



The National Agricultural Law Center

nationalaglawcenter.org | nataglaw@uark.edu | [@nataglaw](https://twitter.com/nataglaw)

States' Fence Statutes: *Vermont*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

States' Fence Statutes: Vermont

Vt. Stat. Ann. Tit. 5, §§ 3639 to 3650, Vt. Stat. Ann. Tit. 20, §§ 3341 to 3454, Vt. Stat. Ann. Tit. 24, §§ 3801 to 3817

The statutes are current through Acts 1 through 19, 21-42, and, M-1 of the Regular Session of the 2021-2022 Vermont General Assembly (2021).

Subchapter 4. Farm Crossings, Cattle Guards, Fences and Watercourses.

§ 3639. Farm crossings and cattle guards; construction and maintenance.

(a) A person or corporation owning or operating a railroad shall construct and maintain farm crossings of the road for the use of the proprietors of lands adjoining the railroad, and cattle guards at all farm and road crossings sufficient to prevent cattle and animals from getting on the railroad. A farm crossing may be temporarily or permanently closed or discontinued by mutual agreement between all parties having an interest therein. If no such mutual agreement can be reached by such interested parties, then a person or corporation owning or operating a railroad and desiring to close any farm crossing shall make application to the Transportation Board. The Board shall thereupon give notice to all parties interested, in such manner as the Board may direct, of hearing on the application, the hearing to be in the county where such crossing is located. After the hearing, a person or corporation owning or operating a railroad shall not close such farm crossing without the approval of the Transportation Board. A person aggrieved by the closing of a farm crossing after January 1, 1955 by a person or corporation owning or operating a railroad may notify the Transportation Board by registered or certified mail of the closing, and thereupon the Board shall conduct a hearing. Notice and place of hearing shall be as set forth in this subsection. The Transportation Board may require the reopening of any such crossing and make such other order as is permitted in section 3649 of this title. At any such hearing, the burden of proof shall rest with the person or persons effecting or seeking to effect the closing of such farm crossing. Any person aggrieved by an order of the Transportation Board may, in accordance with Rule 74 of the Vermont Rules of Civil Procedure, appeal to the Superior Court, whereupon such cause shall be tried as an original action brought under the provisions of 12 V.S.A. § 402.

(b) A person or railroad corporation closing any farm crossing in violation of a provision of this section or failing to comply with any such order shall be fined not less than \$50.00 nor more than \$500.00 and any person aggrieved by such violation may recover his or her damages in an action on this statute.

§ 3640. Board, when parties disagree.

When the parties cannot agree upon the plan, manner, or number of the farm crossings, the same shall be determined by the transportation board on petition and after a public hearing. However, if the cost of such farm crossings exceeds the value of the land to be



accommodated thereby, the board need not order such crossings to be made, but shall award reasonable damages in lieu thereof.

§ 3641. Cattle guards at highway crossings.

The provisions of law relieving parties owning property adjoining a highway from maintaining fences along the line of such highway shall not be held to relieve persons owning or operating a railroad from maintaining cattle guards at points where such railroad crosses a highway at grade.

§ 3642. Fences; construction and maintenance.

(a) A person or corporation owning or operating a railroad shall construct and maintain on the sides of its road, when completed and in running order, a good and sufficient fence, along land of an operating farm adjacent to the railroad.

(b) Whenever the owner or occupant desires to pasture livestock on land adjacent to the railroad not then used for pasturing livestock and desires the railroad to erect the portion of the fence next to the tracks, he shall fence the portion of that land which is not adjacent to the railroad, and the railroad shall construct the portion of the fence adjacent to its tracks within five days of notice to it from the owner or occupant that his portion of the fence has been completed, and shall maintain that fence so long as the adjacent land is used for pasturing livestock.

§ 3643. Neglect; proceedings.

When a person or corporation owning or operating a railroad does not construct and maintain a fence as required by this chapter, any person aggrieved may construct it. The selectboard members of the town in which the same is located shall appraise the value thereof, and the person or railroad corporation shall pay the amount so awarded by the selectboard members to the person so aggrieved. On failure of the person or corporation to pay the amount so awarded, the person so constructing such fence may recover the same in an action on this statute. Such a person or railroad corporation shall not be required to build such fence while the ground is frozen.

§ 3644. Construction of fence when landowner is to keep it.

The provisions requiring a person or corporation owning or operating a railroad to construct and maintain fences shall not apply when such person or corporation has settled with and paid the landowner for building and maintaining such fence. When a landowner thus paid for keeping such fence in repair neglects so to do, the person or corporation owning or operating such railroad may make the repairs and recover the necessary expense thereof of such landowner or his or her grantee.

