.300. Herding or grazing of livestock on land of another without consent unlawful; liability for damages; attachment**

1. It shall be unlawful for any person to herd or graze any livestock upon the lands of another without having first obtained the consent of the owner of the lands so to do. The person claiming to be the owner of such lands shall have the legal title thereto, or an application to purchase the same with the first payment made thereon.
2. The livestock which is herded or grazed upon the lands of another, contrary to the provisions of subsection 1, shall be liable for all damages done by such livestock while being unlawfully herded or grazed on the lands of another,



together with costs of suit and reasonable counsel fees, to be fixed by the court trying an action therefor. The livestock may be seized and held by a writ of attachment, issued in the same manner as provided in chapter 31 or 71 of NRS, as security for the payment of any judgment which may be recovered by the owner of such lands for damages incurred by reason of violation of any of the provisions of this section. The claim and lien of a judgment or attachment in such an action shall be superior to any claim or demand which arose subsequent to the commencement of the action.

3. This section shall not apply to any livestock running at large on the ranges or commons.

**568.330. Herding or grazing of livestock in certain areas near water supply unlawful; penalty.**

1. It is unlawful for any person, firm, corporation or association owning or having charge of any livestock to herd, graze, pasture, keep, maintain or drive the same upon, over or across any lands lying within an area that has been identified by the board of county commissioners in the county in which the area is situated as unsuitable for such uses in order to protect any surface intake, intakes, water boxes or surface reservoirs into which water is diverted for use for municipal, drinking or domestic purposes in the state. A determination by the board of county commissioners that an area is unsuitable must be based upon scientific evidence and must be adopted by ordinance after consultation with affected persons and state agencies. The ordinance must describe the area that is determined to be unsuitable and notice of the determination and description must be posted in a conspicuous place in the area.

2. Subsection 1 must not be construed to apply to:

(a) Prospectors or other persons passing over or being temporarily upon such lands with not to exceed 10 head of livestock.

(b) Livestock running at large upon the range, unless by county ordinance any board of county commissioners has provided otherwise in the case of the county concerned.

(c) Persons that are herding, grazing, pasturing, keeping, maintaining or driving livestock on their own lands.

3. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

4. Each day the acts declared to be unlawful in subsection 1 are committed, done and continued constitutes separate, distinct and new offenses.

**568.340. Herding or grazing of livestock at spring or well of another or within 1 mile of home or ranchhouse unlawful; liability for damages**

1. It shall be unlawful for any person owning or having charge of any livestock to drive or herd or permit the same to be herded or driven on the lands or possessory claims of other persons, or at any spring or springs, well or wells, belonging to another, to the damage thereof, or to herd the same or to permit them to be herded within 1 mile of a bona fide home or a bona fide ranchhouse.



2. The owner or agent of the owner of livestock violating the provisions of subsection 1, on complaint of the person injured in any court of competent jurisdiction, shall be liable to the person injured for actual and exemplary damages.

3. Nothing in this section shall:

(a) Prevent the owners from herding or grazing their livestock on their own lands.

(b) Be construed as to prevent livestock being driven along any public highway.

**568.350. Unauthorized driving of livestock from range unlawful; penalty; liability for damages**

1. It shall be unlawful for any person to lead, drive or in any manner remove any horse, mare, colt, jenny, jack, mule, or any head of neat cattle, or hog, sheep, goat, or any number of these animals, the same being the property of another person, from the range on which they are permitted to run in common, without the consent of the owner thereof first had and obtained.

2. The owner of any such animals, finding the same running on the herd grounds or commons with other animals of the same kind, is permitted to drive his or her own animal or animals, together with such other animals as the owner cannot conveniently separate from his or her own, to the nearest and most convenient corral or other place for separating his or her own from other animals if the owner, in such case, immediately, with all convenient speed, drives all such animals not belonging to him or her back to the herd ground from which he or she brought such animals.

3. Any person violating the provisions of this section shall be guilty of a misdemeanor.

4. In addition to the penalty provided for in subsection 3, such person shall be civilly liable to the owner of livestock so removed from the range for the value of all such stock and the necessary expenses incident to their return.

