

**OKLAHOMA DEPARTMENT OF AGRICULTURE  
ANIMALS AT LARGE AND FENCE STATUTES**



2001

# **OKLAHOMA ANIMAL AT LARGE AND FENCE STATUTES**

## **Oklahoma Statutes Title 4 Animals Chapter 5 Herd Law**

### **RESTRAINT OF ANIMALS**

#### **§ 98. Restraint of all Domestic Animals - Damages for Trespass.**

All domestic animals shall be restrained by the owner thereof at all times and seasons of the year from running at large in the State of Oklahoma. Damages sustained by reason of such domestic animals trespassing upon lands of another shall be recovered in a manner provided by law. For the purpose of this act, domestic animals shall include cattle, horses, swine, sheep, goats, exotic livestock and all other animals not considered wild. The term "domestic animals" shall not include domestic house pets or feral hogs.

#### **§ 99. Failure to Keep Domestic Animals Enclosed - Release of Hog to Live in Wild or Feral State - Penalties.**

A. Any person who:

1. Willfully omits to keep a domestic animal such person owns or has charge of within a suitable enclosure;
2. Allows the animal to be unrestrained or to run at large, with notice, actual or constructive, that the enclosure within which such animal is kept is open; or
3. Knowingly causes a domestic animal to escape confinement, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Fifty Dollars (\$50.00) for each offense, or not more than thirty (30) days' imprisonment in the county jail for each offense, or by both such fine and imprisonment.

- B.
1. No person shall willfully release any hog to live in a wild or feral state upon public land or upon private land.
  2. Any person who violates this subsection shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed Five Hundred Dollars (\$500.00).

- C. For the purpose of this act, the term "domestic animals" shall not include domestic house pets or feral hogs.

**TRESPASSING ANIMALS, DAMAGES AND FENCES**  
**General Provisions**

**§ 132. Criminal and Civil Penalties for Removal of Stock from Distraint without Possessor's Permission.**

If any person, by force or otherwise, without leave of the person having the stock under distraint remove the stock from such distraint, he shall be guilty of a misdemeanor, and shall pay a fine of not less than ten (10) nor more than One Hundred Dollars (\$100.00), or be imprisoned in the county jail not less than ten (10) nor more than thirty (30) days, and shall in addition thereto, be liable in a civil action for the recovery of the stock so relieved from distraint, or for damages and costs, as the party distraining may elect.

**§ 133. Definition of Stock "Owner".**

The word "owner" as used in this article shall include the person entitled to the immediate possession of the animal, and also the person having charge or care of the same, and also the person having the legal title thereto.

**§ 134. Definition of Land "Owner".**

For the purposes of this article, the owner, homesteader, tenant, or other person in the possession of, or cultivating the land trespassed upon, shall be deemed to be the owner thereof.

**§ 135. Proceedings after Distraint - Assessment of Damages - Notices - Sale - Surplus.**

- A. Within forty-eight (48) hours after stock has been distrained, Sunday not being included, the party distraining, or such party's agent, shall notify the owner of the stock when known, or, if unknown, the party having them in charge. If the owner fails to satisfy the person whose lands are trespassed upon, the party injured shall, within twenty-four (24) hours thereafter, notify in writing the county sheriff to come upon the premises to view and assess the damages.
- B. The county sheriff shall, within forty-eight (48) hours after receiving such notice, Sundays and holidays excepted, proceed to view and assess the damages, and

determine a reasonable amount to be paid for seizing and keeping said stock. If the person owning the distrained stock fails to pay the damages as assessed, the sheriff shall provide for the public notice and sale of the distrained stock as provided by Section 85.6 of this title.

- C. Any money or stock left after satisfying such claims shall be returned to the owner of the stock sold.

**§ 136. Damages Assessment -Appeal-Bond-Supersedeas-Delivery of Stock to Appellant if Owner-Originals Certified.**

The county sheriff shall make his assessment in writing and file the same with the county clerk, to be kept in his office. Any person aggrieved by the action of the county sheriff under this article, may appeal therefrom, to the District Court. The person appealing shall file with the county sheriff a bond, in a penalty double the value of the property distrained, or if the value of the property exceed the amount of damage claimed, then in double the amount of damages, with good and sufficient sureties, to be approved by the county sheriff, and from and after the filing of the appeal bond, the same shall operate as a supersedeas. In case the owner of such stock be the appellant, the same shall be delivered to him. The county sheriff shall, after the appeal is taken, certify all the original papers in the case to the District Court.