§ 3645. Damage to animals on railroad.

Until fences and cattle guards are duly made, such person or corporation and their agents shall be liable for the damages done by agents or engines to cattle, horses, or other animals thereon, if occasioned by want of such fences and cattle guards. After such fences and guards are made, the person or corporation shall not be liable for such damages, unless negligently or wilfully done.

§ 3646. Driving animals or vehicle within fences on railroad; damages; penalty.



A person who rides, leads, or drives a horse or other animal or operates a motor vehicle or a snowmobile upon a railroad, and within such fences and guards, other than at road and farm crossings, without the consent of the corporation shall forfeit not more than \$50.00 to be recovered by the corporation in an action on this statute, and shall also pay the damages sustained thereby to the party aggrieved.

§ 3647. Allowing animal to be at large in roadway; damages; penalty.

When a horse or other beast is found going at large within the limits of a railroad after the same is opened for use, the person through whose fault or negligence such horse or other beast is so at large shall forfeit not more than \$20.00 for every horse or other beast so found going at large, and shall be liable for the damages thereby sustained by any person, such forfeiture and damages to be recovered in an action on this statute.

§ 3648. Complaint regarding fences, guards, crossings, watercourses.

A person through whose land a railroad passes, after such road is in operation, and after 10 days' notice by registered or certified letter addressed to the principal office of such railroad, may make complaint in writing to the transportation board that he or she is aggrieved by the neglect or default of a railroad corporation in constructing or maintaining fences, cattle guards, or farm crossings which the corporation is bound to construct or maintain, or by its stopping, impeding, or altering a watercourse, or by its making or stopping a ditch. The board shall give reasonable notice to the petitioner and to the railroad corporation and to any other parties having an interest in the subject matter of the complaint, of the time and place of hearing thereon, and such notice shall be given by registered or certified mail or by personal delivery.

§ 3649. Order of board.

After hearing, the board may make a written order requiring the corporation to construct or maintain in good repair such fence, cattle guard, or farm crossing, or to make or alter such watercourse or ditch, or to remove such impediment to the same, within such time as it may fix. Such corporation shall not be required to open a ditch while the ground is frozen, nor to alter the natural course of or do any act in regard to a watercourse which it is not legally bound to do, nor to comply with such order until ten days after being served with a copy thereof.

§ 3650. Penalty.

Unless the board has extended the time for cause shown, a railroad corporation failing to comply with such order for more than 20 days after the time fixed therefor by the board, shall be fined not more than \$25.00 for each day's failure. Such corporation shall be further liable to the party aggrieved for the damages he sustains in consequence of such failure.

Subchapter 1. General Provisions.

§ 3341. Cattle, horses, sheep, goats, or swine.

A person who knowingly permits cattle, horses, sheep, goats, or swine to run at large in a public highway, or yard belonging to a public building, without the consent of the selectboard, shall be fined not more than \$10.00 nor less than \$3.00.

§ 3342. Public park, common, or green.

A person who permits cattle, horses, sheep, goats, or swine to run at large in a public park, common, or green, without the consent of the selectboard, shall be fined not more than \$25.00 nor less than \$5.00.



§ 3345. Land or premises of another.

A person who knowingly permits his cattle, horses, sheep, goats, swine, or domestic fowls to go upon the lands or premises of another, after the latter has given the owner notice thereof, shall be fined not more than \$10.00 nor less than \$2.00. Such person shall also be liable for the damages suffered which may be recovered in a civil action.

§ 3346. Bulls.

The owner or keeper of a bull may be fined not more than \$100.00 if such bull is more than nine months old and found unattended outside the premises owned or occupied by the owner or keeper of such bull and shall be liable to a party damaged by such bull while outside the premises of such owner or keeper. The damages may be recovered in a civil action.

§ 3347. Rams.

(a) Rams shall not be allowed to go at large between August 1 and December 1 in each year. The owner or keeper of a ram shall be liable for damages sustained by a person in consequence of such ram going at large during such time.

(b) If during such time a ram is found with sheep other than those of its owner or keeper, and not in his enclosure, the owner or keeper of such sheep may recover \$5.00 of the owner or keeper of such ram, in a civil action.

§ 3348. Marking.

(a) On or before August 1 in each year, the owner or keeper of a ram shall place on its body in durable and legible characters the initials of his or her name.