**568.355. "Open range" defined.**

As used in NRS 568.360 and 568.370, unless the context otherwise requires, "open range" means all unenclosed land outside of cities and towns upon which cattle, sheep or other domestic animals by custom, license, lease or permit are grazed or permitted to roam.

**568.360. Duties of owners of domestic animals with respect to domestic animals upon highway.**

1. No person, firm or corporation owning, controlling or in possession of any domestic animal running on open range has the duty to keep the animal off any highway traversing or located on the open range, and no such person, firm or corporation is liable for damages to any property or for injury to any person caused by any collision between a motor vehicle and the animal occurring on such a highway.

2. Any person, firm or corporation negligently allowing a domestic animal to enter within a fenced right-of-way of a highway is liable for damages caused by a collision between a motor vehicle and the animal occurring on the highway.

**568.370. Permitting dog to chase, worry, injure or kill domestic animals on open range or private property unlawful.**



1. It is unlawful for any person to permit a dog to chase, worry, injure or kill cattle, sheep or other domestic animals on the open range or on private property.
2. Subsection 1 does not apply to the use of a dog to herd domestic animals at the direction or with the permission of the owner of those animals.
3. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

## **Estrays and Feral Livestock**

### **569.005. Definitions.**

As used in NRS 569.005 to 569.130, inclusive, unless the context otherwise requires, the words and terms defined in NRS 569.006 to 569.0085, inclusive, have the meanings ascribed to them in those sections.

### **569.006. “Alternative livestock” defined.**

“Alternative livestock” has the meaning ascribed to it in NRS 501.003.

### **569.0065. “Department” defined.**

“Department” means the State Department of Agriculture.

### **569.007. “Director” defined.**

“Director” means the Director of the Department.

### **569.0075. “Estray” defined.**

“Estray” means any domesticated livestock or progeny of domesticated livestock showing signs of domestication, running at large upon public or private lands in the State of Nevada, whose owner is unknown in the section where the animal is found.

### **569.008. “Feral livestock” defined.**

“Feral livestock” means any formerly domesticated livestock or progeny of domesticated livestock which have become wild and are running at large upon public or private lands in the State of Nevada, and which have no physical signs of domestication. The term does not include horses or burros that are subject to the jurisdiction of the Federal Government pursuant to the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331 to 1340, inclusive, and any regulations adopted pursuant thereto, or any other federal statute or regulation.

### **569.0085. “Livestock” defined.**

“Livestock” means:

1. All cattle or animals of the bovine species;
2. All horses, mules, burros and asses or animals of the equine species;
3. All swine or animals of the porcine species;
4. All goats or animals of the caprine species;
5. All sheep or animals of the ovine species;
6. All poultry or domesticated fowl or birds; and



7. All alternative livestock.

**569.010. Estrays and feral livestock deemed property of Department; control, placement and disposition of estrays and feral livestock; disposition of money; liability.**

1. Except as otherwise provided by law, all estrays and feral livestock within this state shall be deemed for the purpose of this section to be the property of the Department.

2. The Department has all rights accruing pursuant to the laws of this state to owners of those animals, and may:

(a) Dispose of estrays and feral livestock by sale through an agent appointed by the Department; or

(b) Provide for the control, placement or disposition of estrays and feral livestock through cooperative agreements pursuant to NRS 569.031.

3. Except as otherwise provided by law, all money collected for the sale or for the injury or killing of any such animals must be held for 1 year, subject to the claim of any person who can establish legal title to any animal concerned. All money remaining unclaimed must be deposited in the Livestock Inspection Account after 1 year. The Department may disallow all claims if it deems the claims illegal or not showing satisfactory evidence of title.

4. The Department or any political subdivision of this state is not liable for any trespass or other damage caused by any of those estrays or feral livestock.

**569.020. Duties of certain officers who impound livestock to notify Department; contents of notice.**

1. Any county, city, town, township or other peace officer or poundmaster who impounds under the provisions of any state law or county or municipal ordinance any livestock shall, immediately after impounding the livestock, send a written notice to the Department.

2. The notice must contain a full description, including all brands and marks, sex, age, weight, color and kind of each animal so impounded.

3. For the sale of livestock if the owner of the livestock is not known, and for the sale of the impounded livestock as prescribed by law, all notices posted or advertisements published by any officer or other person having charge of the sale must include, unless the livestock is feral livestock, a complete description of each animal to be sold, including all brands and marks, sex, age, weight, color and kind.

