



# The National Agricultural Law Center

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## States' Fence Statutes: *Missouri*



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# A National Agricultural Law Center Research Publication

## States' Fence Statutes: Missouri

**Mo. Rev. Stat. §§ 267.430, 270.010-270.070, 270.170-270.210, 270.230-270.260, 272.010-272.130, 272.132, 272.134, 272.136, 272.210-272.370, 389.650, 488.470, 537.260-537.280, 537.350.**

*Statutes are current through West ID No. 1 of the 2021 First Regular Session of the 101st General Assembly. The Constitution is current through the November 3, 2020 General Election.*

### **§ 267.430. Diseased animals--sale or running at large prohibited.**

A person shall not sell or offer for sale, or run at large on any common or unfenced lands in this state, any livestock affected with a serious external parasitic infestation or any infectious or contagious disease whatsoever; provided, that this section shall not be so construed as to prohibit the movement of such infected animals under conditions prescribed by the state veterinarian for the purpose of segregation or quarantine, or for immediate slaughter under state or federal inspection.

### **§ 270.010. Domestic animals restrained from running at large.**

It shall be unlawful for the owner of any animal or animals of the species of horse, mule, ass, cattle, swine, sheep or goat, in this state, to permit the same to run at large outside the enclosure of the owner of such stock, and if any of the species of domestic animals aforesaid be found running at large, outside the enclosure of the owner, it shall be lawful for any person, and it is hereby made the duty of the sheriff or other officer having police powers, on his own view, or when notified by any other person that any of such stock is so running at large, to restrain the same forthwith, and such person or officer shall, within three days, give notice thereof to the owner, if known, in writing, stating therein the amount of compensation for feeding and keeping such animal or animals and damages claimed, and thereupon the owner shall pay the person, or officer, taking up such animal or animals a reasonable compensation for the taking up, keeping and feeding such animal, or animals, and shall also pay all persons damaged by reason of such animals running at large, the actual damages sustained by him or them; provided, that said owner shall not be responsible for any accident on a public road or highway if he establishes the fact that the said animal or animals were outside the enclosure through no fault or negligence of the owner. If the owner of such stock be not known, or if notified and fails to make compensation for the taking up, feeding and keeping of animals taken up under the provisions of this chapter, the same shall be deemed strays, and shall be dealt with in the same manner as required by law with respect to such property as strays, under the stray law. Any failure or refusal on the part of such officer to discharge the duties required of him by this section shall render him liable on his bond to any person damaged by such failure or refusal, which damages may be sued for and recovered in any court of competent jurisdiction.

### **§ 270.020. When notice not necessary.**

If it shall appear and be proven on trial that the owner or owners of such domestic animals, as set forth in section 270.010, shall have actual notice that his or their said animals or stock were restrained, and by whom, and that the parties interested could not



agree on the amount of damages demanded, then the three days' notice in writing as required by section 270.010 shall not be necessary to a recovery.

**§ 270.030. Appraisers may be appointed to assess damages.**

If the owner of such stock so restrained and the taker-up, or the person damaged by such stock and the owner thereof, cannot agree upon the same, either party may apply to the circuit court of the county where said taker-up resides for the appointment of three appraisers to assess the damages done, or reasonable compensation for the taking up, keeping and feeding such stock, and it shall be the duty of the court to issue a notice to three disinterested householders of the county to appear at such place in said county as he may designate, and assess the damages or compensation as herein required.

**§ 270.040. Appraisers' oath--assessment proceedings.**

The persons so notified, or any two of them attending, shall take an oath that they will fairly and impartially assess the damages or compensation in controversy, and they shall make out, sign and deliver to each party a written statement of their assessment of damages or compensation, and upon the payment of the same and the expenses of said controversy, the owner of such stock shall be entitled to take the same away, and if refused, he may maintain an action therefor, as in case of wrongful taking or detention of property.

**§ 270.050. Fees.**

The officer or person serving the notice shall be allowed a fee of thirty-five cents for each appraiser notified and five cents per mile as mileage to and from the place of service, and each appraiser shall be allowed a fee of fifty cents, which shall be paid by the owner of such stock before he shall be entitled to take such stock away; provided, that if said appraisers assess the amount of damages and compensation for taking up, keeping and feeding said animal or animals, at a less amount than the amount claimed by the taker-up on the written statement delivered to the owner, it shall be the duty of the taker-up of said animals to pay said costs.