**§ 139. Partition or Maintenance of Fence Controversies-Application to Fence Viewers-Authority of Viewers and Notice.**

When a controversy arises between the respective owners about the obligation to erect or maintain a partition fence, either party may apply to the fence viewers, who, after due notice to each party, may inquire into the matter and assign to each his share thereof, and direct the time in which each shall erect or repair his share in the manner provided above.

**§ 140. Complainant's Right to Repair or Rebuild Fence-Demand of Owner for Value and Viewer's Fees-Possible Interest.**

If such fence be not repaired or built accordingly, the complainant may repair or rebuild it, and the same being adjudged sufficient by the fence viewers, and the value thereof, with their fees, being ascertained by them, and certified under their hands, the complainant may demand of the owner of the land where the fence was deficient, the sum so ascertained, and in case of neglect to pay the same, for one (1) month after demand, may recover it by civil action together with one percent (1%) a month interest thereon.

**§ 141. Fence Viewers Number-Appointment-Compensation-Failure or Refusal to Appoint.**

Fence viewers herein designated shall consist of three (3) disinterested freeholders, one to be chosen by each of the interested parties, and the two so chosen shall choose the third person, and the three so chosen shall proceed to discharge the duties of fence viewers as herein provided. Such fence viewers to be allowed One Dollar (\$1.00) per day each, to be paid by the interested parties: Provided, that if either party shall fail or refuse to appoint such fence viewers, as herein provided, within three (3) days after so requested to do by the other interested party, then the county sheriff shall, on application of the party making the request for fence viewers, appoint such fence viewer for such party so failing or refusing to appoint.

**§ 142. Fence repair.**

All partition fences shall be kept in good repair throughout the year, unless the owners on both sides otherwise agree in writing.

**§ 143. Owners Not Required to Fence-Lands Enclosed or Used Not in Commons-Duty to Fence.**

Any person not wishing his land enclosed, and not occupying or using it otherwise than as commons, shall not be compelled to contribute to erect or maintain any fence between him and an adjacent owner; but when he encloses or uses his land otherwise than as a commons, he shall contribute to the partition fences as in this article provided.

**§ 144. Lands Owned in Severalty-Fence Lines-Refusal to Build-Time to Comply.**

When lands owned in severalty have been enclosed in common without a partition fence, and one of the owners is desirous of occupying his in severalty and the other refuses or neglects to divide the line where the fence shall be built, or refuses to build a sufficient fence on his part of the line, when divided, the party desiring it may have the same divided and assigned by the fence viewers, who may, in writing, assign a reasonable time within six (6) months, having regard for the season of the year, for making the fence, and if either party neglects to comply with the decision of the viewers the other, after making his own part, may make the other part and recover as hereinbefore provided.

**§ 145. Notice Required to Open Land as Commons.**

In the case mentioned in the preceding section, when one of the owners desires to throw open any portion of his field not less than sixteen (16) feet in width and leave it unenclosed to be used as a commons by the public, he shall first give the other party six (6) months' notice thereof.

**§ 146. Payment for Fence Between Adjoining Lands.**

When land which has lain unenclosed is enclosed the owner thereof, before he join to any partition fence, already erected, shall pay for one-half (1/2) of each partition fence between his lands and the adjoining lands, the value to be ascertained by the fence viewers, and if he neglects for thirty (30) days after notice and demand to pay the same, the party to whose fence he joins may recover as before provided, or such person, enclosing such land, may, at his election, rebuild and make one-half (1/2) of the fence, and if he neglects so to do for two (2) months after making such election, he shall be liable as above provided.

**§ 147. Division of fence-Recordation.**

When a division of fence between the owners of improved land shall have been made, either by fence viewers or agreement in writing, and is recorded in the office of the county clerk of the county where the lands are, the owners and their heirs and assigns shall be bound thereby, and shall support them accordingly.

