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States' Fence Statutes: *Rhode Island*



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**R.I. Gen. Laws §§ 4-14-1 to 4-14-20, §4-15-4, R.I. Gen. Laws §§ 34-10-1 to 34-10-20,
R.I. Gen. Laws § 39- 8-18**

Current with effective legislation through Chapter 38 of the 2021 Regular Session of the Rhode Island Legislature.

Chapter 14. Damage by Animals.

§ 4-14-1. Animals at large--Civil liability—Penalty.

No horse, bull, boar, ram, or goat shall be permitted to run at large and if the owner or keeper of these, for any reason suffers any animals to do so he or she shall upon conviction be fined not in excess of one hundred dollars (\$100) and be liable in addition for all damages done by the animal while so at large, although the animal escapes without the fault of the owner or keeper. The construction of any lawful fence shall not relieve the owner or keeper from liability for any damage committed by an animal of the enumerated class upon the enclosed premises of an adjoining owner.

§ 4-14-2. Animals breaking into enclosure--Action for damages—Impoundment.

If any neat-cattle, horses, sheep, or hogs breaks through a lawful fence into the enclosure of any person, the person aggrieved may recover his or her damages either by action against the owner of the trespassing beasts or by impounding the beasts.

§ 4-14-3. Appraisal of damages for recovery by impoundment.

The party aggrieved, in order to be entitled to recover damages by impounding, shall, within two (2) days after the beasts break into his or her enclosure, get two (2) qualified electors of the city or town where the trespass is committed, to appraise the damage and give a statement, in writing, under their hands, and lodge the statement with the poundkeeper.

§ 4-14-4. Notice to owner of impoundment.

Whenever beasts are impounded, the poundkeeper shall, within forty-eight (48) hours, give notice, in writing, to the owner, if the owner is known to him or her and resides within six (6) miles from the pound. The notice shall be delivered to the owner or left at his or her place of abode, and shall contain a description of the beasts and a statement of the time and cause of impounding and in case the owner is not known, or resides more than six (6) miles from the pound, the person impounding shall post the notice in three (3) public places in the town in which the beasts are impounded.

§ 4-14-5. Sale of impounded animals.

If the owner of impounded beasts shall not, within ten (10) days after the impounding, pay and satisfy the damages appraised and the charges of impounding and feeding those beasts, or shall not replevy those beasts, the poundkeeper shall cause them to be sold by public auction in the city or town where they are impounded, first advertising the sale by giving



personal notice to the owner of the beasts, if he or she be known, and if he or she be not known, by posting notices of the sale at least three (3) days before the sale in three (3) public places in the city or town in which the beasts are impounded.

§ 4-14-6. Disposition of proceeds of sale.

The proceeds of sale, after paying all the damages, costs, and expenses, with the costs of advertising and selling the beasts, shall be paid into the city or town treasury, for the use of the owner of those beasts, if he or she substantiates his or her claim within two (2) years from sale.

§ 4-14-7. Feeding of impounded animals--Collection of fees.

The poundkeeper shall feed the impounded beasts at the charge of the owner, and he or she shall not deliver them to the owner until the owner pays the fees, together with the sum demanded for damages and all other legal costs and expenses.

§ 4-14-8. Impoundment fees.

The poundkeeper shall be allowed as his or her fee for impounding, for each neat-beast or horse, twenty-five cents (25¢); for each hog or sheep, five cents (5¢); and for each notification set up, or notice given to the owner, twenty-five cents (25¢); and ten cents (10¢) per mile for travel in giving personal notice, to be computed from the pound to the place of service.

§ 4-14-9. Action for damages after impounded animals returned to owner.

If the owner of the impounded beasts within two (2) days after they are impounded, demand of and receive from the poundkeeper those impounded beasts and pay the charges, and if the person impounding has not lodged with the poundkeeper a statement of damages, he or she may have his or her action for those damages, provided he or she performs all the requisitions and proceedings mentioned in § 4-14-3.

§ 4-14-10. Replevin to recover impounded animals.

Any person whose beasts are impounded may, if he or she sees cause, maintain a writ of replevin, to be sued out and prosecuted before the district court having jurisdiction in the city or town where they were impounded.

§ 4-14-11. Procedure in replevin.

The writ shall be sued out, served and returned, and the cause heard and determined in like manner as other civil actions before a district court in all particulars in which a different course is not prescribed.

§ 4-14-12. Replevin bond.

