

Missouri's Complex Fence Law

Presented by:



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Program Complaint Information

To file a program complaint you may contact any of the following:

University of Missouri

- MU Extension AA/EEO Office, 109 F. Whitten Hall, Columbia, MO 65211
- MU Human Resources Office, 130 Heinkel Bldg, Columbia, MO 65211

USDA

- Office of Civil Rights, Director, Room 326-W, Whitten Building, 14th and Independence Ave., SW, Washington, DC 20250-9410



Looking at Missouri's 2 Fence Laws...

...What's the Difference
and Where does Your
County Fit?



What I'll Discuss Tonight...

- **How the Optional Fence & Enclosure Act differs from the “updated general law” is**
- **What either law will (and won't) do**
- **Try to answer any Questions any of you have**

Where Missouri is at right now...



- **Most of the state currently has the updated general law.**
- **18 counties in the state (mostly in Northern Missouri) have the local option law.**

Missouri's Other Fence Law...

Local option Law Counties

- Bates
- Clinton
- Daviess
- Gentry
- Grundy
- Harrison
- Knox
- Linn
- Macon
- Mercer
- Newton
- Putnam
- Schuyler
- Scotland
- Shelby
- Sullivan
- Saint Clair
- Worth

Where Missouri is at right now...

- Chapter 272 is where the fence law statute is located. You can find it on the web too at <http://www.moga.state.mo.us/statutes/c272.htm>
- The revised general law starts at 272.010 while the local option begins at 272.210

Comparing the 2 laws...

- *New General Law*

only if a landowner owns livestock can he/she be required to build a boundary fence.

- *Optional Law*

if 1 landowner has a “need” for a boundary fence, then both landowners are required to contribute 1/2.

Comparing the 2 laws...

- *New General Law*

the definition of livestock can be an issue such as:

- ~ is 1 horse lvtck?
- ~ can I run wire 25 feet off property line and not contribute?

- *Optional Law*

Comparing the 2 laws...(con't)

- *New General Law*

if both landowners have livestock, they are to meet and within a “reasonable” time build or repair the boundary fence.

- *Optional Law*

The landowner can give notice to the other(s) as to their “need” for a boundary fence, within 90 days the other is expected to “do this” or face legal action.

Comparing the 2 laws...(con't)

- *New General Law*

There is NO specific legal recourse if one landowner refuses to build their portion of the fence.

- *Optional Law*

A specific legal recourse is in place if 1 landowner refuses to build their portion, how good it is depends in large part to the judge.

Comparing the 2 laws...(con't)

- *New General Law*

There is a specific legal remedy for a landowner(s) who puts livestock against a neighbor's fence later. How well it's working is subject to interpretation (not very well according to most).

Comparing the 2 laws...(con't)

- ***New General Law***

The definition of a legal fence is now “wire or wood at least 4 foot high with posts no more than 12 feet apart”. Other types of fences must be approved by the judge.

- ***Optional Law***

“A legal fence is 4 barbed wire or the equivalent with posts no farther than 12 feet apart with no stays & 15 feet apart with one stay”.

Comparing the 2 laws...(con't)

- ***New General Law***

If more than a legal fence is required (woven wire, etc.) you are still required to pay for ½ of a legal fence.

- ***Optional Law***

same as new law

Comparing the 2 laws...(con't)

- ***New General Law***

The part of the fence to build/maintain is the right 1/2 as you face each other at the midpoint of your boundary fence.

- ***Optional Law***

The part of the fence to build/maintain is *traditionally* the right 1/2 as you face each other at the midpoint of your boundary fence.

Comparing the 2 laws...(con't)

- *New General Law*

You have the legal right to go onto your neighbor's property to repair your or his/her portion of the fence.

- *Optional Law*

***SAME AS
NEW LAW***

Comparing the 2 laws...(con't)

- *New General Law*

You do not have the legal right to remove a fence without your neighbor's okay. You can remove brush /trees that are obstructing the fence.

- *Optional Law*

***SAME AS
NEW LAW***

Fences & Adverse Possession...

- Many people run into adverse possession issues on a fence line. It is a legal term that essentially says if a fence has been in a location for more than 10 years, a new owner may not be able to move it if the neighbor refuses.
- It is a legal process but it is critical to know a survey alone typically does not overturn it if requirements are met.

Fences & Adverse Possession...

- Evidence to argue adverse possession include survey, photos, witnesses, use of land during period (timber cut, hunting, etc.).
- If both landowners agree, a simple phrase can be put on both deeds to avoid this problem.
- You can find out much more on this at <http://aglaw.missouri.edu>.

Animal Trespass Issues...

- The other area where there are major differences is that of animal trespass.
- Animal liability where boundary fences exist differs between laws.



Comparing the 2 laws...(con't)

- *New General Law*

If livestock get out through your portion of the fence, you can collect actual damages or nothing depending on the condition of the fence.

- *Optional Law*

If livestock get out through your portion of the fence, you have no legal right to collect damages of any kind.

Comparing the 2 laws...(con't)

- *New General Law*

If livestock get out through the other side of the fence, you can collect actual damages, again depending on the condition of the fence.

- *Optional Law*

If livestock get out through the neighbor's portion of the fence, you can legally repair his part and be reimbursed for your costs of that only.

Comparing the 2 laws...(con't)

- *New General Law*

If livestock get out through a non-boundary fence (road, creek), you can receive double damages and distrain them after the 1st trespass.

- *Optional Law*

same as general law.

Comparing the 2 laws...(con't)

- *New General Law*

railroads are
unique situation.
Statute 389.650
requires them to
maintain their fences
from livestock.

- *Optional Law*

same as general
law.

Law Interpretation Issues...



- Another cause for potential cloudiness is that the law is subject to a lot of interpretation by the county's Associate Circuit Judge.

Fence Cases & Court...

- Cases below \$3,000 can be heard in small claims court. This can be done without an attorney if you wish.
- Again, remember these laws are still subject to a lot of interpretation.

Miscellaneous issues...

- ***Keep in mind*** that the Local Option can be voted on more than once.
- If a landowner refuses to do their part, it is extremely difficult to force them under either law.
- If voted in, it will require education on the part of your judge and attorneys too!

If You Have Further Questions...

- You can contact me either by...

phone: (660) 947-2705

fax: (660) 947-3006 {call 1st}

e-mail: koenenj@missouri.edu

or you can call your county office and they
can contact me.

In Conclusion...

- Can I answer any additional questions anyone has?
- I will answer specific questions. However, remember that the law can be interpreted different ways.

