



# The National Agricultural Law Center

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## States' Fence Statutes: *North Carolina*



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: North Carolina

### **N.C.G.S.A. § 14-366, §§ 68-15 to 68-25 and §§ 68-42 to 68-46.**

*The statutes and Constitution are current through S.L. 2021-17 of the 2021 Regular Session of the General Assembly, subject to changes made pursuant to direction of the Revisor of Statutes.*

#### **§14-366. Molesting or injuring livestock.**

If any person shall unlawfully and on purpose drive any livestock, lawfully running at large in the range, from said range, or shall kill, maim or injure any livestock, lawfully running at large in the range or in the field or pasture of the owner, whether done with actual intent to injure the owner, or to drive the stock from the range, or with any other unlawful intent, every such person, his counselors, aiders, and abettors, shall be guilty of a Class 2 misdemeanor: provided, that nothing herein contained shall prohibit any person from driving out of the range any stock unlawfully brought from other states or places. In any indictment under this section it shall not be necessary to name in the bill or prove on the trial the owner of the stock molested, maimed, killed or injured. Any person violating any provision of this section shall be guilty of a Class 2 misdemeanor.

#### **Article 3. Livestock Law.**

##### **§ 68-15. Term “livestock” defined.**

The word “livestock” in this Chapter shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, and swine.

##### **§ 68-16. Allowing livestock to run at large forbidden.**

If any person shall allow his livestock to run at large, he shall be guilty of a Class 3 misdemeanor.

##### **§ 68-17. Impounding livestock at large; right to recover costs and damages.**

(a) Any person may take up any livestock running at large or straying and impound the same; and such impounder may recover from the owner the reasonable costs of impounding and maintaining the livestock as well as damages to the impounder caused by such livestock, and may retain the livestock, with the right to use with proper care until such recovery is had. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in order to locate the owner.

(b) Livestock is deemed to be abandoned when (i) it is placed in the custody of any other person for treatment, boarding, or care; (ii) the owner of the livestock does not retake custody of the animal within two months after the last day the owner paid a fee to the custodian for the treatment, boarding, or care of the livestock; and (iii) the custodian has made reasonable attempts to collect any past-due fees during the two-month period. If, after the end of the two-month period, the custodian of the abandoned livestock has been unsuccessful in collecting the past-due fees and the owner of



the livestock has not retaken custody of the livestock, the custodian may sell or transfer the livestock by executing an affidavit that identifies the buyer or transferee of the livestock and certifies compliance with the criteria and requirements of this subsection. If the custodian is unable to sell or transfer the livestock, the custodian may, but shall not be required to, otherwise humanely dispose of the abandoned livestock. A custodian shall provide written notice of the provisions of this subsection in conspicuous type to the owner of livestock at the time the livestock is delivered for treatment, boarding, or care as follows: "Pursuant to N.C. General Statutes § 68-17(b), the owner of this facility is entitled to sell, transfer, or otherwise humanely dispose of any livestock abandoned at this facility."

#### **§ 68-18. Notice and demand when owner known.**

If the owner of impounded livestock is or becomes known to the impounder, actual notice of the whereabouts of the impounded livestock must be immediately given to the owner and the impounder must then make demand upon the owner of the livestock for the costs of impoundment and the damages to the impounder, if any, caused by such livestock.

##### **§ 68-18.1. Notice when owner not known.**

If the owner of the impounded livestock is not known or cannot be found, the impounder shall inform the sheriff of the county in which the livestock was found of the impoundment, giving a full description of the livestock impounded, including all marks or brands on the livestock, and shall state when and where the animal was taken up.

#### **§ 68-19. Determination of damages by selected landowners or by referee.**

If the owner and impounder cannot agree as to the cost of impounding and maintaining such livestock, as well as damages to the impounder caused by such livestock running at large, then such costs and damages shall be determined by three disinterested landowners, one to be selected by the owner of the livestock, one to be selected by the impounder and a third to be selected by the first two. If within 10 days a majority of the landowners so selected cannot agree, or if the owner of the livestock or the impounder fails to make his selection, or if the two selected fail to select a third, then the clerk of superior court of the county where the livestock is impounded shall select a referee. The determination of such costs and damages by the landowners or by the referee shall be final.

#### **§ 68-20. Notice of sale and sale where owner fails to redeem or is unknown; application of proceeds.**

If the owner fails to redeem his livestock within three days after the notice and demand as provided in G.S. 68-18 is received or within three days after the determination of the costs and damages as provided in G.S. 68-19, the impounder shall notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's department. After 10 days from such posting, the impounder shall sell the livestock at public auction. If the owner of the livestock remains unknown to the impounder, then, three days after publication of the notice required by G.S. 68-18.1, the impounder shall notify the local Sheriff's office and the Sheriff shall post a notice fully describing the livestock and stating the place, date, and hour of sale on the Web site of the Sheriff's department. After 10 days from such posting, the impounder shall sell the livestock at public auction. The proceeds of any such public sale shall be applied to pay the reasonable costs of impounding and maintaining the livestock and the damages to the



impounder caused by the livestock. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in an attempt to locate the owner of the livestock. The balance, if any, shall be paid to the owner of the livestock, if known, or, if the owner is not known, then to the school fund of the county where the livestock was impounded.