**§ 270.060. Lawful fence not necessary.**

It shall not be necessary for any person to fence against any of the species of domestic animals enumerated in this chapter, and it shall be no defense to any action or proceeding brought or had, that the party taking up such stock did not have his lands enclosed with a lawful fence, but nothing herein contained shall be construed to lessen or interfere with the obligations of the several railroads in this state to fence the right-of-way of such railroads, as is now provided by law.

**§ 270.070. Animals may be driven along public highways.**

Nothing contained in this law shall be construed as to prevent owners or other persons from driving any of the species of animals enumerated in this chapter from one place to another or along any public highway.

**§ 270.170. Swine or sheep taken up--notice to owner--considered feral hogs, when.**

If any swine shall be found running at large, contrary to the provisions of this chapter, it shall be lawful for any person on whose premises said swine shall be found to restrain the same forthwith, and give the owner, if known, notice in writing that such person has restrained said swine and the amount of damages such person claims in the premises, and requiring the owner to take said swine away and pay such damages; and such owner



shall pay such person a reasonable sum for taking up, feeding and caring for the same, and the actual damages done by said swine. If such owner fails to comply with the provisions of this section within three days after receiving such notice, or if the owner of such swine or sheep be unknown, such swine shall be disposed of in the manner provided for in section 270.180.

**§ 270.180. Proceedings before magistrate for sale--escheats.**

1. If the owner of any swine taken up under the provisions of this chapter be unknown, after three days' diligent inquiry by the taker-up, or if the owner of any swine taken up under the provisions of this chapter shall not, within three days after receiving notice as provided for in section 270.170, comply with the provisions of this chapter, the taker-up of such swine shall apply to an associate circuit judge of the county for the sale of such swine according to law.

2. Such associate circuit judge, being satisfied that the provisions of this chapter have been complied with, shall order the same to be sold by the sheriff after the expiration of fifteen days, who shall give notice and sell the same in the same manner as personal property may be sold on execution by a sheriff; and after paying the costs of sale, and of taking up and keeping the swine, and all damages done by the same, such sheriff shall pay the balance, if there be any, over to the county treasurer, and take a receipt therefor; which balance shall be subject to the order of the owner of such swine, if called for within twelve months after the sale, but if not called for, the same shall be turned over to the school fund of the county.

**§ 270.190. Domestic geese to be restrained.**

In all counties and townships that have adopted the provisions of this chapter, the owner of domestic geese shall keep the same upon his own premises and in his own enclosure, and if any such geese escape from the enclosure of the owner, they may be dealt with the same as all other animals, as provided by this chapter.

**§ 270.200. Prohibiting aged and deformed animals from running at large.**

In all counties and townships that have adopted or may hereafter adopt the provisions of this chapter, every owner or other person having the legal care of any domestic animal of the species enumerated in section 270.010, who shall knowingly and purposely refuse to restrain the same from running at large, when its age, deformity, blindness or other infirmity would render nugatory the law providing for the sale thereof to pay costs and damages to any party who might take up said animal, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five nor more than twenty dollars, or by imprisonment in the county jail for a term not exceeding ten days.

**§ 270.210. Stallions, mules and jackasses not to run at large, when--penalty.**

If any stallion or any unaltered male mule or jackass, over the age of two years, be found running at large, the owner shall be fined, for the first offense three dollars, and for every subsequent offense not exceeding ten dollars, to be recovered by civil action before an associate circuit judge, in the name of any person who will prosecute for the same, one-half to his own use and the other half to the use of the county.

**§ 270.230. May be killed, when.**

If any such horse, mule or jackass be running at large, and cannot be taken up, he may



be killed, if notice be first put up at the courthouse door and at three other public places in the county, for ten days, describing the color, marks and brands, as near as practicable, of the animal, and that he will be killed unless taken away and secured.

**§ 270.240. Rams not to run at large, when.**

All rams shall be restrained from going at large within this state, from the first day of May to the first of November in each year.

