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States' Fence Statutes: *California*



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Cal. Food & Agric. Code §§16901 to 16909, §§17001 to 17153, and Cal. Pub. Util. Code §§ 7626 to 7631.

Current with legislation through Ch. 13 of 2021 Regular Session

§ 16901. Animals on railroad tracks.

It is unlawful for any person to do any of the following:

- (a) Lead, drive, or conduct any animal along the track of a railroad, unless the railroad is built within the limits of a public highway or public place.
- (b) Permit any animal to be placed within the fences of a railroad for grazing or other purposes if he has the right to prevent it.

§ 16902. Livestock on highway; strays; unattended animals.

A person that owns or controls the possession of any livestock shall not willfully or negligently permit any of the livestock to stray upon, or remain unaccompanied by a person in charge or control of the livestock upon, a public highway, if both sides of the highway are adjoined by property which is separated from the highway by a fence, wall, hedge, sidewalk, curb, lawn, or building.

§ 16903. Livestock on highway; driving; time; herders.

It is unlawful for any person to drive any livestock upon, over, or across any public highway between the hours of sunset and sunrise unless he keeps a sufficient number of herders on continual duty to open the road so as to permit the passage of vehicles.

§ 16904. Collision between vehicle and animal; presumption or inference.

In any civil action which is brought by the owner, driver, or occupant of a motor vehicle, or by their personal representatives or assignees, or by the owner of livestock, for damages which are caused by collision between any motor vehicle and any domestic animal on a highway, there is no presumption or inference that the collision was due to negligence on behalf of the owner or the person in possession of the animal.

§ 16905. Confinement of animals in rail transit; rest, water and feeding.

It is unlawful for any officer, agent, or conductor of any railroad in this state, to confine any animals in cars for a longer period than 36 consecutive hours if the animals are being carried or transported by the railroad in carloads. At least every 36 hours the animals shall be



unloaded for rest, water, and feeding, into properly equipped pens for a period of not less than five consecutive hours.

§ 16906. Estimating period of confinement in train.

In estimating the time of confinement pursuant to Section 16905, the period during which animals have been confined without such rest on connecting roads from which they are received, shall be included.

§ 16907. Lien of railroad for expense.

If the owner or person in charge of the animals refuses or neglects to pay for the care and feed of the animals so rested, the company or person operating the railroad may charge the expense of the care and feeding to the owner or consignee and retain a lien upon the animals until the amount of expense is paid.

§ 16908. Confinement of animals in truck transit; rest, water and feeding; storm or accident.

It is unlawful for any person that owns or operates any motor truck, or motor truck and trailer, or semitrailer, to confine or permit to be confined, in such vehicle, any animal for a longer period than 28 consecutive hours from the time the animal was last fed and watered. Upon the written request of the owner or person in charge of the animal, the period of confinement may be extended to 36 hours. Before the expiration of the permissible period of confinement, the animal shall be unloaded in a humane manner by means of a chute or tailgate of sufficient size into properly equipped pens for rest, water, and feeding, for a period of at least five consecutive hours.

The failure of a person to feed or water an animal within the time limit prescribed by this section is not a violation of this section if the feeding and watering of the animal is prevented by storm or other accidental or unavoidable causes which could not be anticipated or avoided by the exercise of due diligence and foresight.

§ 16909. Estimating period of confinement in truck.

In estimating the period of confinement, the time consumed in loading and unloading the animal shall not be considered, but the time during which the animal has been confined without rest, food, or water on any other or connecting vehicle, or outside of the state, shall be included.

§ 17001. Taker-up.

As used in this chapter, “taker-up” means any person that takes up an stray animal pursuant to Section 17041.

§ 17001.5. Estray.

For the purpose of this chapter, “estrays” means any impounded or seized bovine animal, horse, mule, sheep, swine, burro, alpaca, llama, or goat whose owner is unknown or cannot be located.

§ 17002. Animals seized or possessed by inspector; disposal.



