Effective 7/1/2017

Chapter 26
Enclosures and Fences

4-26-101 Failure to close entrance to enclosure -- Class C misdemeanor -- Damages.

A person who willfully throws down a fence or opens bars or gates into an enclosure other than the person's own enclosure or into an enclosure jointly owned or occupied by the person and others, and leaves the enclosure open:

(1) is guilty of a class C misdemeanor; and

(2) is liable in damage for an injury sustained by a person as a result of the act.

Amended by Chapter 492, 2026 General Session

4-26-102 Adjoining landowners -- Partition fences -- Contribution.

(1) If two or more persons agree to a fence enclosure or to the construction of a partition fence, the cost of construction and maintenance of the fence shall be apportioned between each party to the agreement based upon the amount of land enclosed.

(2) A person who is a party to an agreement described in Subsection (1) and who fails to maintain such person's part of the fence is liable in a civil action for any damage sustained by another party to the agreement as a result of the failure to maintain the fence.

(3)

(a) If a person has enclosed land with a fence and the owner of adjoining land desires to enclose land adjoining the fence so that the existing fence or any part of it will become a partition fence between such tracts of land, the owner of the adjoining land shall, before making the enclosure, pay to the owner of the existing fence one-half of the value of all that part of the fence that will become a partition fence.

(b) If a person whose land is enclosed, in whole or in part, by a partition fence ceases to improve or cultivate that person's land or opens the enclosure, the person:

(i) shall give notice to the other owner of the partition fence and an opportunity to pay for the person's reasonable value of the fence;

(ii) may not remove any part of the partition fence until the earlier of:

(A) 30 days after the day on which the person gave notice to the other owner, as described in Subsection (3)(b)(i); or

(B) the day the other owner pays the person for the person's reasonable value of the fence; and

(iii) notwithstanding Subsection (3)(b)(ii), may not remove the partition fence if the crops enclosed by the fence will be exposed to injury.

Amended by Chapter 345, 2017 General Session

4-26-103 Definitions -- Qualified landowners' and qualified adjoining landowners' partition fences -- Contribution -- Civil action for damages.

(1) As used in this section:

(a) "Qualified adjoining landowner" means a private landowner whose land adjoins the land of a qualified landowner and is used for grazing livestock or as habitat for big game wildlife and:

(i) is land which qualifies under the definition of "conservation easement" as defined in Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or

(ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.
(b) "Qualified landowner" means a private landowner whose land is used for grazing livestock and:
(i) is land which qualifies under the definition of "conservation easement" as defined in Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or
(ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.
(2) A qualified landowner may require the qualified adjoining landowner to pay for one-half of the cost of the fence if:
(a) the fence is or becomes a partition fence separating the qualified landowner's land from that belonging to the qualified adjoining landowner;
(b) the cost is reasonable for that type of fence;
(c) that type of fence is commonly found in that particular area; and
(d) the construction of the fence is no more expensive than the cost for posts, wire, and connectors.
(3) If the qualified adjoining landowner refuses, the qualified landowner may maintain a civil action against the qualified adjoining landowner for one-half of the cost of that portion of the fence.
(4) The cost of the maintenance of the fence shall also be apportioned between each party based on the amount of land enclosed. A party who fails to maintain that party's part of the fence is also liable in a civil action for any damage sustained by the other party as a result of the failure to maintain the fence.

Renumbered and Amended by Chapter 331, 2012 General Session

4-26-104 Fencing for bison.

Perimeter fencing intended to hold bison shall meet the following minimum standards:
(1) fence sections and gates shall:
(a) reach a height of at least eight feet above ground level; and
(b) be constructed in a mesh pattern consisting of:
(i) hi-tensile steel wire of at least 14-1/2 gauge;
(ii) a maximum mesh size of six inches by six inches; or
(iii) a material with the strength equivalent of the material described in Subsections (1)(b)(i) and (ii);
(2) fence posts shall:
(a)
(i) be constructed of treated wood at least four inches in diameter; and
(ii) be constructed of a material with the strength equivalent of the material described in Subsection (2)(a)(i);
(b) reach a height of at least six feet, two inches above ground level;
(c) have at least two feet of length below ground level;
(d) be installed at intervals of no more than 20 feet; and
(e) if located on a corner or connected to a gate, be braced with wood or the strength equivalent of wood; and
(3) fence stays shall:
(a) be constructed of treated wood or steel;
(b) be installed at intervals of no more than 10 feet from any fence post; and
(c) reach a height of at least six feet, two inches above ground level.

Amended by Chapter 345, 2017 General Session