**569.031. Cooperative agreements for control, placement or disposition of livestock: Required provisions; annual review by Department; cancellation.**

The Department may enter into a cooperative agreement for the management, control, placement or disposition of the livestock with another agency of this state or with a county, city, town, township, peace officer, poundmaster or nonprofit organization. If an agreement is entered into, it must provide for:

1. The responsibility for the payment of the expenses incurred in taking up, holding, advertising and making the disposition of the stray or feral livestock,



- and any damages for trespass allowed pursuant to NRS 569.440;
2. The disposition of any money received from the sale of the livestock;
  3. The protection of the rights of a lawful owner of an estray or feral livestock pursuant to NRS 569.040 to 569.130, inclusive;
  4. The designation of the specific geographic area of this state to which the cooperative agreement applies; and
  5. The cooperating person or entity to hold the State of Nevada harmless from any claim or liability arising from an act or omission of the cooperating person or entity in carrying out the cooperative agreement.

The Department shall annually review the actions of the cooperating person or entity for compliance with the agreement. The Department may cancel the agreement upon a finding of noncompliant actions.

#### **569.040. Unlawful to take up or feed estray or feral livestock**

1. Except as otherwise provided in subsection 2, NRS 569.040 to 569.130, inclusive, or pursuant to a cooperative agreement established pursuant to NRS 569.031 for the management, control, placement or disposition of estrays and feral livestock, it is unlawful for any person or the person's employees or agents, other than an authorized agent of the Department, to:
  - (a) Take up any estray or feral livestock and retain possession of it; or
  - (b) Feed any estray or feral livestock.
2. For a first violation of paragraph (b) of subsection 1, a person must not be cited or charged criminally but must be informed that it is unlawful to feed an estray or feral livestock.
3. For a second or subsequent violation of paragraph (b) of subsection 1, a person is guilty of a gross misdemeanor.

#### **569.045. Person gathering estray or feral livestock to publish notice in newspaper; requirements of notice.**

1. Before any person gathers any estrays or feral livestock, the person must cause notice of the gathering to be published in a newspaper of general circulation within the county in which the gathering is to take place.
2. The notice must:
  - (a) Be published at least once a week for the 4 weeks preceding the gathering;
  - (b) Clearly identify the area in which the gathering is to take place and the date and time of the gathering;
  - (c) If feral livestock are to be gathered, include a full description of the species of feral livestock to be gathered;
  - (d) Indicate a location where owners or possible owners of the estrays or feral livestock may go to claim an estray or feral livestock that was





gathered; and

(e) List the name and telephone number of a person who may be contacted if an owner or possible owner is interested in viewing the estrays or feral livestock gathered.

**569.050. Written notice to Department when person takes up estray.**

If a person takes up an estray, the person shall, within 5 days thereafter, make out a written description of the animal, setting forth all marks or brands appearing upon the animal, and other marks of identity, including color, age and sex, and forward the description by mail to the Department at its office.

**569.060. Examination by Department of brand records upon receipt of notice of taking up of estray; notice to owner; payment of charges incurred for care; authority for closer examination of brands**

1. Upon receiving notice of the taking up of an estray, the Department, or its authorized agent, shall make or cause to be made an examination of the state brand records.
2. If from the records the name of the owner or probable owner can be determined, the Department, or its authorized agent, shall forthwith notify the owner or probable owner of the taking up of the estray.
3. Upon the owner's proving to the satisfaction of the Department that the estray animal is lawfully his or hers, the Department shall issue to the owner an order to receive the estray upon the payment of any damages allowed by law and such charges as may be approved by the Department as reasonable which may have been incurred in the care of the animal so taken up.
4. Upon receipt of a notice of the taking up of an estray, the Department, or its authorized agent, may require a closer examination of the brands and marks, as set forth in the notice, and may require a state inspector to examine the brands before advertising.

