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States' Fence Statutes: *New Hampshire*



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**N.H. Rev. Stat. Ann. §§ 373:30 to 373:34, N.H. Rev. Stat. Ann. §§ 473:1 to 473:22,
N.H. Rev. Stat. Ann. §§ 474:1 to 474:5, N.H. Rev. Stat. Ann. §§ 467:1 to 467:2**

Current through Chapter 33 of the 2021 Reg. Sess.

Fences and Cattle Guards.

373:30 Maintenance.

Every railroad shall erect and maintain a sufficient fence upon each side of their road, except at the crossings of public highways; and, at every such crossing, they shall construct and maintain, upon each side of the highway, sufficient cattle guards or fences to prevent cattle from passing upon their road.

373:31 By Landowner.

If any railroad shall neglect to erect or maintain fences, as provided in RSA 373:30, the owner of adjoining land may give notice thereof to any agent of the railroad; and, if the fence is not erected or made sufficient within 20 days, such owner may build or repair it and recover of the railroad twice the expense of so doing in an action on the case.

373:32 Neglect to Repair.

If any person has agreed to repair or maintain such fence and neglects to do so, the railroad may rebuild the same and recover the expense of so doing of such person in an action on the case.

Cattle Guards, Etc., for Accommodation of Individuals.

373:33 Establishing.

If the owner of land and a railroad are not agreed upon the place, number or kind of cattle guards, passes or crossings to be constructed for his accommodation, either party may apply to the department of transportation, which, after notice, hearing and examination, shall determine the number, places, time and manner of construction of the same.

373:34 Failure to Construct.

If the railroad does not construct such cattle guards, passes and crossings within the times limited by the department of transportation, and does not pay the costs adjudged to be paid by it, upon request, it shall be guilty of a violation for each month's neglect.

Division Fences and Their Maintenance.

473:1 Duty.



The owners of adjoining lands under improvement shall build and repair the partition fence between them in equal shares.

473:2 Division by Agreement.

Any division of such fence, made by the parties in writing and recorded in the town records, shall be binding upon the parties and all succeeding owners and occupants of the land.

473:3 Proof of Division.

Such division may be established by usage and acquiescence of the parties, and those under whom they claim, for 20 years.

473:4 Division by Fence-Viewers.

If the parties do not agree upon a division, or a division has not been established by usage and acquiescence, the fence-viewers, upon application, shall make division, which, being recorded in the town records, shall be of the same force as a division made by the parties; and a copy of such record shall be evidence.

473:5 Legal Fences.

All fences of such height as to be reasonably adequate for their purpose and in good repair, consisting of rails, timber, boards or stone wall, barbed, electrified or woven wire, and all brooks, rivers, ponds, creeks, ditches, hedges and other things deemed by the fence-viewers to be equivalent thereto, shall be accounted legal and sufficient fences.

473:6 Proceedings for Insufficiency.

The fence-viewers, upon application of either party, shall view any fence alleged to be insufficient, and, if they judge it to be so, shall give notice to the delinquent party to build or repair the same within a time by them limited.

473:7 Waters, When Not Sufficient Fence.

The fence-viewers, upon application of either party, shall view any brook, river, pond, creek or ditch alleged not to be equivalent to a legal and sufficient fence, and, if they judge it to be not so equivalent, shall make a division of the fence, and, if it is impracticable to build it on the boundary line without unreasonable cost, shall determine where it shall be located, and shall give notice to the parties to build it according to such division and location within a time by them limited.

473:8 Default in Building or Repair.

If either party, notified as provided in RSA 473:6 or 473:7, shall not build or repair his part of such fence within the time limited, the other party may build it.

473:9 Appraisal of Fence Constructed or Repaired.

The fence-viewers, upon application, shall view any fence built or repaired as provided in RSA 473:8, and if they judge the same and the residue of the fence between the same owners upon the same tract of land to be sufficient, they shall appraise the fence so built or the repairs so made.



473:10 Recovery.

The person so building or repairing may demand and recover double the appraised value thereof of the delinquent party, with costs of suit, in an action of assumpsit.

473:11 Improving Wild Land.

The owner of improved land adjoining unimproved land of another, having erected a division fence, may demand and recover of the owner of such adjoining land, whenever he begins to improve the same, the value of such part of the fence as upon a division then or previously made it was his duty to build.

473:12 New Division.