The writ shall not be served unless the plaintiff or someone in his or her behalf executes and delivers to the officer a bond to the defendant, with sufficient sureties, to be approved by the officer, in a penalty double the value of the beasts to be replevied, with condition to prosecute the replevin to final judgment and to pay any damages and costs as the defendant shall recover against him or her, and also to return the beasts in case that is the final judgment, which bond the officer shall return with the writ, to be left with the court for the use of the defendant.

§ 4-14-13. Judgment in replevin.

If it appears that the beasts were lawfully impounded, the defendant shall have judgment



for any sum as shall be found due from the plaintiff for the damages for which the beasts were impounded, together with all the legal fees, costs, charges, and expenses and the costs of the action of replevin, or instead of this judgment the court may, in its discretion, enter judgment for a return of the beasts to the defendant, to be held by him or her irrepleviable by the plaintiff and for defendant's damage for the taking by the replevin and for his or her costs of suit. In case the plaintiff in replevin shall not enter his or her suit in replevin, the defendant may file his or her complaint before the court and have judgment against the plaintiff as provided.

§ 4-14-14. Disposition of replevied animals returned to defendant.

Whenever the beasts are returned to the defendant pursuant to a judgment under § 4-14-13, they shall be held and disposed of in like manner as if they had not been replevied.

§ 4-14-15. Judgment for plaintiff in replevin.

If it appears, upon the default of the defendant or otherwise, that the beasts were taken without sufficient or justifiable cause, the plaintiff shall have judgment for his or her damages caused by the unjust taking and detaining of the beasts, and for his or her costs of suit.

§ 4-14-16. Appeal in replevin.

Either party may, in the district court, claim an appeal in the action brought pursuant to § 4-14-13, in the same manner and with the same effect as is by law provided in other civil actions in a district court.

§ 4-14-17. Actions beyond jurisdiction of district court.

Whenever the sum demanded for damages exceeds five thousand dollars (\$5,000) or whenever the ownership in the beasts is in question and their value exceeds that sum, the action shall be brought before the superior court for the same county, and whenever this fact appears of record or in evidence in any action brought in the district court, the district court shall proceed no further; but shall certify the action to the superior court for that county, which shall proceed to try the action as if it had originally been brought there.

§ 4-14-18. Appraisal in action for damages against owner of animals.

If the aggrieved person proceeds by action against the owner or keeper of the trespassing beasts, he or she shall get two (2) disinterested inhabitants of the city or town where the trespass was committed to appraise the damages and to give him or her a certificate, in writing, under their hands, which certificate shall be attached to his or her writ and makes an essential part of the writ; and under no circumstances shall he or she recover from the defendant in the action, unless the appraisal and certificate are made within ten (10) days after the time the trespass was committed, nor then to a greater amount of damages than the amount named in the certificate.

§ 4-14-19. Right of action where animals break division fence.

Nothing in this chapter contained shall be construed as to impair the right of any proprietor or occupant of land to recover all the damages which he or she sustains by any cattle, sheep, horses, or hogs breaking into his land through that part of the division fence between him or her and the adjoining owner which it is the right and duty of that adjoining owner to repair, if that part of the division fence at the time is out of repair or not conformable to law.

§ 4-14-20. Use of the terms owner or guardian.



Wherever the word "owner" shall appear in this chapter it shall also mean and may be interchanged with the word "guardian" as defined in § 4-1-1.

§ 4-15-4. Grazing animals deemed at large.

Every horse, neat-beast, sheep, or hog which feeds or grazes upon any highway or common, or on any land thrown open as a way for public travel and used by the public for travel, is deemed to be going at large.

Chapter 10. Fences.

§ 34-10-1. Lawful fences defined.

The following fences shall be adjudged to be lawful fences:

- (1) A hedge with a ditch shall be three feet (3') high upon the bank of the ditch, well staked, at the distance of two feet and a half (2 1/2'), bound together at the top and sufficiently filled to prevent small stock from creeping through; and the bank of the ditch shall not be less than one foot (1') above the surface of the ground.
- (2) A hedge without a ditch shall be four feet (4') high, staked, bound and filled, as a hedge with a ditch.
- (3) A post-and-rail fence on the bank of a ditch shall be four (4) rails high, each well set in posts, and not less than four feet and a half (4 1/2') high.
- (4) A stone wall fence shall be four feet (4') high, with a flat stone hanging over the top thereof or a good rail or pole thereon, well staked or secured with crotches or posts.
- (5) A stone wall without flat stones, rails or posts on the top, shall be four feet and a half (4 1/2') high.
- (6) A woven wire fence of wire not less than number nine, firmly fastened to posts not more than sixteen feet (16') apart, constructed of not less than eleven (11) horizontal wires, the top wire not less than fifty-four inches (54") from the ground, the bottom wire not more than two inches (2") from the ground and with stays or uprights not more than six inches (6") apart.
- (7) All other kinds of fences not herein particularly described shall be four feet and a half (4 1/2') high.