**§ 68-21. Illegally releasing or receiving impounded livestock misdemeanor.**

If any person willfully releases any lawfully impounded livestock without the permission of the impounder or receives such livestock knowing that it was unlawfully released, he shall be guilty of a Class 3 misdemeanor.

**§ 68-22. Impounded livestock to be fed and watered.**

If any person shall impound or cause to be impounded any livestock and shall fail to supply to the livestock during the confinement a reasonably adequate quantity of good and wholesome feed and water, he shall be guilty of a Class 3 misdemeanor.

**§ 68-23. Right to feed impounded livestock; owner liable.**

When any livestock is impounded under the provisions of this Chapter and remains without reasonably adequate feed and water for more than 24 hours, any person may lawfully enter the area of impoundment to supply the livestock with feed and water. Such person shall not be liable in trespass for such entry and may recover of the owner or, if the owner is unknown, of the impounder of the livestock, the reasonable costs of the feed and water.

**§ 68-24. Penalties for violation of this Article.**

A violation of G.S. 68-16, 68-21 or 68-22 is a Class 3 misdemeanor.

**§ 68-25. Domestic fowls running at large after notice.**

(a) If any person shall permit any turkeys, geese, chickens, ducks or other domestic fowls to run at large on the lands of any other person while such lands are under cultivation in any kind of grain or feedstuff or while being used for gardens or ornamental purposes, after having received actual or constructive notice of such running at large, the person is guilty of a Class 3 misdemeanor.

(b) If any person permits any domestic fowls to run at large on the lands of a commercial poultry operation of any other person after having received actual or constructive notice of such running at large, the person is guilty of a Class 3 misdemeanor. For purposes of this subsection, a commercial poultry operation means any premises or operation where domestic poultry are fed, caged, housed, or otherwise kept for meat or egg production until sold or marketed.

(b1) Repealed by S.L. 2011-412, § 3.1, eff. Oct. 15, 2011.

(c) If it shall appear to any magistrate that after three days' notice any person persists in allowing his fowls to run at large in violation of this section and fails or refuses to keep them upon his own premises, then the said magistrate may, in his discretion, order any sheriff or other officer to kill the fowls when they are running at large as herein provided.

**Article 4. Stock Along the Outer Banks.**

**§ 68-42. Stock running at large prohibited; certain ponies excepted.**



From and after July 1, 1958, it shall be unlawful for any person, firm or corporation to allow his or its horses, cattle, goats, sheep, or hogs to run free or at large along the outer banks of this State. This Article shall not apply to horses known as marsh ponies or banks ponies on Ocracoke Island, Hyde County. This Article shall not apply to horses known as marsh ponies or banks ponies on Shackleford Banks between Beaufort Inlet and Barden's Inlet in Carteret County. Saving and excepting those animals known as "banker ponies" on the island of Ocracoke owned by the Boy Scouts and not exceeding 35 in number.

**§ 68-43. Authority of Secretary of Environment and Natural Resources to remove or confine ponies on Ocracoke Island and Shackleford Banks.**

Notwithstanding any other provisions of this Article, the Secretary of Environmental Quality shall have authority to remove or cause to be removed from Ocracoke Island and Shackleford Banks all ponies known as banks ponies or marsh ponies if and when he determines that such action is essential to prevent damage to the island. In the event such a determination is made, the Secretary, in lieu of removing all ponies, may require that they be restricted to a certain area or corralled so as to prevent damage to the island. In the event such action is taken, the Secretary is authorized to take such steps and act through his duly designated employees or such other persons as, in his opinion, he deems necessary and he may accept any assistance provided by or through the National Park Service.

**§ 68-44. Penalty for violation of § 68-42.**

Any person, firm or corporation violating the provisions of G.S. 68-42 shall be guilty of a Class 3 misdemeanor.

**§ 68-45. Impounding stock.**

The provisions of G.S. 68-24 to 68-30, relative to the impounding of stock running at large shall apply with equal force and effect along the outer banks of this State.

**§ 68-46. "Outer banks of this State" defined.**

For the purposes of this Article, the terms "outer banks of this State" shall be construed to mean all of that part of North Carolina which is separated from the mainland by a body of water, such as an inlet or sound, and which is in part bounded by the Atlantic Ocean.