**§ 270.250. Bulls, rams and boars may be castrated, when.**

If any bull or ram over one year old, or boar hog over three months old, shall be found going at large off the premises of or out of the enclosure or control of its owner or keeper, after three days' notice, signed by three residents of the township where such bull or ram or boar hog may be running at large, and the owner shall fail or neglect to take up or confine the same on or within his premises, it shall be lawful for any person to castrate any such bull or ram or boar hog, except that the same be done in the usual manner of castrating such animals, and so as to endanger the life of such as little as possible; and the person castrating any such bull or ram or boar hog, shall not be liable for any damage on account thereof; provided, that such male animal may be taken up and confined at once, by any person finding same at large, and where the owner is not known at the time, it shall be lawful for any person to take up such male and keep same in confinement for three days; and if such male is not reclaimed by owner during that time, and pay therefor to taker-up the sum of one dollar, then it shall be lawful to castrate such animal as if notice had been given.

**§ 272.010. Field to be enclosed by fence.**

All fields and enclosures where animals are kept shall be enclosed by a lawful fence as defined in section 272.020.

**§ 272.020. Fencing requirements.**

1. Any fence consisting of posts and wire or boards at least four feet high which is mutually agreed upon by adjoining landowners or decided upon by the associate circuit court of the county is a lawful fence.
2. All posts shall be set firmly in the ground not more than twelve feet apart with wire or boards securely fastened to such posts and placed at proper distances apart to resist horses, cattle and other similar livestock.

**§ 272.030. Owners of stock liable for damages--stock may be taken up.**

If any horses, cattle or other stock shall break over or through any lawful fence, as defined in section 272.020, and by so doing obtain access to, or do trespass upon, the premises of another, the owner of such animal shall be liable for any damages sustained if the owner of the trespassing horses, cattle, or other stock was negligent.

**§ 272.040. Judge may appoint viewers to view fence--compensation of appointees.**

Upon complaint of either party claiming to be injured because of the trespass or taking up of livestock as described in section 272.030, the associate circuit judge shall, without delay, issue an order to three disinterested householders of the neighborhood, not of kin to either party, reciting the complaint, and requiring them to view the fence where the trespass is complained of, and take memoranda of the same, and appear before the court on the



day set for trial; and their evidence shall determine the lawfulness of such fence. The persons appointed by the associate circuit judge shall be paid twenty-five dollars each per day for the time actually employed which shall be taxed as costs in the case equally against the parties and collected accordingly.

**§ 272.050. Persons injuring animals liable for damages, when.**

If any person who does not maintain a sufficient fence shall hurt, wound, lame, kill or destroy, or cause the same to be done by shooting, worrying with dogs, or otherwise, any of the animals in this chapter mentioned, such person shall satisfy the owner in double damages with costs.

**§ 272.060. Division fences--rights of parties in, how determined.**

1. Whenever the owner of real estate desires to construct or repair a lawful fence, as defined by section 272.020, which divides his or her land from that of another, such owner shall give written notice of such intention to the adjoining landowner. The landowners shall meet and each shall construct or repair that portion of the division fence which is on the right of each owner as the owners face the fence line while standing at the center of their common property line on their own property. If the owners cannot agree as to the part each shall construct or keep in repair, either of them may apply to an associate circuit judge of the county who shall forthwith summon three disinterested householders of the township or county to appear on the premises, giving three days' notice to each of the parties of the time and place where such viewers shall meet, and such viewers shall, under oath, designate the portion to be constructed or kept in repair by each of the parties interested and notify them in writing of the same. Such viewers shall receive twenty-five dollars each per day for the time actually employed, which shall be taxed as court costs.

2. Existing agreements not consistent with the procedure prescribed by subsection 1 of this section shall be in writing, signed by the agreeing parties, and shall be recorded in the office of the recorder of deeds in the county or counties where the fence line is located. The agreement shall describe the land and the portion of partition fences between their lands which shall be erected and maintained by each party. The agreement shall bind the makers, their heirs and assigns.

**§ 272.070. Duty of judge if owners disagree--apportionment of costs.**

If either party fails to construct or repair his or her portion of the fence in accordance with the provisions of section 272.060 within a reasonable time, the other may petition the associate circuit court of the county to authorize the petitioner to build or repair the fence in a manner to be directed by the court. If the court authorizes such action, the petitioner shall be given a judgment for that portion of the total cost of the fence which is chargeable as the other party's portion of the fence, court costs and reasonable attorney's fees. Any such judgment shall be a lien on the real estate of the party against whom the judgment may be given.