Any animal that is seized by, or comes into the possession of, an inspector pursuant to this part shall be managed pursuant to this chapter.

§ 17003. Estray laws; notice of unclaimed animal.

(a) Except as provided in this section, this chapter does not affect any law, ordinance, or regulation regarding estrays, the shelter director, other animal control officer, or a public animal control agency or shelter within the limits of any city or county where those laws, ordinances, or regulations are in force.

(b) Upon the impounding of any bovine animal, horse, mule, sheep, swine, burro, alpaca, llama, or goat, the shelter director, other animal control officer, or public animal control agency or shelter shall immediately notify the secretary. Upon receipt of that notice, the secretary shall take possession of any bovine animal and shall manage it pursuant to this chapter.

(c) Any city, county, or city and county that establishes or has established laws, ordinances, or regulations regarding estrays, may opt to follow those laws, ordinances, or regulations instead of this chapter in the handling of estrays that are not bovine animals in accordance with the applicable laws, ordinances, or regulations of the city, county, or city and county.

(d) This section does not authorize any act that violates Section 597 of the Penal Code.

§ 17004. Authority of director.

The director may take up estray animals whose owners are unknown and cannot be located.

§ 17005. Euthanasia.

(a) It is the policy of the state that no adoptable animal should be euthanized if it can be adopted into a suitable home. Adoptable animals include only those animals eight weeks of age or older that, at or subsequent to the time the animal is impounded or otherwise taken into possession, have manifested no sign of a behavioral or temperamental defect that could pose a health or safety risk or otherwise make the animal unsuitable for placement as a pet, and have manifested no sign of disease, injury, or congenital or hereditary condition that adversely affects the health of the animal or that is likely to adversely affect the animal's health in the future.

(b) It is the policy of the state that no treatable animal should be euthanized. A treatable animal shall include any animal that is not adoptable but that could become adoptable with reasonable efforts. This subdivision, by itself, shall not be the basis of liability for damages regarding euthanasia.

§ 17006. Irremediable serious illnesses or injuries; newborns needing maternal care.

Animals that are irremediably suffering from a serious illness or severe injury shall not be held for owner redemption or adoption. Except as provided in subdivision (b) of Section 31108 and subdivision (c) of Section 31752, newborn animals that need maternal care and have been impounded without their mothers may be euthanized without being held for owner redemption or adoption.



§ 17041. Authority to take up; lien; exception.

Except as provided in Article 5 (commencing with Section 17121) of this chapter, any person that finds any estray domestic animal upon his premises, or upon premises to which he has the right of possession, or upon any highway which is adjacent to such premises, may take up the animal and have a lien for all expenses which are incurred in taking up, keeping, and caring for it.

§ 17042. Confinement of animal; notice.

Any person that takes up an estray animal shall confine it in a secure place, and shall immediately file with the secretary a notice containing all of the following:

- (a) A description of the animal seized.
- (b) The marks and brands, if any.
- (c) The probable value of the animal.
- (d) A statement of the date and place where it was taken up and confined.

§ 17043. Degree of care; liability for escape or death.

The taker-up of an estray animal shall use reasonable care to preserve it from injury. If it dies or escapes from the taker-up at any time while he is holding it pursuant to this chapter, the taker-up shall not be held liable in any manner therefor.

§ 17044. Compensation.

The taker-up is entitled to the sum prescribed by Section 17095 for the keeping and care of the estray animal.

§ 17045. Removal of animal from taker-up's possession.

Except as otherwise provided in this chapter, it is unlawful for any person to remove any animal from the possession of the taker-up.

§ 17061. Delivery to inspector on demand.

Upon demand of any authorized inspector, the taker-up shall deliver possession of the animal to the inspector.

§ 17062. Removal of animal from inspector's possession.

Except as otherwise provided in this chapter, it is unlawful for any person to remove from the possession of an inspector any animal so delivered to him.

§ 17063. Branded animals; search of brand records.