**569.070. Publication of notice of estray required if owner cannot be determined; reimbursement of expenses for publication; sale of injured or debilitated estray.**

1. Except as otherwise provided in subsection 4, if the owner or probable owner of an estray cannot with reasonable diligence be determined by the Department or its authorized agent, the Department shall advertise the estray or cause it to be advertised.
2. A notice of the estray, with a full description, giving brands, marks and colors thereon, must be published in a newspaper published at the county seat of the county in which the estray was taken up. If there is no newspaper published at the county seat of the county, the notice must be published in the newspaper published at the nearest point to that county.
3. Expenses incurred in carrying out the provisions of subsections 1 and 2 must be deducted from the proceeds of the sale of the estray advertised.
4. The Department may sell an injured, sick or otherwise debilitated estray if, as determined by the Department, the sale of the estray is necessary to facilitate the placement or other disposition of the estray. If an estray is sold pursuant to this



subsection, the Department shall give a brand inspection clearance certificate to the purchaser.

**569.075. Sale of feral livestock gathered by Department; publication of notice of sale of feral livestock; sale of injured or debilitated feral livestock.**

1. The Department may sell all feral livestock which it has gathered if the Department determines that the sale of the feral livestock is necessary to facilitate the placement or other disposition of the feral livestock.

2. Except as otherwise provided in subsection 3, before the Department may sell feral livestock, the Department must publish notice of the sale of the feral livestock in a newspaper published at the county seat of the county in which the gathering of the feral livestock occurred. If there is no newspaper published at the county seat of the county, the notice must be published in the newspaper published at the nearest point to that county seat. A notice of a sale published pursuant to this section need not include full descriptions of the feral livestock, but may include such information and details as the Department determines necessary.

3. The Department may sell injured, sick or otherwise debilitated feral livestock if, as determined by the Department, the sale of the feral livestock is necessary to facilitate the placement or other disposition of the feral livestock. If feral livestock is sold pursuant to this subsection, the Department shall give a brand inspection clearance certificate to the purchaser.

**569.080. Sale, placement or other disposition of unclaimed estray; sale or placement of unclaimed feral livestock; issuance of brand inspection clearance certificate upon sale; marking, branding or identifying required before sale or placement.**

1. If an estray is not claimed within 5 working days after the last publication of the advertisement required by NRS 569.070, it must be:

(a) Sold by the Department; or

(b) Held by the Department until the estray is given a placement or other disposition through a cooperative agreement established pursuant to NRS 569.031 for the management, control, placement or disposition of estrays and feral livestock.

2. If feral livestock is not claimed by the date of sale published pursuant to NRS 569.075, the feral livestock must be sold by the Department pursuant to NRS 569.075 or placed pursuant to a cooperative agreement established pursuant to NRS 569.031 for the management, control, placement or disposition of estrays and feral livestock.

3. If the Department sells the estray or feral livestock, the Department shall give a brand inspection clearance certificate to the purchaser.

4. Estrays and feral livestock must be marked, branded or identified with an individual animal identification before sale or placement.

**569.090. Deposit of balance of proceeds of sale; records; payment to owner.**

1. Except as otherwise provided pursuant to a cooperative agreement established pursuant to NRS 569.031 for the management, control, placement or disposition



of estrays and feral livestock, the Department shall:

(a) Pay the reasonable expenses incurred in taking up, holding, advertising and selling the stray or feral livestock, and any damages for trespass allowed pursuant to NRS 569.440, from the proceeds of the sale of the stray or feral livestock and shall place the balance in an interest-bearing checking account in a bank or credit union qualified to receive deposits of public money. The proceeds from the sale and any interest on those proceeds, which are not claimed pursuant to subsection 2 within 1 year after the sale, must be deposited in the State Treasury for credit to the Livestock Inspection Account.

(b) Make a complete record of the transaction, including any marks and brands and other means of identification of the stray, and shall keep the record available for inspection by members of the general public.

2. If the lawful owner of the stray or feral livestock is found within 1 year after its sale and proves ownership to the satisfaction of the Department, the net amount received from the sale must be paid to the owner.

3. If any claim pending 1 year after the date of sale is denied, the proceeds and any interest thereon must be deposited in the Livestock Inspection Account.

**569.100. Person taking up stray or feral livestock entitled to hold animal until relieved of custody; unlawful use or taking of stray or feral livestock; penalties.**

1. A person who takes up an stray or feral livestock as provided for in NRS 569.040 to 569.130, inclusive, is entitled to hold the stray or feral livestock lawfully until relieved of custody by the Department.