**§ 272.080. Value of fence may be recovered, when.**

If the person thus assessed or charged with the value of one-half of any fence, under the provisions of this chapter, shall neglect or refuse to pay over to the owner of such fence the amount so awarded, the same may be recovered before an associate circuit judge, or other court of competent jurisdiction.

**§ 272.090. Fence to be divided for purpose of repair.**





If the parties cannot agree as to the part each shall have and keep in repair, either of them may apply to an associate circuit judge of the county who shall forthwith summon three disinterested householders of the township to appear on the premises, giving three days' notice to each of the parties of the time and place where said viewers shall meet, and said viewers shall, under oath, designate the portion to be kept in repair by each of the parties interested, and notify them in writing of the same.

**§ 272.100. Duties of persons appointed--their fees.**

The persons appointed by the associate circuit judge pursuant to section 272.040 to discharge the duties therein specified shall receive twenty-five dollars each per day for the time actually employed, which shall be taxed as costs in the case against the parties and collected accordingly.

**§ 272.110. Division fences to be kept in repair.**

Every person owning a part of a division fence shall keep his or her portion of the same in good repair according to the requirements of this chapter, and may enter upon any land lying adjacent thereto for such purpose.

**§ 272.120. Division fences not to be removed without consent of owners.**

No division fence shall be removed without the consent of all the owners thereof, unless for the purpose of opening a public road or highway.

**§ 272.130. Judgment of associate circuit judge reviewed in same manner as other civil actions.**

Any person aggrieved by any order or judgment of the associate circuit judge made or entered pursuant to the provisions of section 272.040 or 272.070 may have the same reviewed in the same manner as other civil actions.

**§ 272.132. Total cost of fence attributable to one landowner, when.**

If either of two adjoining landowners does not need a fence, the landowner that needs a fence may build the entire fence and report the total cost to the associate circuit judge who shall authorize the cost to be recorded on each deed. Should the landowner that claimed no need for a fence subsequently place livestock against the fence, the landowner that built the fence shall be reimbursed for one-half the construction costs share to be determined as provided in section 272.060.

**§ 272.134. Agreement for no fence permitted.**

Nothing in this chapter shall prevent adjoining landowners from agreeing that no fence is needed between their property.

**§ 272.136. Landowner may exceed lawful fence requirements.**

Nothing in this chapter shall prevent either of adjoining landowners from building the landowner or the landowner's neighbor's portion of a fence in excess of the lawful fence requirements prescribed by this chapter.

**§ 272.210. Definitions.**

As used in sections 272.210 to 272.370 the following words and terms have the following



meanings:

(1) "Lawful fence", a fence with not less than four boards per four feet of height; said boards to be spaced no farther apart than twice the width of the boards used fastened in or to substantial posts not more than twelve feet apart with one stay, or a fence of four barbed wires supported by posts not more than fifteen feet apart with one stay or twelve feet apart with no stays, or any fence which is at least equivalent to the types of fences described herein;

(2) "Stay", a vertical member attached to each board or wire comprising the horizontal members of the fence.

**§ 272.220. Fields enclosed, how.**

All fields and enclosures in which livestock are kept or placed shall be enclosed by a lawful fence.

**§ 272.235. Adjoining landowners obligated to build fence--when--exceptions.**

If there is a need for a fence by either of two joining landowners both shall be obligated to build and maintain a fence under the provisions of sections 272.210 to 272.370. Nothing in sections 272.210 to 272.370 shall prevent joining landowners from agreeing that no fence is needed between their property.

**§ 272.240. Partition fences--owner may demand payment, when.**

Whenever the owner of real estate desires to erect or construct a lawful fence which wholly or partially borders the land of another, he shall notify the other owner that he desires a division fence. If within ninety days after receiving the notice, the other landowner has not erected or constructed one-half of the division fence, the owner desiring the fence may apply to the associate division of the circuit court for an order to proceed with the construction and ordering the other landowner to pay one-half the value of so much thereof, as borders his land, and upon the payment shall own an undivided one-half of the fence; except that no owner shall be required to pay more than one-half the value of a lawful fence of four barbed wires, regardless of the type fence constructed. The associate division of the circuit court costs shall be taxed against the other landowner.