If the animal which is seized or otherwise in the possession of the inspector is branded, the director shall cause a search to be made of the brand records to ascertain the owner.

§ 17064. Notice to brand owner.



If the brands or marks are recorded, the director shall immediately, by letter, notify the person in whose name the brands or marks are recorded.

§ 17065. Notice of taking up; posting and publication.

(a) If the owner is not found, and the estimated value of the animal exceeds two hundred twenty-five dollars (\$225), the secretary shall cause a notice of the taking up of, and intent to sell the animal to be prepared. The notice may be distributed to the county department of agriculture and to all sales yards in the state. The secretary may limit distribution of the notice, however, to those sales yards that deal in the same type of animal as the animal that is taken up.

(b) The notice shall be posted for a period of 14 days on a bulletin board in each office of the Bureau of Livestock Identification.

(c) In addition to posting and distributing the notice, the secretary shall periodically publish a list of the animals for which notice was given pursuant to this section, including the brands and descriptions of the branded animals and descriptions of the unbranded animals in the classified section of a livestock industry publication that is in general circulation throughout the State of California.

§ 17066. Animals of small value; sale; holding proceeds.

If the estimated value of the animal is less than two hundred twenty-five dollars (\$225) and a notice is posted for five days on a bulletin board in each office of the Bureau of Livestock Identification, the director may cause the sale of the animal at a public sale and hold the proceeds as provided in Article 4 (commencing with Section 17091) of this chapter.

§ 17067. Notice of taking up; content.

The notice of the taking up of an animal shall describe the weight, sex, breed, color, marks, and brands, if any, of the animal and shall state the time and place of its proposed sale.

§ 17068. Proof of ownership hearing.

Any person that claims ownership in the animal may, at any time, but not later than 14 days after the first posting of notice, file his or her proofs of ownership with the director and the director shall proceed to hear and determine the claim of ownership.

§ 17069. Surrender of animal to owner; expenses.

If ownership is proved to the satisfaction of the director, the animal shall be turned over to the owner upon payment by the owner of all expenses which were incurred in the handling of the animal.

§ 17091. Authority for immediate disposal; proceeds; expenses.

If the animal at any time while in the possession of an inspector is in a condition which requires immediate disposal, the animal may be disposed of by the director. The proceeds from the salvage, if any, in excess of expenses which were incurred in the handling of the animal shall be paid to the person proving ownership pursuant to Section 17096.



§ 17092. Public sale; time; title.

If after 14 days from the date of the first posting of notice no satisfactory proof of ownership of the animal has been made, or if the owner fails or refuses to pay all expenses which were incurred, the director shall sell the animal at public sale.

All sales which are made pursuant to this chapter convey a good and valid title to the purchaser. The former owner of the animal so sold is thereafter barred from all right to recover it.

§ 17093. Private sale; price; appraisal.

In lieu of public sale, the director may sell the animal at private sale at a price not less than the appraised value of the animal. The appraisal shall be made by a board of three stockmen who are qualified to make the appraisal, to be selected as follows:

- (a) One to be named by the director.
- (b) One by the person from whose possession the estray animal was taken.
- (c) One selected jointly by the stockmen who are selected pursuant to subdivisions (a) and (b) of this section.

§ 17094. Sale of carcass; price.

Any carcass or portion of a carcass may be sold by the director at any time at the market price which prevails at the time of sale.

§ 17095. Proceeds of sale; expenses; compensation of taker-up.

The proceeds from the sale of any animal shall be paid into, and the expenses of holding, advertising, sale, and other incidental expenses shall be paid from, the Department of Food and Agriculture Fund. For the keeping and care of the estray animal, the taker-up is entitled to a per day payment based on the prevailing rates charged by commercial enterprises that feed livestock on a custom basis.

§ 17096. Proof of ownership; payment of net proceeds of sale.

If any person shall, within one year after the date of the sale, prove to the satisfaction of the director his ownership of an animal which was sold pursuant to this article, the director shall order the net proceeds of the sale of the animal to be paid to such person.