(b) If a ram is found at large out of the enclosure and possession of its owner or keeper between August 1 and December 1, without being marked as provided in subsection (a), the person taking and securing it may recover \$5.00 of the owner or keeper, to be recovered in a civil action.

(c) If a person takes up and secures a ram thus found at large with such initials upon its body, he or she shall give notice within two days to the owner thereof, if known, and if not known, shall post in a public place near where the same was found, a written notice describing the marks upon its body and the place where secured. If the owner, within six days thereafter, tenders or pays to such person \$3.00, the ram shall be restored, otherwise it shall become the property of such person.

Article 3. Animals Running at Large.

§ 3451. Cattle, horses or swine.

If a person suffers his or her neat cattle, horses, or swine to run at large on the highways or commons, any person may impound them. The owner shall pay the charges of the impounder and poundkeeper, and the poundkeeper shall not release such animals until the charges are paid.

§ 3452. Notice.

When such animals are impounded, the poundkeeper shall, within 24 hours, post a notice in a public place in the town, describing the animals and stating the time and place of impounding and the time and place of sale.



§ 3453. Sale.

If the owner of the animals, within 20 days, pays the poundkeeper his or her fees, including his or her reasonable expenses for advertising and the reasonable expense of keeping, with the impounder's fees, the animals shall be released, otherwise they shall be sold by the poundkeeper at public auction, and the avails shall be applied as in case of the sale of beasts taken doing damage when the owner is unknown.

§ 3454. Stallions.

A stallion found running at large may be impounded. Within 48 hours, the impounder shall notify the owner or keeper thereof. If the owner or keeper does not, within three days after such notice, pay to the impounder such damages as are assessed by three disinterested freeholders, appointed by a justice of the peace or a district judge of the county, with the costs and expenses of impounding, appraising, and the poundkeeper's charge of \$50.00 per day, the impounder may sell the stallion at public auction to satisfy the same, giving four days' notice of the time and place of sale, and the balance, after paying the damage and expenses, shall be paid to the treasurer of the town in which the stallion was impounded, for the use of the owner, if demanded within one year, otherwise to the use of the town.

Chapter 109. Fences and Fence Viewers.

§ 3801. Sufficient fences.

Fences four and one-half feet high, in good repair and so constructed as to prevent the escape of sheep, and any natural barrier equivalent to such fence shall be deemed sufficient, except fences on the sides of highways which the owners of land are not bound to make and maintain. Occupied land bordering upon highways shall be deemed to be the enclosure of the owner or occupant. A person driving cattle, sheep, swine, or other stock upon a highway, and exercising reasonable care, shall not be liable for damages by reason of the escape of such animals into an enclosure adjoining the highway, unless the fence between the highway and the enclosure is a sufficient fence within the meaning of this section.

§ 3802. Maintenance.

Owners or occupants of adjoining lands, where the lands of both parties are occupied, shall make and maintain equal portions of the division fence between their respective lands. The owner of unimproved and unoccupied land adjoining occupied land of another person shall make his or her proportion of a fence between such lands unless the selectboard of the town where the improved land lies, on request of either party, and on reasonable notice by the selectboard to parties interested, decides that such owner ought not to be compelled to make any part of such fence. The decision of the selectboard in such case shall be recorded in the town clerk's office and shall be final between the parties. The selectmembers shall receive for their services the fees of fence viewers.

§ 3803. When part of land unoccupied.

When the selectboard decides that the owner of the unoccupied land is not bound to make a part of the fence, the owner of the occupied land may make the whole or such part as is necessary to protect himself or herself. When the other owner occupies the adjoining land so as to be benefited by such fence, he or she shall pay to the person so making it, for his or her equal portion thereof, its value at the time.

§ 3804. Pasturing land without division fence.



When the lands of two or more individuals are lying without division fence, neither party shall put horses, cattle, sheep, swine, or other animals thereon to pasture or to run at large, until they agree to occupy the lands without division fence and in common. When they cannot agree, upon application of either party and notice to the opposite party, the fence viewers shall determine the number of animals each party may put upon such lands. When recorded in the office of the town clerk, the decision of the fence viewers shall be final.

§ 3805. When fence cannot be made on line.

When the dividing line between lands is so situated that a fence cannot be made thereon by reason of water, or otherwise, and the owners cannot agree on a place to make the same, either party may apply to the fence viewers. After giving reasonable notice to the opposite party, such fence viewers shall determine where the fence shall be made, how much and what part each shall make and maintain, and such decision shall be final.