2. A person shall not use or cause to be used, for profit or otherwise, any stray or feral livestock in the person's keeping under the provisions of NRS 569.040 to 569.130, inclusive. A violation of this subsection shall be deemed grand larceny or petit larceny, as set forth in NRS 205.2175 to 205.2705, inclusive, and the person shall be punished as provided in those sections.

3. Any person taking, leading or driving an stray or feral livestock away from the possession of the lawful holder, as specified in NRS 569.040 to 569.130, inclusive, except as otherwise provided in this section, is subject to all the penalties under the law, whether or not the person is the claimant of the stray or feral livestock.

**569.110. Escaped or removed stray or feral livestock may be recovered by person who took it up.**

If any stray or feral livestock, after having been taken up by a person in accordance with the provisions of NRS 569.040 to 569.130, inclusive, escapes or is removed from the custody of the person before being disposed of under the provisions of NRS 569.040 to 569.130, inclusive, the person has the legal right to recover the stray or feral livestock wherever found and to hold it until it is disposed of as provided in NRS 569.040 to 569.130, inclusive.

**569.120. Estrays and feral livestock may be taken up by agents of Department; procedure for disposal.**

Estrays and feral livestock may be taken up by authorized agents of the Department. The disposal of the estrays and feral livestock must be conducted in the manner set forth in



the provisions of NRS 569.040 to 569.130, inclusive.

### **569.130. Penalties.**

Any person, including, without limitation, any firm, company, association or corporation, who takes up or retains in his or her possession any stray or feral livestock not the person's property, without the owner's consent, or except in accordance with the provisions of NRS 569.040 to 569.130, inclusive, is guilty of a misdemeanor.

### **Livestock**

#### **569.431. "Legal fence" defined.**

As used in NRS 569.431 to 569.471, inclusive, "legal fence" means a fence with not less than four horizontal barriers, consisting of wires, boards, poles or other fence material in common use in the neighborhood, with posts set not more than 20 feet apart. The lower barrier must be not more than 12 inches from the ground and the space between any two barriers must be not more than 12 inches and the height of top barrier must be at least 48 inches above the ground. Every post must be so set as to withstand a horizontal strain of 250 pounds at a point 4 feet from the ground, and each barrier must be capable of withstanding a horizontal strain of 250 pounds at any point midway between the posts.

#### **569.440. Liability caused by trespassing livestock; liability of landowner for injury to trespassing livestock; trespassing livestock treated as estrays.**

1. Except as otherwise provided in NRS 569.461 and 569.471:

- (a) If any livestock break into any grounds enclosed by a legal fence, the owner or manager of the livestock is liable to the owner of the enclosed premises for all damages sustained by the trespass. If the trespass is repeated by neglect of the owner or manager of the livestock, the owner or manager of the livestock is for the second and every subsequent offense or trespass, liable for double the damages of the trespass to the owner of the premises.
- (b) If any owner or occupier of any grounds or crops trespassed upon by livestock entering upon or breaking into his or her grounds, whether enclosed by a legal fence or not, kills, maims or materially injures the livestock so trespassing, the owner or occupier of the grounds or crops is liable to the owner of the livestock for all damages, and for the costs accruing from a suit for such damages, when necessarily resorted to for their recovery.
- (c) The owner or occupier of grounds or crops so damaged and trespassed upon may take up and safely keep, at the expense of the owner or owners thereof, after due notice to the owners, if known, the livestock, or so many of them as may be necessary to cover the damages the owner or occupier of grounds or crops may have sustained, for 10 days, and if not applied for by the proper owner or owners before the expiration of 10 days, the livestock may be posted under the stray laws of the state, and before restitution may be had by the owner or owners of the livestock, all damages done by them, as well also as the expense of posting and keeping them, must be paid. Any justice of the peace in the township has jurisdiction of all such reclamation of livestock, together with the damages, and expense of keeping and posting the same, when the amount claimed does not exceed \$2,500.



2. When two or more persons cultivate lands under one enclosure, neither of them may place or cause to be placed any livestock on his or her ground, to the injury or damage of the other or others, but is liable for all damages thus sustained by the other or others. If repeated, after due notice is given, and for every subsequent repetition, double damages are recoverable in any court having jurisdiction.