**§ 272.250. Duty of judge if parties disagree on value--fence viewers to estimate.**

If the parties interested fail to agree as to the value of one-half of the fence, the owner of the fence may apply to a circuit or associate circuit judge of the county, who shall without delay issue an order to three disinterested householders of the township, not of kin to either party, reciting the complaint, and requiring them to view the fence, estimate the value thereof, and make return under oath to the judge on the day named in the order.

**§ 272.260. Value of fence may be recovered, when.**

If the person thus assessed or charged with the value of one-half of any fence, under the provisions of sections 272.210 to 272.370 shall neglect or refuse to pay over to the owner of the fence the amount so awarded, the same may be recovered before a court of competent jurisdiction.

**§ 272.270. Fence owners may agree on maintenance--agreement recorded--refusal to agree, procedure.**





1. The several owners may, in writing, agree upon the portion of partition fences between their lands which shall be erected and maintained by each, which writing shall describe the lands and the parts of the fences so assigned, be signed and acknowledged by them, and filed and recorded in the office of the recorder of deeds of the county or counties in which they are situated. Any such agreement shall bind the makers, their heirs and assigns.

2. When one owner desires to make a division of the fence between his land and an adjoining landowner refuses to agree to a division, then the provisions of section 272.280 may be used to effect a division which shall be recorded in the office of the recorder of deeds in the county in which most of the fence is located.

**§ 272.280. Duties of judge if parties disagree on repairs--fence viewers to designate.**

If the parties cannot agree as to the part each shall have and keep in repair, either of them may apply to a circuit or associate circuit judge of the county who shall forthwith summon three disinterested householders of the township to appear on the premises, giving three days' notice to each of the parties of the time and place where said viewers shall meet, and the viewers shall, under oath, designate the portion to be kept in repair by each of the parties interested, and notify them in writing of the same.

**§ 272.290. Special partition fences--owner may demand payment, when.**

Whenever the fence of any owner of real estate now erected or constructed, or which shall hereafter be erected, constructed or rebuilt, the same being thereafter a fence designed to restrain swine, sheep or other animals requiring special fences, borders the land of another or which becomes a part of the fence bordering the land of another and is used to enclose such animals owned by the other person, on demand made by the person owning the fence, the other person shall pay the owner one-half of the value of so much thereof as borders his land, and upon the payment shall own an undivided half of the fence; except that no owner shall be required to pay more than the amount which would have been required to erect, construct or rebuild a lawful fence of four barbed wires on his one-half of the fence.

**§ 272.300. Fees of fence viewers, judge and sheriff--taxed as costs.**

The persons appointed by the judge under sections 272.250 and 272.280 to discharge the duties therein specified, shall receive five dollars each per day for the time actually employed, which, together with the fees of the judge and sheriff, shall be taxed as costs in the case against the parties in proportion to their respective interests, and collected accordingly.

**§ 272.310. Owners to repair division fence--remedy for failure.**

Every person owning a part of a division fence shall keep the same in good repair according to the requirements of sections 272.210 to 272.370. Either party owning land adjoining a division fence may, upon the failure of any of the other parties, have all that part of the division fence belonging to the other parties repaired, upon the failure of the other party to do so, the repairing to be at the cost of the party so failing to repair his part of the fence.

**§ 272.320. Division fence not to be removed--exceptions.**

No division fence shall be removed without the consent of all the owners thereof, unless for the purpose of opening a public road or highway or making repairs.

**§ 272.330. Application of law.**



1. The provisions of sections 272.240 to 272.350 shall apply to any division fence even though it may stand wholly upon one side of the division line.
2. The provisions of sections 272.210 to 272.370 shall not apply to counties which have all or partial open range.

**§ 272.340. Judgment of judge may be reviewed in circuit court.**

Any person aggrieved by any order or judgment of the judge made or entered under the provisions of sections 272.250 and 272.280 may have the same reviewed by a petition in the circuit court of the county wherein the proceedings were had, verified by affidavit. A copy of the petition shall be delivered to the adverse party at least fifteen days before the commencement of the next term of the court, and the original filed in the office of the clerk; provided, that the petition may be filed within thirty days after the order or judgment was made or rendered, and not afterward.