If after a division of fence made or established between adjoining owners a new division for any cause shall become necessary, then either party who has maintained any part of the fence under the former division may demand and recover of the owner of the adjoining land at the time of such new division the value of such part of the fence as may be assigned to him on the new division.

473:13 Appraisal in Default of Agreement.

In such case, if the parties do not agree, the fence-viewers, on application, shall appraise such part, and the party may recover the value appraised or agreed in an action of assumpsit for so much fence sold, if the same is not paid in 30 days after demand.

473:14 Laying Land in Common.

If the owner of land ceases to improve it, or lays it in common, and gives notice thereof in writing to the adjoining owner, if known, or files such notice with the town clerk if the adjoining owner is unknown, he shall not be bound to repair his part of the division fence, after giving or filing such notice, so long as the land remains unimproved or in common; but he shall not remove his part of the partition fence in existence when the notice is given or filed.

473:15 Liability for Damages.

The party neglecting to build or keep in repair any partition fence which he is bound to maintain is liable for damages arising from such neglect, and shall have no remedy for damages happening to himself therefrom.

473:16 Who Deemed Owner.

The actual occupant of land shall be deemed the owner thereof for any of the purposes of this chapter.

473:17 Application.

Every application to the fence-viewers shall be in writing, and one application may embrace so many subjects as from the nature of the case may be acted upon at one meeting.

473:18 Notice; Hearing.

The fence-viewers shall give notice in writing to the other party interested therein of every application, and of the time and place for considering the same; shall hear the parties, if they attend, and their evidence; and shall make their decision in writing and cause a copy



thereof to be given to each of the parties within one week.

473:19 Decision Conclusive.

The decision of the fence-viewers, upon their being sworn that they have acted impartially, uprightly and to the best of their judgment, shall be final and conclusive upon the parties.

473:20 Jurisdiction.

If the fence in controversy is situated on the line of 2 towns, the application shall be made to the fence-viewers of the town in which the parties reside; if they reside in different towns, it shall be made to the fence-viewers of that town in which the applicant does not reside.

473:21 Penalty.

Any fence-viewer neglecting without sufficient cause to attend and perform any official duty shall be guilty of a violation.

473:22 Compensation; Costs.

The fence-viewers shall be paid \$2 a day each for services by the party making the application, who may recover 1/2 thereof from the other party, unless the fence-viewers otherwise apportion the costs, but, in case of neglect by such other party to make or repair the part of the fence which he is bound to maintain, the whole costs may be recovered from him.

Fencing and Renewing Bounds of Common Fields

474:1 “Owner” Defined.

The actual occupant of land shall be deemed the owner thereof for any purposes of this chapter.

474:2 Meeting of Owners.

When several owners of land agree to improve the same in one common field, any justice, on application of 2 or more owners, may call a meeting of such owners, and the majority of them, when met, may determine in what manner the common field shall be fenced.

474:3 Assignment of Share.

The owners may assign to each owner the share of fence to be erected and maintained by him, and, such assignment being recorded in the town records, he and all succeeding occupants of his land shall be liable in relation thereto as if the same were a partition fence between his own land and that of an adjoining owner.

474:4 Taxation.

Such owners may adopt bylaws for building and maintaining their common fence by a tax, and their officers, chosen in conformity to such bylaws, may assess and collect such taxes.

474:5 Renewing Bounds.

Owners of adjoining improved lands where there is no partition fence shall, once in every 5 years, run the lines and renew the bounds between them, and any such owner neglecting without sufficient excuse to attend and renew the bounds, upon 6 days' previous notice given by any other such owner, shall forfeit \$5 to the owner giving the notice.



Running at Large

467:1 Bull.

An owner or keeper of a bull more than 6 months old, who willfully or negligently permits such bull to run at large, out of the enclosure of such owner or keeper, shall be guilty of a violation, and any fine collected hereunder shall inure to the use of the town in which the offense was committed, and shall also be liable to a party injured for the damage done by such bull while running at large.

467:1-a Stallions.

Any owner or keeper of a stallion more than 12 months old, who willfully or negligently permits such stallion to run at large, out of the enclosure of such owner or keeper, shall be guilty of a violation. The fine imposed shall be for the use of the town in which the offense was committed, and the guilty party shall also be liable to the party injured and for damage done by such stallion running at large.

467:2 Ram.

If any person shall willfully or negligently suffer any ram belonging to him, or in his care, to go at large out of his enclosure between August 1 and December 1 in any year he shall be guilty of a violation for each offense.

