

**Representative Bradley T. Johnson** proposes the following substitute bill:

**HISTORICAL LIVESTOCK TRAILS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Bradley T. Johnson**

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**LONG TITLE**

**General Description:**

This bill addresses historical livestock trails.

**Highlighted Provisions:**

This bill:

- ▶ provides a defense for an owner of livestock whose livestock damages property abutting an historical livestock trail that is not fenced;
  - ▶ enacts provisions allowing a prescriptive easement for an historical livestock trail;
- and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**4-25-8**, as last amended by Chapter 126, Laws of Utah 2002

ENACTS:

**57-13b-101**, Utah Code Annotated 1953

**57-13b-102**, Utah Code Annotated 1953



26 57-13b-201, Utah Code Annotated 1953



27  
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section 4-25-8 is amended to read:

30 **4-25-8. Owner liable for trespass of animals -- Exception -- Intervention by**  
31 **county representative.**

32 (1) The owner of any neat cattle, horse, ass, mule, sheep, goat, or swine that trespasses  
33 upon the premises of another person, except in cases where the premises are not enclosed by a  
34 lawful fence in a county or municipality ~~[which]~~ that has adopted a fence ordinance, is liable in  
35 a civil action to the owner or occupant of the premises for any damage inflicted by the trespass.

36 (2) A county representative may intervene to remove the animal and the county is  
37 entitled to fair compensation for costs incurred. If the animal is not claimed within ten days  
38 after written notification is sent to its owner, a county representative may sell the animal to  
39 cover costs incurred.

40 (3) Notwithstanding Subsections (1) and (2), the owner of any neat cattle, horse, ass,  
41 mule, sheep, goat, or swine that trespasses upon the premises of another person is not liable in  
42 a civil action to the owner or occupant of the premises for damage inflicted by the trespass if:

43 (a) the animal enters the premises from an historic livestock trail, as defined in Section  
44 57-13b-102; and

45 (b) the premises that was trespassed is not enclosed by a fence at the time the trespass  
46 occurs.

47 Section 2. Section 57-13b-101 is enacted to read:

48 **CHAPTER 13b. EASEMENT FOR HISTORICAL LIVESTOCK TRAIL ACT**

49 **Part 1. General Provisions**

50 **57-13b-101. Title.**

51 This chapter is known as the "Easement for Historical Livestock Trail Act."

52 Section 3. Section 57-13b-102 is enacted to read:

53 **57-13b-102. Definition.**

54 As used in this chapter, "historical livestock trail" means property over which livestock  
55 has historically traveled to or from a grazing area or market.

56 Section 4. Section 57-13b-201 is enacted to read:

57 **Part 2. Prescriptive Easement**

58 **57-13b-201. Prescriptive easement for cattle trail.**

59 (1) A prescriptive easement may be established if:

60 (a) a property owner uses an historical livestock trail that crosses another person's  
61 property for a period of 20 years; and

62 (b) the use of the other owner's property as an historical livestock trail for the 20-year  
63 period described in Subsection (1)(a) is:

64 (i) continuous;

65 (ii) open and notorious; and

66 (iii) adverse.

67 (2) If a property owner establishes that a use is continuous and open and notorious  
68 under Subsections (1)(b)(i) and (ii), there is a rebuttable presumption that the use is adverse.

69 (3) Notwithstanding Subsections (1) and (2), a prescriptive easement under this chapter  
70 may only be established on private lands.