**§ 272.350. Petition for review shall state what.**

The petition shall set forth the grounds of objection, and upon the filing thereof the circuit court shall be possessed of the cause, and proceed to hear and determine the objections, and make such order or judgment as may be right and just in the premises.

**§ 272.360. Provisions of law effective after election.**

The provisions of sections 272.210 to 272.370 are hereby suspended in the several counties of this state until a majority of the legal voters of any county voting on the question at any general or special election called for that purpose shall decide to enforce the same in the county.

**§ 272.370. Petition for election--notice--order of adoption.**

The county commission may on its own motion and shall upon the petition of one hundred real estate owners of ten acres or more of the county submit to the voters at a general or special election the proposition for the adoption by the county of the provisions of sections 272.210 to 272.370. The commission shall cause notice of the election to be published in a newspaper published within the county, or if no newspaper is published within the county, in a newspaper published in an adjoining county, for three weeks consecutively, the last insertion of which shall be at least ten days before the day of the election, and by posting printed notices thereof at three of the most public places in each township in the county. If a majority of the voters voting on the proposition vote in favor of the adoption of the provisions of sections 272.210 to 272.370 the county commission shall issue an order declaring the adoption. From and after the issuance of the order the provisions of sections 272.210 to 272.370 shall be in full force and effect in the county and the provisions of sections 272.010 to 272.140 shall be suspended in the county.

**§ 389.650. Lawful fences, gates, who may build--trespassers.**

1. Every railroad corporation formed or to be formed in this state, and every corporation to be formed under this chapter, or any railroad corporation running or operating any railroad in this state, shall erect and maintain lawful fences on the side of the road where the same passes through, along or adjoining enclosed or cultivated fields or unenclosed lands, with openings and gates therein, to be hung and have latches or hooks, so that they may be easily opened and shut, at all necessary farm crossings of the road, for the use of the proprietors or owners of the land adjoining such railroad, and also to construct and maintain cattle guards, where fences are required, sufficient to



prevent horses, cattle, mules and all other animals from getting on the railroad; and until fences, openings, gates and farm crossings and cattle guards as aforesaid shall be made and maintained, such corporation shall be liable in double the amount of all damages which shall be done by its agents, engines or cars to horses, cattle, mules or other animals on said road, or by reason of any horses, cattle, mules or other animals escaping from or coming upon said lands, fields or enclosures, occasioned in either case by the failure to construct or maintain such fences or cattle guards.

2. After such fences, gates, farm crossings and cattle guards shall be duly made and maintained, said corporation shall not be liable for any such damage, unless negligently or willfully done.

3. If any corporation aforesaid shall, after three months from the time of the completion of its road through or along the lands, fields or enclosures herein named, fail, neglect or refuse to erect or maintain in good condition any fence, openings or farm crossings or cattle guards as herein required, then the owners or proprietors of said lands, fields or enclosures may erect or repair such fences, openings, gates or farm crossings or cattle guards, and shall thereupon have a right to sue and recover from such corporation in any court of competent jurisdiction the cost of such fences, openings, gates, cattle guards or repairs, together with a reasonable compensation for his time, trouble and labor in and about the construction of such fences, openings, gates or cattle guards, or the making of such repairs, together with ten percent interest per annum thereon, from the time of the service of process upon such corporation in such suit; provided, that before such repairs are commenced, such owner shall give five days' notice, in writing, to the railroad company, by delivering a copy thereof to the nearest section foreman or station agent of such railroad company, that the railroad fence needs repairs at a place or point named in the notice, on the lands of such owner.

4. And in every such action, if the plaintiff recover judgment, there shall be taxed as costs against the defendant an attorney's fee, to be fixed by the court or associate circuit judge before which or whom the cause may be pending, at such sum as may be a reasonable compensation for all legal services rendered for plaintiff in the case, without regard to any agreement between plaintiff and his counsel as to fees; but such fee shall not be taxed so long as any appeal taken in such case shall remain undisposed of.

5. And if any person shall ride, lead or drive any horses or other animals upon such road within such fences and guards other than a farm crossing, without the consent of the corporation, he shall, for every such offense, forfeit and pay a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party injured.