§ 17121. Lawful fence.

A lawful fence is any fence which is good, strong, substantial, and sufficient to prevent the ingress and egress of livestock. No wire fence is a good and substantial fence within the meaning of this article unless it has three tightly stretched barbed wires securely fastened to posts of reasonable strength, firmly set in the ground not more than one rod apart, one of which wires shall be at least four feet above the surface of the ground. Any kind of wire or other fence of height, strength and capacity equal to or greater than the wire fence herein described is a good and substantial fence within the meaning of this article. The term "lawful fence" includes cattle guards of such width, depth, rail spacing, and construction as will effectively turn livestock.



§ 17122. Restricted right to take up estrays in grazing areas.

In any county or part of a county devoted chiefly to grazing and so declared pursuant to this article, a person shall not have the right to take up any stray animal found upon his premises, or upon premises to which he has the right of possession, nor shall he have a lien thereon, unless the premises are entirely enclosed with a good and substantial fence.

§ 17123. Grazing areas; Lassen, Modoc, Shasta, Siskiyou and Trinity counties.

The following counties or parts of counties are declared to be devoted chiefly to grazing:

- (a) That portion of Trinity which is outside of the area described in Section 17125.
- (b) That portion of Shasta outside of the area which is described in Section 17126.
- (c) Siskiyou, Lassen, and Modoc.
- (d) Any county or part of a county which is declared to be devoted chiefly to grazing pursuant to Section 17124.

§ 17124. Grazing areas; declaration by supervisors.

The board of supervisors of any county may by ordinance declare that such county, or part of such county, is devoted chiefly to grazing.

§ 17125. Nongrazing areas; Trinity county.

The following portions of Trinity County are declared not to be devoted chiefly to grazing:

- (a) All of Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, T. 31 N., R. 12 W.; Section 7 and the north 1/2 of Section 18, T. 31 N., R. 11 W., M.D.M.
- (b) Beginning at the section corner common to Sections 7 and 18, T. 33 N., R. 9 W. and Sections 12 and 13, T. 33 N., R. 10 W., thence west 20 chains; then north 20 chains; thence west 20 chains; thence north 50 chains; thence east 17.09 chains; then south 32° west, 5.41 chains; thence south 59° east, 13.12 chains; thence south 42° 30' east, 4.80 chains; thence north 22° east, 5.41 chains; thence north 22° west, 4.90 chains; thence north 75° west, 3.40 chains; thence north 33° west, 2.45 chains; thence north 58° west, 4.47 chains; thence east 15.02 chains; thence south 10° west, 4.66 chains; thence south 22° east, 3.75 chains; thence north 12° east, 8.04 chains; thence east 2.00 chains; thence north 9.36 1/2 chains; thence north 14° 30' east, 10.58 chains; thence north 20° 30' west, 0.42 chains; thence east 17.59 chains; thence south 30.00 chains; thence east 20.00 chains; thence south 40.00 chains; thence west 10.00 chains; thence south 20.00 chains; thence west 30.00 chains, to and closing on the starting corner.
- (c) Beginning at the northeast corner of the southwest quarter of Section 17; thence south along the east line of said quarter section and the east line of the northwest quarter of Section 20, to the southeast corner of said quarter section; thence west along the south line of said quarter section and the south line of the northeast quarter of Section 19 to the southwest corner of said quarter section; thence north along the west line of said quarter section and the west line of the southeast quarter of



Section 18 to the northwest corner of said quarter section; and thence east along the north line of said quarter section and the north line of the southwest quarter of Section 17 to the northeast corner of said quarter section and the point of beginning; being the southwest quarter of Section 17, the southeast quarter of Section 18, the northeast quarter of Section 19, and the northwest quarter of Section 20, T. 33 N., R. 8 W., Mount Diablo base and meridian.

(d) Highway U.S. 299 and all land within 500 feet of each side of the centerline of the highway.

