

Missouri Fence Laws

In 2001 the Missouri legislature passed a law that revamped Missouri Fence Law. It was designed to be a more streamlined and less confusing alternative to the previous laws.

Under Chapter 272 of the Missouri Statutes, there are essentially three different fence laws that may apply to you. First, parties with a common division fence can make their own law by agreement as to how they build and maintain that division fence. This agreement needs to be in written form, signed and recorded with the county recorder. This is to insure that any subsequent landowner's have notice of the agreement prior to the purchase of that land. Additionally, because the agreement pertains to real property, a verbal agreement is not enforceable, and a written agreement must be in place.

When there is not a valid agreement in place between the parties, then Chapter 272 applies. Under this statute, Missouri counties are governed by either the "general" fence law, or "opt-out" to be governed by the "local" fence law option available to counties in Missouri. Under the "local" option, the adjoining landowners in that county must equally split the costs of building a fence if either landowner needs a fence. Though each landowner is also obligated to maintain one-half(1/2) of the fence, the "right-hand rule" does not apply in these counties.

The default fence law is referred to as the "general" fence law. This law applies to all counties who have not opted-out of the general law. Under the general law, a neighboring landowner cannot be forced to pay to construct or maintain a division fence if he has no livestock. As a result, if you have livestock, and your neighbor does not, you must pay the entire cost for construction

and maintenance. If your neighbor does have livestock, and there is no agreement between the parties, then the parties' construction and maintenance of the division fence is controlled by the "right-hand rule." Under this rule, the adjoining landowners "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." RSMo. 272.060.

Lawful Fence

The chapter also requires that the division fence be a "lawful fence." However, whether your fence is a lawful one depends upon the location of your land.

If you reside in a "general" county, the wires or boards on the fence must be at least four feet high. The posts are to "be set firmly in the ground not more than 12 feet apart with wire or boards securely fastened to such posts and placed at proper distance apart to resist...livestock." RSMo. 272.020.

If your county has opted out of the general rule, the "local" option law applies. Under the local rule, a lawful fence is "a fence not less than four boards per four feet of height; said boards to be spaced no further apart than twice the width of the boards used fastened in or to substantial posts not more than 12 feet apart with one stay, or a fence of four barbed wires supported by posts not more than 15 feet apart with one stay or 12 feet apart with no stays, or any fence which is at least equivalent to the types of fences described herein." RSMo. 272.210

Liability for Damages

A full discussion of liability is beyond the scope of this article. Generally, under both the general and local option law the negligent party is liable to the other landowner for the damages that were actually sustained. Often times these damages result from destroyed crops or

injuries sustained by the neighbor's animals. However, under the general law, if a person who does not maintain a sufficient fence hurts the neighbor's trespassing livestock, whether by "shooting, worrying with dogs, or otherwise" that person is liable to his neighbor for double the amount of damages the neighbor sustained.

Exterior Fences

"General" fence law states that "all fields and enclosures where animals are kept shall be enclosed by a lawful fence." The "local option" law is very similar. A person owning livestock on a pasture incurs liability when the animal escapes and causes damages to someone's crops, animals, vehicles, etc.... when the livestock owner is negligent. To show negligence, the plaintiff would have to show that the livestock owner did not maintain his fences or water gaps in a reasonable manner. If a livestock owner is constantly checking his fence and livestock, it would be difficult for a plaintiff to show the livestock owner was negligent. If, however, the livestock owner turned his cattle loose in the pasture 2 years ago and has not gone around his fence during that time, or knew of a hole in the fence and failed to repair it, the plaintiff would have an easier time showing the livestock owner's actions were unreasonable, and therefore he was negligent.

While "good fences make for good neighbors," you may not have either depending upon the condition and age of your division fences. Additionally, more and more "out of area" landowners are purchasing land in Missouri, but do not run livestock on it, or are only on the land during hunting seasons. As these aspects become more prevalent, it is important to understand your rights and obligations before a situation arises in order to avoid a dispute.