6. If any person not connected with or employed upon the railroad shall walk upon the track or tracks thereof, except where the same shall be laid across or along a publicly traveled road or street, or at any crossing, as herein provided, and shall receive harm on account thereof, such person shall be deemed to have committed a trespass in so walking upon said track in any action brought by him on account of such harm against the corporation owning such railroad, but not otherwise.

**§ 488.470. Lawful fences, gates, liability to erect or maintain, when--recovery of costs, attorney fees.**

If any railroad corporation formed or to be formed in this state, and any corporation to be



formed pursuant to chapter 389, RSMo, or any railroad corporation running or operating any railroad in this state fails, neglects or refuses to erect or maintain in good condition any fence, openings or farm crossings or cattle guards as required by section 389.650, RSMo, then the owners or proprietors of such lands, fields or enclosures may erect or repair such fences, openings, gates or farm crossings or cattle guards, and shall thereupon have a right to sue and recover from such corporation as provided in section 389.650, RSMo. In such action, if the plaintiff recovers judgment, there shall be taxed, pursuant to section 389.650, RSMo, as costs against the defendant an attorney's fee, to be fixed by the court or associate circuit judge before which or whom the cause may be pending, at such sum as may be a reasonable compensation for all legal services rendered for plaintiff in the case, without regard to any agreement between plaintiff and his or her counsel as to fees; but such fee shall not be taxed so long as any appeal taken in such case shall remain undisposed of.

**§ 537.260. Railroad liable for killing stock--irrespective of negligence unless road is fenced.**

When any animal or animals shall be killed or injured by the cars, locomotive or other carriages used on any railroad in this state, the owner of such animal or animals may recover the value thereof, in an action against the company or corporation running such railroad, without any proof of negligence, unskillfulness or misconduct, on the part of the officers, servants or agents of such company; but this section shall not apply to any accident occurring on any portion of such road that may be enclosed by a lawful fence, or in the crossing of any public highway.

**§ 537.270. Insufficient fence on railroad--stock killed--damages.**

Whenever any livestock shall go in upon any railroad or its right-of-way, in this state, and the said railroad is not at such place or places enclosed by a good fence, on both sides of said railroad, such as is by law required, or where said railroad has failed to construct and maintain a good and sufficient cattle guard, or opening gate, such as is by law required, and such stock by being frightened or run by any passing locomotive, motor car, or other vehicle, or train on said railroad, shall be injured or killed by or because of having run against the fence on either side, or into any culvert, bridge, slough or mire, or other object along the line of said road, the railroad company shall pay the owner of any such stock so injured or killed the amount of the damages sustained.

**§ 537.280. Injury to stock by railroad--agreed damages--payment, when.**

Whenever any livestock shall be injured or killed by any railroad, so as to render the railroad liable under section 537.270, or otherwise, and the owner of said livestock so injured or killed, or his authorized agent, and the agent or adjuster of the railroad, shall agree upon the amount of damage or damages sustained by the owner, the railroad shall, within forty days after said agreement, pay to the owner thereof, or his authorized agent, the amount of damage or damages so agreed upon.

**§ 537.350. Double damages for throwing down gates and fences--exception.**

If any person shall voluntarily throw down or open any doors, bars, gates or fences, and leave the same open or down, other than those that lead into his own enclosure, or shall voluntarily throw down, open or remove any partition fence, without giving six months' written notice to the person owning the adjoining fields, if they are cultivated lands, he shall pay to the party injured the sum of five dollars, and double the amount of damages he shall sustain by reason of such doors, bars, gates and fences having been thrown down or opened, with costs;



provided, that this section shall not be construed to apply to fences erected across any watercourse in this state which carries sufficient water to move logs for lumbering purposes, of ten inches or more in diameter, and railroad crossties and piling; provided further, that any corporation, company or individual driving such logs, crossties or piling, or having placed the same in any such stream with the intent to drive or float the same, shall be liable for the actual damages which may result therefrom to any owner of land bordering on any such stream; but this section shall not be construed to include a fence erected across any such stream and not enclosing a farm or plantation, nor where, in any case, it is apparent that such fence was erected across such stream for the mere purpose of hindering the free passage of such logs, crossties or piling, or for the purpose of extorting money from the corporation, company or individual engaged in driving such logs, crossties or piling.