(e) All of Section 5, T. 33 N., R. 9 W., M.D.M.

§ 17126. Nongrazing areas; Shasta county.

The portion of Shasta County within the following metes and bounds is declared not to be devoted chiefly to grazing:

Beginning at the intersection of the Reading Grant line and the northwest corner of the Anderson-Cottonwood Irrigation District, thence southerly along said Reading Grant line to the first intersection with the boundary of the dissolved Happy Valley Irrigation District; thence counterclockwise around the boundaries of said dissolved Happy Valley Irrigation District to the southeast corner of Section 20, T. 30 N., R. 4 W., M.D.B. and M.; thence directly east along section lines to the westerly boundary line of the Anderson-Cottonwood Irrigation District; thence counterclockwise around the boundaries of said district to Cottonwood Creek; thence down Cottonwood Creek to its confluence with the Sacramento River; thence counterclockwise along the most easterly and northerly boundary lines of said Anderson-Cottonwood Irrigation District, including a crossing of the Sacramento River, to the point of beginning.

§ 17127. Estrays; ordinance for taking up in Shasta and Trinity Counties; legislative intent.

The board of supervisors of Shasta or Trinity County may, if it determines that all or any part of the county under its jurisdiction has ceased to be devoted chiefly to grazing, provide by ordinance that stray animals may thereafter be taken up on unenclosed property in the county or part of county under its jurisdiction. It is the intent and purpose of this section that the provisions of law which are generally applicable throughout the state shall be extended to all of the county when the conditions upon which the exceptions were based have ceased to exist.

§ 17128. Fence laws; continuation in Shasta, Siskiyou and Trinity counties; exceptions; application to goats, swine, etc.

The act entitled "An act concerning lawful fences, and animals, trespassing upon lawfully enclosed lands," passed March 30, 1850 (Ch. 49, Stats.1850), and an act entitled "An act concerning lawful fences in the Counties of San Bernardino, Colusa, Shasta, Tehama and Placer," approved April 18, 1859 (Ch. 266, Stats.1859), insofar as the provisions of each of the acts apply to or affect the Counties of Trinity, Shasta, except that portion described in Section 17126, and Siskiyou, are continued in force, except as to goats, swine, or hogs, which may be taken up in the counties when the goats, swine or hogs stray or trespass on lands of others. The provisions of this chapter apply to goats, swine, or hogs in such counties, but



in all other respects the acts specified in this section are continued in full force therein, it being determined that the conditions prevailing in the Counties of Trinity, Shasta, except that portion described in Section 17126, and Siskiyou demand the continued application of the acts in the counties until such time as action is taken pursuant to Section 17124.

§ 17150. Legislative findings and declaration.

The Legislature finds and declares that improperly designed and installed electrified fences have caused injuries and in some instances have resulted in the deaths of persons, particularly children, coming into contact with the conductive elements thereof. In order to prevent further such accidents, it is the intent of the Legislature in enacting this chapter to provide for the study and development and enforcement of safety standards for electrified fences.

§ 17151. Electrified fence.

(a) As used in this chapter, “electrified fence” means any fence and appurtenant devices, including, but not limited to, fences and devices used in animal control, and including, but not limited to, a fence consisting of a single strand of wire supported by posts or other fixtures, which has an electrical charge or is connected to a source of electrical current and which is so designed or placed that a person or animal coming into contact with the conductive element of the fence receives an electrical shock.

(b) For purposes of this chapter, “electrified fence” does not include an electrified security fence as described in Section 835 of the Civil Code.

§ 17152. Standards or specifications.

No electrified fences shall be offered for sale, sold, installed, or used in this state, or otherwise connected to a source of electrical current, unless the electrical current is limited and regulated by an electrical controller which meets or exceeds the standards or specifications of the National Electrical Code of the National Fire Protection Association, international standards of the International Electrotechnical Commission, or the Underwriters Laboratories for intermittent type electric fence or electrified fence controllers.