§ 34-10-2. Consent of adjoining owner to barbed-wire fence.

No fence shall be constructed wholly or in part of barbed wire, as a line fence between adjoining owners, without the consent in writing of the adjoining owners.

§ 34-10-3. Removal of barbed-wire fence.

Any adjoining owner who shall not have given his or her consent as provided in § 34-10-2 may complain of the fence to any fence viewer of the town where the fence is located, and may advance to the fence viewer the reasonable expense necessary to remove and store the fence. It shall then be the duty of the fence viewer to notify in writing the other adjoining owner to forthwith remove the fence. If the fence shall not be removed within fifteen (15) days after the giving of the notice, then it shall be the duty of the fence viewer to remove the fence and to store the materials removed. He or she shall deliver the fence materials removed to the owner upon demand.



§ 34-10-4. Expense of removal of barbed-wire fence.

The fence viewer or the adjoining owner who has advanced the necessary expense to remove and store the fence may recover all of the expense in an action of debt from the person or persons who caused or suffered the fence to be built.

§ 34-10-5. Barbed-wire fences through woodland--Fences existing before 1906.

The provisions of §§ 34-10-2--34-10-4 shall not apply to line fences running through woodland nor to barbed-wire fences constructed before April 20, 1906.

§ 34-10-6. Maintenance of water fences.

Coterminous owners or possessors of land adjoining water, whenever their land is under improvement, shall make and maintain a sufficient water fence to prevent trespass by cattle in the same manner as other partition fences are directed to be made by this chapter.

§ 34-10-7. Marshland exempt.

All tracts of marshland so situated and exposed to the flow and wash of the sea as to render it impracticable for the several owners thereof to keep up partition fences around the respective shares or lots, shall be exempted from the operation of this chapter.

§ 34-10-8. Remedies of marshland owner to trespass.

If any person shall permit any cattle, sheep, horses or hogs, to him or her belonging, to run upon any tract of marshland, the owner of the marshland shall, for every trespass, have all the remedies provided in other cases by chapter 14 of title 4.

§ 34-10-9. Placement of partition fences--Maintenance throughout year.

All partition fences shall run on the dividing line, and the owners shall have the right to place one-half (1/2) of the width thereof on the land of each adjoining proprietor. The fences shall be kept up and maintained in good order through the year, unless the parties concerned shall otherwise agree.

§ 34-10-10. Partition fences between lands under improvement.

Partition fences between lands under improvement shall be made and maintained in equal halves in length and quality, by the proprietors or possessors of those lands respectively.

§ 34-10-11. Partition fences between improved and unimproved lands.

In case any proprietor of land shall improve his or her land, the land adjoining being unimproved, and shall make the whole partition fence, the proprietor or possessor of the land adjoining and unimproved shall, upon improvement thereof, pay for one-half (1/2) of the partition fence, according to the value thereof at that time, and shall keep up and maintain the same ever afterwards, whether he or she shall continue to improve the land or not.

§ 34-10-12. Payment for previously constructed fence.

Whenever the whole or more than one-half (1/2) of any partition fence shall have been made by the proprietor or possessor of the land on one side of the fence, the proprietor or possessor of the land adjoining, when he or she improves the land, shall pay to the proprietor or possessor who made the fence the value of so much of the fence erected as the fence



may exceed one-half (1/2) of the fence on the whole line; and in case of his or her refusal so to do, the value shall be ascertained by any fence viewer of the town where the land is situated, on application to him or her for that purpose.

§ 34-10-13. Viewing and division of fence--Award of cost.

The fence viewer, on an application, shall cite the parties in interest on the dividing line, at a convenient time, to view the fence; shall ascertain the value of the whole, and award the one-half (1/2) of the sum against the proprietor or possessor so refusing, with costs, and divide the whole fence between the parties, and make report into the office of the town clerk, which division shall be permanent; and if any person against whom report shall be made as aforesaid shall refuse to pay the sum so reported, the sum, with costs, shall be recovered by the party aggrieved, against that person, by action of debt.

§ 34-10-14. Holding and improving partition fences--Agreements between owners.

