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Livestock Liability for Land and Livestock Owners

All livestock owners are familiar with the occasional escape of livestock to greener pastures, and the effort to round them up. Most of the time the stray animals are returned safely. However, the consequences of the escape can create exposures such as:

- Injury or death to others
- Damage to property of others
- Loss of your livestock
- Possible responsibility to pay for cost to return the livestock to you or pay expenses of keeping your stray livestock

Understanding some of your responsibilities and taking reasonable precautions can help you plan to avoid such risks.

Are you on the “Open Range?”

Historically, in a “fence-out” or open range situation, livestock are free to wander anywhere they wish. The owner was not responsible for damage inflicted by those livestock unless they entered land enclosed by a lawful fence. Lawful fences could be defined by statute, ordinance or code. A lawful fence may have requirements for construction type, height, number and separation of strands of wire, types of strands of wire and length between posts. Laws may also provide that these open range provisions apply only in certain areas of a state or county. They may also only apply to certain types of livestock, such as cattle. For example, sheep or swine could be under a “fence-in” type rule even in an open range area.

A good rule to follow is to treat your property as a “fence-in” situation. If you are not sure, act with reasonable care. Take reasonable precautions to lawfully “fence-in” your livestock.

Are You Required to “Fence-in” Your Livestock?

In a “fence-in” situation, the landowner has responsibility to keep their livestock fenced in. Statutes may provide that this fence must be a “lawful fence” as mentioned above. Even if there is not a “lawful fence” requirement, you may still be required to show you exercised reasonable care to avoid their escape.

Was Your Livestock “Trespassing” or “At Large?”

Trespass: unauthorized and direct breach of the boundaries of another’s land. For example, livestock leaving a landowner’s property and entering onto a neighbor’s land could be considered trespassing if it were unauthorized.

At-large: free, unrestrained or not under control. For example, cattle entering a roadway may not be trespassing. They are “at-large” – free and unrestrained by your fence.

Laws may apply differently depending on whether your livestock is “at-large” or “trespassing.” Trespass laws may also be impacted by whether you must “keep in” your livestock or the other landowner must “keep out” your livestock.

Most states place duties on owners of livestock to take reasonable precautions to prevent their animals from roaming at-large. Just because your animal escapes does not necessarily mean you are responsible for any resultant damage. Did you take reasonable precautions?

A Few Precautions Can Protect You and Your Livestock

- Maintain adequate fencing. Inspect it regularly, especially after storms. If damage is found, make the repairs as quickly as possible. Be familiar with your jurisdiction’s definition of a “legal fence” and maintain your fence according to those standards.
- Maintain locks on all gates.
- Maintain adequate feed and pasture for the livestock. Most animals will stay put within a reasonably adequate fence if they are well fed.
- Monitor your livestock periodically.
- If you are leasing property for someone to raise livestock, normally they should be responsible for those livestock.

However, you could be found responsible as the owner of the livestock. Take a few steps to protect yourself:

- Verify the owner has adequate insurance. Consider having the owner list you as an “interested party” or “additional insured” on their policy. You can then receive notice that the policy is still in force. You can also verify whether they have liability protection for their ownership of livestock that extends to you.
- Verify with the livestock owner that the insurance applies to livestock raised on your property or escaping from your property.
- Specify in writing who is responsible for fence or property maintenance.