§ 17153. Regulation by cities and counties.

The provisions of this chapter shall not be construed to preclude regulation of electrified fences by cities and counties, including, but not limited to, requiring the installation or use of electrified fences under permit, except that such regulation shall not permit the installation or use of electrified fences which do not conform to the requirements of this chapter.

§ 7626. Fencing requirements; liability for injury or death of domestic animals.

Every railroad corporation shall make and maintain a good and sufficient fence on both sides of its track and property. If it does not and if its engine or cars kill or maim any cattle or other domestic animals upon its line of road, except where the road runs through or upon public land it shall pay to the owner of the cattle or other domestic animals a fair market price for them, unless the killing or maiming occurred through the neglect or fault of the owner of the animal.

§ 7627. Payment of adjoining landowner for construction and maintenance of fence; exoneration of railroad; liability of landowner for damage to railroad.



A railroad corporation that pays to the owner of the land through or along which its road is located an agreed price for making and maintaining a good and sufficient fence, or that pays the cost of such fence with the award of damages allowed for the right of way for the railroad, is relieved and exonerated from all claims for damages arising out of the killing or maiming of any animals of persons who thus fail to construct and maintain the fence. The owners of such animals are responsible for any damages or loss which may accrue to the corporation from the animals being upon its railroad track as a result of the nonconstruction of such fence, unless it is shown that the loss or damage occurred through the negligence or fault of the corporation, its officers, agents, or employees.

§ 7628. Fencing on public lands; commission order.

The commission may require every railroad corporation operating any steam or electric railroad in this State to erect and maintain lawful fences on each or either side of the railroad where the railroad runs through or upon lands of the United States or of this State, at such places as the commission determines that such fences are necessary to protect cattle, horses, or mules, or any other domestic animal being ranged or grazed upon lands adjacent to the railroad from being maimed or killed by the operation or management of engines, cars, or other rolling stock upon or over the railroad, with necessary openings and gates in the fences, and crossings and cattle guards for such openings and gates.

§ 7629. Application for order; contents; notice.

The authority of the commission to require such fences shall be exercised in each instance only when a verified application is filed with the commission by the person or persons owning cattle, horses, mules, or other domestic animals with the right or privilege to range or graze them upon the lands adjacent to the portion of the railroad sought to be fenced.

The application shall specify the ownership of the railroad sought to be fenced, and shall set forth a sufficient description of the lands to identify them, the agency or department of government administering the lands, and the nature of the right or privilege of each petitioner to range or graze domestic animals thereon.

Upon the filing of the application, notice thereof and of any hearing by the commission thereon shall be given by mail by the commission to the agency or department of government administering the land, and to the railroad corporation owning or operating the railroad. Such owners, agency or department, and the railroad may protest the granting of the application and may be heard thereon.

§ 7630. Hearing on application; commission order.

Upon hearing the commission shall determine whether or not any fence or fences are necessary to protect cattle, horses, mules, or any other domestic animals being ranged or grazed upon the land designated in the application, from being maimed, or killed by the operation or management of engines, cars, or other rolling stock upon the railroad, and shall order that a fence or fences be constructed and maintained by the railroad corporation at such places along the railroad adjacent to the lands designated in the petition as the commission determines. The commission may fix the time within which the fence or fences shall be constructed and



may designate the places for necessary openings and gates therein and crossings and cattle guards in connection therewith.

The commission may modify or revoke any such order when it determines that the necessity for any such fence has ceased to exist.

§ 7631. Noncompliance with order; liability of railroad.

The failure of any railroad corporation to comply with any order of the commission authorized by this article shall not subject it, or any of its officers, agents, or employees, to any penalty other than payment by the railroad corporation to the owner of the maimed or killed cattle, or other domestic animals of a fair market price for the animals.

Nothing in this article requires a railroad corporation to pay for the maiming or killing of any cattle or domestic animals where the maiming or killing resulted from the neglect or fault of the owner of the animals.