**569.450. Trespass on cultivated land: No award of damages unless land enclosed by legal fence.**

No person is entitled to collect damages, and no court in this state may award damages, for any trespass of livestock on cultivated land in this state if the land, at the time of the trespass was not enclosed by a legal fence.

**569.461. Liability of developer of residential, commercial or industrial structure adjoining pasture for damages to legal fence.**

1. When a residential, commercial or industrial structure is erected, or any other commercial or industrial activity is undertaken, on land adjoining a pasture and separated from the pasture by a legal fence, the developer of the structure or the person undertaking the activity, unless he or she makes the election permitted by [NRS 569.471](#), shall repair any damage to the fence caused by or related to the erection of the structure, the associated development of the land or the activity undertaken. The developer or person undertaking the activity is liable for any damage done by any livestock which stray from the pasture through the damaged portion of the fence for which he or she is responsible, and to the owner of the livestock for any loss suffered as a result of their straying and for the loss accruing from a suit for any such damages when necessarily resorted to for their recovery.

2. For the purposes of this section, a structure is erected on land adjoining a pasture if the land on which it is erected and land adjoining the pasture are owned by the same person directly or through an affiliate, even though the area may be divided into lots, and if the site of the construction is within one-fourth of a mile of the pasture.

**569.471. Replacement of legal fence permitted; conditions; duty and liability.**

A developer or a person undertaking an activity described in NRS 569.461, at his or her own expense, may replace a legal fence with a fence certified by the Administrator of the Division to be equally impervious to livestock, but if the developer or person undertaking such activity does so, the duty and liability imposed by NRS 569.461 exist and devolve in the same manner.

**Fences and Guards for Livestock**

**705.120. Duty of maintaining fences; liability for killing livestock.**

1. Railroad corporations must make and maintain a good and sufficient fence on both sides of their track and right-of-way. In case they do not make and maintain such fence, if their engines or cars shall kill or maim any cattle or other domestic animals upon their line of road, they must pay to the owner of such cattle or other domestic animals a fair market price for the same, unless it occurred through the neglect or fault of the owner of the animal so killed or maimed.

2. Nothing in this section shall require any railroad company to fence its right-of-way through any town or city.



**705.130. Duty of constructing barriers or guards where public road crosses fenced-in right-of-way; liability for killing or injuring livestock.**

1. Every person, lessee, receiver, firm, copartnership or corporation owning, leasing or operating any railroad in, or through any part of, the State of Nevada shall, wherever a public road or highway crosses the fenced-in right-of-way of such railroad, construct such barriers, guards or other devices as will effectually prevent the entrance from such public road or highway onto the right-of-way of cattle, horses, mules and burros. Such barriers, guards, or other devices shall not be placed across, or in any wise obstruct, such public road or highway.

2. If any person, lessee, receiver, firm, copartnership or corporation owning, leasing or operating any railroad in, or through any part of, the State of Nevada shall fail to construct such barriers, guards or other devices specified in subsection 1, and any cattle, horses, mules or burros shall be killed, maimed or injured on any part of such unprotected right-of-way, the person, lessee, receiver, firm, copartnership or corporation so offending shall pay to the owner, or agent of the owner, of any such cattle, horses, mules or burros the full market value of such animals as it was before such injury occurred.

**705.140. Penalty for allowing animal to stray on enclosed right of way.**

Every person who shall willfully and maliciously suffer any animal to go upon the enclosed right-of-way of any railway company, or leave open any gate or bars so that an animal might stray upon such right-of-way, shall be guilty of a misdemeanor.

**Damages for Livestock Killed by Railroads**

**705.150. Liability for negligent killing or injuring livestock; prima facie evidence of negligence.**

Every railroad corporation or company, operating any railroad or branch thereof within the limits of this state, which negligently injures or kills any animal of the equine, bovine, ovine or porcine species, or the goat kind, 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, unless it be shown on the trial of any action instituted for the recovery of such damages as provided in NRS 705.160 that the owner of such animal or animals immediately contributed to such killing or injury; provided:

1. That the mere straying of such animal or animals upon or along the railroad track or tracks concerned shall not be held upon such trial to be any evidence of contributory negligence on the part of the owner of such animal or animals, nor shall the grazing of the same unattended by a herder be so considered; and
2. That the killing or injury in such actions shall be prima facie evidence of negligence on the part of such railroad corporation or company.