In all cases where partition fences are erected as one-half (1/2) of the partition fence between proprietors or possessors of adjoining lands, or where the fence may be hereafter erected by the agreement of the parties in interest or other lawful manner, the proprietors of the fences in either of the cases erected, their heirs, successors, or assigns, shall hold and improve the fences without molestation; and shall be forever afterwards excused from making other fence on such dividing line in all cases whatever, except by the special agreement of the parties to the contrary; and all agreements which shall be made relating to the partition fences shall be registered in the office of the town clerk in the town where such lands shall lie.

§ 34-10-15. Complaint of neglect to maintain fence.

(a) Whenever any proprietor, possessor or owner of land shall neglect or refuse to repair, build, or rebuild any partition fence or shall withdraw his or her fence from any division line, the aggrieved party may complain to any fence viewer of the town, who, after ten (10) days' notice to the proprietor, possessor, or owner, shall attend and view the same; the notice, if the address of the owner is not known to the fence viewer, to be given by posting up the same in three (3) or more public places in the town where the lands lie, and if he or she shall find the complaint to be true, he or she shall in writing order the delinquent party to repair, build, or rebuild the same within such time as he or she shall therein appoint, not exceeding fifteen (15) days, and shall lodge a copy of the order in the office of the town clerk of the town in which the land is situated.

(b) Whenever any vegetation overgrows and damages a partition fence, the proprietor, possessor or owner of the land from which the vegetation originates shall be liable for the removal of all of the overgrown vegetation and the necessary repairs to the partition fence caused by the overgrown vegetation.

§ 34-10-16. Construction or repair of fence by complainant--Action for cost and penalties.

If the order shall not be complied with the complainant may build, repair, or rebuild the fence in the manner set forth in the order, and when the fence shall be completed to the satisfaction of such fence viewer he or she shall ascertain the cost thereof and give a certificate of the same, including also his or her fees, to the complainant, who shall be entitled to demand and recover of the party delinquent double the sum in the certificate mentioned, and interest at the rate of twelve per cent (12%) per annum. The fence viewer shall lodge a like certificate, to be signed by him or her, in the town clerk's office of the town in which the land lies, and the



double sum above-mentioned shall be a lien on the land of the delinquent party, and shall attach at and from the time of the filing of the order in the town clerk's office, as provided in § 34-10-15, and may be recovered in a civil action. If the defendant cannot be found within the state, the writ shall be served by leaving an attested copy thereof in the clerk's office of the town wherein the land is situated, and the judgment in the action may be satisfied by an execution issued thereon, levied and served in the same manner as provided for the levy and service of executions in actions at law.

§ 34-10-17. Settlement of controversies by viewer.

Whenever any controversy or dispute shall arise about the rights of the respective occupants or owners in division lines or partition fences and their obligations to maintain the same, either party may apply to a fence viewer of the town where the lands lie, who, after ten-days' notice to each party, to be given as provided in § 34-10-15, may in writing determine the division line and assign to each his or her part of the partition fence, and direct the time within which each party shall erect, build, or repair his or her part of the fence, which line and assignment being recorded in the office of the town clerk, shall be binding on the parties and all succeeding owners and occupants of the lands, and they shall always thereafter maintain their respective parts of the fence, until the rights of the respective parties shall be differently determined in some proper action.

§ 34-10-18. Viewer's fees.

Every fence viewer shall be allowed six dollars (\$6.00) per day for viewing any fence on complaint made to him or her for that purpose, which fees shall be paid in the first instance by the person complaining to him or her; and in case there shall appear to be good cause of complaint, may be by him or her recovered back of the person complained against.

§ 34-10-19. Neglect of duty by viewer.

If any fence viewer, to whom complaint shall be made against any person for a violation of any of the provisions imposed on him or her by this chapter, shall neglect or refuse to do the duty enjoined on him or her to do, the fence viewer so refusing shall forfeit five dollars (\$5.00) for every instance of neglect, to be recovered by any person who shall sue for instances of neglect in the town where the fence viewer shall live.

§ 34-10-20. Spite fences.

A fence or other structure in the nature of a fence which unnecessarily exceeds six feet (6') in height and is maliciously erected or maintained for the purpose of annoying the owners or occupants of adjoining property, shall be deemed a private nuisance, and any owner or occupant who is injured, either in the comfort or enjoyment of his or her estate thereby, may have an action to recover damages for the injury.

Chapter 8. Railroad Crossings.

§ 39-8-18. Fences along right of way.

Every railroad corporation or company shall erect and thereafter maintain a fence or fences along the boundary lines of its rights of way which are actually used for rail transportation of any kind whenever the Public Utilities Commission shall determine it to be necessary for the public safety and welfare. The commissioner may prescribe the height, length, materials, and design of the fence or fences.