§ 3806. Fence viewers to locate; effect.

In such case, the fence viewers shall establish the line of the fence as near the line between the lands as, in their opinion, is practicable. Each owner of the land, at the time of such division of the fence, shall ever after be deemed in possession of that portion of his or her land enclosed with that of the other owner in consequence of the division. If disagreement arises in relation to the occupancy of such lands, the same shall be determined by the fence viewers, who shall decide such matter of disagreement on the application of either party and after suitable notice is given to the opposite party.

§ 3807. Damage by straying animals.

When the lands of two or more individuals are so situated that none of them are compelled to make and maintain a fence on the dividing line between their land by reason of open or unoccupied lands or highways lying between, each owner or keeper shall be liable for the damages done on the occupied lands of others by an animal straying from his or her lands and being taken on such occupied lands. Such damages may be recovered in an action of tort on this statute.

§ 3808. Liability of person bound to build fence.

When a person bound to support a portion of the division fence does not make or maintain his or her portion, he or she shall be liable for damages done to or suffered by the opposite party in consequence of such neglect. An owner or occupant of adjoining lands, after 10 days from the time notice is given to the opposite party, may make or put in repair the fence and recover from the opposite party damages arising from the neglect, with the expense of building or repairing the fence.

§ 3809. Sudden destruction of fence; repairs; damages.

When a division fence is suddenly damaged or destroyed by fire, winds, or floods, a person who ought to repair the same shall do so within 10 days after being thereto requested by a person interested therein, and shall pay the damages done to the opposite party by animals straying from his or her occupied lands to those of the other party during the time the fence is out of repair. If he or she does not make or repair his or her portion of the fence within 10 days after such request, the party sustaining damage thereby may make or repair the same at the expense of the person neglecting so to do, and may recover the same in an action of contract on this statute.



§ 3810. Duties of fence viewers; division; penalty; appeal.

On request, the fence viewers, or a majority of them, shall examine fences within the town and a division shall be made by them in cases proper for them to determine. If a fence viewer neglects to perform the duties required of him or her, he or she shall forfeit to the party aggrieved \$5.00, with costs to be recovered in an action of tort on this statute. Either party may appeal from the decision of the fence viewers to a district or superior court if such appeal is claimed within two hours from the rendition of the decision. Such appeal shall be taken as provided by chapter 109 of Title 12.

§ 3811. Notice; certificate; effect of record.

When called upon to act, the fence viewers shall give notice to parties interested, or to their tenants or agents, of the time when they will examine the fence or line between adjoining lands, before they make a division relating to the same. When fence viewers make a division of fence, or appraise the value of a fence made or repaired, or examine as to the sufficiency of a fence, they shall certify the same. When they make a division of fence and so certify, a record of the same in the office of the clerk of the town in which the line is situated shall be valid against the parties, their heirs, and assigns.

§ 3812. Agreement as to division.

An agreement in writing between the owners of adjoining lands, relating to their division fence, signed by the owners, witnessed by two witnesses, acknowledged by the parties and recorded in the office of the town clerk in the town where the fence is situated shall be valid against the parties, their heirs, and assigns.

§ 3813. When fence is on a town line; division.

When the line on which a division fence is to be made or maintained is the line between two towns, and the parties do not agree upon the division, the same shall be determined by a board of fence viewers consisting of one or more from each of the towns. Such board of fence viewers shall give notice to the parties, make the division and make a certificate as provided in section 3811 of this title. Such certificate shall be valid against the parties, their heirs, and assigns, if recorded in the office of the town clerk in each of the towns.

§ 3814. Homesteader; to maintain; liability.

Each owner of a homestead shall be liable to make and maintain his or her portion of the division fence between his or her homestead and adjoining lands. The homestead shall be liable to attachment and levy of execution for damages and costs recovered for neglect so to do.

§ 3815. Records.

Certificates and written agreements mentioned in this chapter shall be recorded and alphabetically indexed by the town clerk in a book kept for that purpose.

§ 3816. Recovery for expense.

When, by the provisions of this chapter, owners of adjoining lands are required to pay to another the expense of making or repairing a division fence, or damages for the neglect of making, or for one-half the value of a division fence, the same with costs may be recovered in an action of tort on such statute.



§ 3817. Unnecessary fence; maintenance prohibited; penalty.

A person shall not erect or maintain an unnecessary fence or other structure for the purpose of annoying the owners of adjoining property by obstructing their view or depriving them of light or air. A person who violates a provision of this section shall be fined not more than \$100.00.