**705.160. Settlement of claim within 90 days; action for recovery; assignment of claim.**

1. If any railway company or corporation, or owner or operator of a railroad in this state, fails, within 90 days after receipt of the same, to effect settlement of claims received for damages arising from the injury or killing of livestock upon its track or right-of-way by the running of engines or cars over or against such animals in this state as provided in NRS 705.150 to 705.200, inclusive, then the owner of such injured or



killed animals may sue and recover damages for such injury or killing from any such railway company or corporation or the owner or operator of such railroad in any court of competent jurisdiction in the county in which such animal or animals was or were killed or injured, together with 7 percent interest per annum on the value of the animal or animals so injured or killed as established in such action, from the date such animal or animals was or were killed or injured until paid.

2. Any person having a claim arising under the provisions of NRS 705.150 to 705.200, inclusive, may assign the same in writing to any other claimant or person for value, or for the purpose of suit, who shall thereupon have all the rights and remedies of the assignor.

3. In case it becomes necessary on the part of the owner or owners to establish a claim for any animal or animals so killed or injured in any such action, the owner or owners shall have the right to establish the actual and market value of such animal or animals or the actual damage so sustained.

**705.170. Fenced right-of-way to be equipped with passageways and gates; responsibility of railroad.**

1. Every railroad corporation or company, in fencing its right-of-way, shall provide and maintain suitable passageways equipped with gates, except at watering holes, where openings with proper safeguards will be maintained.

2. Responsibility for measures toward prevention of unnecessary loss or injury to livestock upon railroad tracks or rights-of-way through construction and proper maintenance of suitable barriers, such as right-of-way fences and livestock guards or cattle guards at all openings or crossings through the right-of-way or track fences, or at each end of open cuts, shall lie with the owners of such railroads.

**705.180. Employee to report killing or injuring of livestock.**

Every conductor, engineer, section foreman, or other employee of any owner of a railroad in this state, who has personal knowledge of the injury or killing of any livestock of any description by the running of any engine or engines, car or cars over or against any such livestock on the track or tracks or right-of-way of such railroad shall immediately report the same by notice in writing to the general superintendent or division superintendent of the railroad by which the employee is employed, unless the employee has personal knowledge that such notice as herein provided for has already been given by some other employee of such railroad.

**705.190. Owner or operator of railroad to provide notice upon injuring or killing livestock; notice to be posted at stations and forwarded to State Department of Agriculture; contents of notice.**

1. Every owner or operator of a railroad in this state who injures or kills any livestock of any description by running an engine or car over or against the livestock shall:

(a) Within 5 days thereafter post for at least 30 days, at the first railroad station in each direction from the place of the injury or killing, notices in writing in a conspicuous place on the outside of the stations; and

(b) Within 10 days after injuring or killing the livestock, forward by registered or certified mail a duplicate of each notice to the State



Department of Agriculture.

2. The notice must:

- (a) Contain the number and kind of the animals injured or killed, with a full description of the animals, including brands and marks and sex.
- (b) Give the time and place, as near as possible, of the injury or killing.
- (c) Be dated and signed by an officer or agent of the owner or operator of the railroad concerned.

### **705.200. Penalties**

1. Any person falsely making an affidavit of ownership of any animal killed or injured under the terms of NRS 705.150 to 705.200, inclusive, is guilty of a gross misdemeanor.
2. Every person described in NRS 705.180 who fails or neglects to comply with the provisions of NRS 705.180 is guilty of a misdemeanor.
3. Every corporation, company, receiver, association or person who fails, neglects or refuses to comply with the provisions of NRS 705.190 is guilty of a misdemeanor.
4. Any person who attempts in any manner to conceal the evidence of the killing or injury of any animal or animals described in NRS 705.150 by any railroad train, engine or cars on any railroad in this state, or who in any way destroys or covers up the evidence that may lead to the identification of any animal or animals so killed or injured, is guilty of a misdemeanor.