**§ 148. Definitions-Owner.**

In the provisions of this article relating to fences the term "owner" shall apply to the occupant or tenant where the owner does not reside in the county, but these proceedings will not bind the owner unless notified.

**§ 149. Mistaken Improvements to Another's Land-Damages and Removal.**

When a person has made a fence or other improvements on land, which, on afterwards making division lines, is found to be on the land of another, such person shall not remove such fence or other improvements, until he shall have paid to the owner of such land all damages by reason of such improvements or fence being so located, and if the person making such fence or other improvements fail to pay such damages and remove the said improvements within six (6) months after such division line has been established, and after having thirty (30) days' notice from the owner of said land to remove such fence or improvements, then said fence or improvements shall become a part of the real estate and belong to the owner thereof: Provided, that when the parties interested in such land and such fence and improvements cannot agree as to the amount of such damages, by reason of such improvements being upon the land of another, the fence viewers may determine the amount of such damages as in other cases.

**§ 150. When Fence or Improvements on Another's Land are Not Removable.**

But such fence or other improvement, except substantial buildings, shall not be removed if they were made of timber or other material taken from the land on which they lie, until the party pays the owner the value of the timber, or other material, to be ascertained by fence viewers, nor shall a fence be removed at any time when the removal will throw open or expose the crop of the other party, but it shall be removed in a reasonable time after the crop is secured, although six (6) months have passed.

**§ 151. Other Rights and Duties Determined by Fence Viewers.**

When any question arises between parties other than those stated, concerning their rights in fences or their duties in relation to building or maintaining or removing them, such question may be determined by the fence viewers.

**§ 152. Line Fence-Erection and Removal.**

A person building a fence may erect the same upon the line between him and the adjacent owners, so that the fence may be partly on one side and partly on the other, and the owner of such fence shall have the same right to remove it as if it were wholly on his land: Provided, that such fence is not more than five (5) feet from such line.

**§ 153. Legal Proceedings or Agreement by Parties Not Barred.**

The foregoing provisions of this article, shall not bar any other legal proceedings, for the determination of the title of land, or dividing the line between contending owners, nor do they preclude agreement by the parties.

**§ 154. Fence Construction Requirements.**

A fence made of three rails of good substantial material, or three boards not less than six (6) inches wide and three-quarters (3/4) of an inch thick, such rails or boards to be fastened in or to good substantial posts not more than ten (10) feet apart where rails are used, and not more than eight (8) feet apart where boards are used, where either wholly or in part substantially built and kept in good repair, or any other kind of fence, which, in the opinion of the fence viewers shall be equivalent thereto, shall be declared a lawful fence: Provided, that the lowest or bottom rail, wire or board shall not be more than twenty (20) or less than sixteen (16) inches from the ground, and that such fence shall be fifty-four (54) inches in height, except that barb wire fence may consist of three barb wires, or four wires, two of which shall be barbed, the wires to be firmly fastened to the posts not more than two (2) rods apart, with two stays between the posts, or with posts not more than one (1) rod apart without such stays, the top wire to be not less than fifty-four (54) nor more than fifty-eight (58) inches in height, and the bottom wire to be not

more than twenty (20) or less than sixteen (16) inches from the ground: Provided, Further, that all partition fences may be made tight at the expense of the party desiring it, and such party may take from such fence the material by him added thereto whenever he may elect: and Provided, Further, that when the owner or occupants shall keep their respective share of the partition fence sufficiently tight to restrain such sheep, goats or swine.

**§ 155. Animals Trespassing Over Lawful Fences May be Seized.**

In districts where fences are required, as in this article, provided, the owner of stock shall be liable for all damages done by animals breaking through or over lawful fences and trespassing upon the enclosed lands of another, and the animals so breaking through or over such fence may be seized as trespassing animals and proceeded with as provided in this article.

**§ 156. Judgment Lien Caused by Trespassing of Animals-Execution.**

In all cases where the plaintiff may recover judgment for damages caused by the trespassing of animals of another the judgment shall be a lien upon the stock so trespassing and the plaintiff may have special execution for the sale of such stock to satisfy the judgment and costs or general execution as he may elect.