

# Missouri's Complex Fence Law

Presented by:



Joe Koenen  
Agriculture Business Specialist  
and County Program Director

UNIVERSITY OF MISSOURI  
 Extension

# 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

UNIVERSITY OF MISSOURI  
 Extension

# Looking at Missouri's 2 Fence Laws...

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



UNIVERSITY OF MISSOURI  
 Extension

# 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.**
- **19 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
- **Cedar**
- 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.mo.gov/mostatutes/chapters/chapText272.html>
- 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 lvtk?
- ~ 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*

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



# 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 (has to go to court) 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 contact me if you want to find out more on this or go to <http://extension.missouri.edu/p/G811>

# Animal Trespass Issues...

- The other area where there are major differences is that of animal trespass.
- Senate Bill 844 which became law in 2016 changed animal owner liability greatly.



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

- *New General Law*

**272.030 states**  
“only in cases where livestock get through a lawful fence and do damage, the livestock owner is liable only in cases of negligence”  
on their part.

- *Optional Law*

There is nothing in the current statute related to this since in these counties, damages are not legally allowed with a boundary fence.

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

- *So what constitutes negligence?*
  - ~ fence that doesn't meet minimum legal requirements
  - ~ water gaps not repaired in a "timely" manner
  - ~ livestock not fed or cared for as law expects
  - ~ animals that get out regularly (bull, etc.)

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

- *New General Law*

If livestock get out through a non-boundary fence (road, creek), you may be able to receive double damages and distrain them after the 1<sup>st</sup> trespass.

- *Optional Law*

same as general law.

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

- *So what about the “stray law”?*
  - ~ chapter 272 covers fence law;  
chapter 271 covers stray animals
  - ~ 271 covers strays that get out and is  
considered obsolete although some  
folks quote and use parts of it
  - ~ chapter 270 covers animals running at  
large further confusing this issue



# 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.
- Add attorneys & law enforcement too here.

## Fence Cases & Court...

- Cases below \$5,000 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 1<sup>st</sup>}**

**e-mail: [koenenj@missouri.edu](mailto: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.

