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Missouri's Fence Law - Is Anything New or Different in 2021?

Fence and boundary issues continue to cause confusion statewide. While the law has not changed since 2016, things continue to change with new landowners and current issues. Spring is a good time for an update on these issues.

1) **Land values continue to be strong.** This impacts fences and boundaries in several ways. People who buy land and have it surveyed often find the fence or boundary line is different than the survey. In *general law counties*, if only one adjoining landowner has livestock, only the livestock owner is legally responsible for the fence and it cannot be moved by the other landowner. However, surveys are not infallible and a fence or land use (such as cropping) for more than 10 years may qualify for adverse possession and cannot be moved automatically. The landowner on the "other side of the fence" needs to prepare to argue if the case goes to court. Maps, witnesses, photos, or other evidence is needed to demonstrate the boundary has been there for at least 10 years. Gather evidence now and do not wait for issues to arise.

2) **A fence is not always a legal fence.** The fence, regardless of location, must be upright and meet the minimum legal requirements to qualify for adverse possession or livestock liability claims. A fence with wires or posts on the ground is not a legal fence.

3) **Livestock owner liability remains misunderstood.** In 2016, an update in state law lowered a livestock owner's liability for their animals greatly. In all counties, a neighboring landowner now must prove "gross negligence" on the part of the livestock owner to receive damages. This could include: fence integrity does not meet legal criteria, animals are starved to the point of compromised health, an animal that has gotten out of the fence multiple times, or not maintaining water gaps in a timely manner. It is critical for livestock owners to maintain livestock within the fence as much as possible.

4) **Non-boundary fences have different rules.** Non-boundary fences include three areas: (a) roads – encompassing all types, from interstates to dirt county or township roads; (b) navigable streams or creeks (hold enough water to navigate a canoe for 70 plus consecutive days) and (c) railroads. Roads have a right-of-way which varies by class of road and who maintains them. Roads must be legally closed and returned to a non-road status, at which point the land goes back to the original owner. County records determine if it is the middle of said road. Waterways are normally not a problem, as the fence is put on each side of the creek or stream, and not in the water. This can cause questions later if the channel moves or changes. Railroad companies are legally responsible for the fence along the railway. It may be challenging to locate the proper railroad personnel with the knowledge of boundary law.

Two Fence Laws in Missouri

- 1) General Law - Includes 95 counties. Details can be found in Chapter 272 of MO Revised Statutes (RSMO 272.010 to 272.190) .
- 2) Optional Law - Has been voted on and passed in 19 counties. Details in RSMO 272..210 to 272.370

5) **Legal cases are costly and unsure.** Many Associate Circuit judges today have no agricultural background and thus boundary issues are even more difficult to address. The law is open to interpretation by judges on how to proceed. Fence issues under \$5,000 can go to small claims court, otherwise a court case with an attorney will be needed.

Many new landowners do not know “rural common sense” and a good first impression can go a long way later in a fence or boundary issue. Good neighbors make good fences. If you have a specific question or issue related to this, contact an ag business specialist or Joe Koenen at (660) 947-2705 or koenenj@missouri.edu

More information and details can be found at the following websites or contact your local Extension Center.

Missouri Fencing and Boundary Laws
<https://extension.missouri.edu/publications/g810>

Missouri's Fencing and Boundary Laws: Frequently Asked Questions
<https://extension.missouri.edu/publications/g811>

Source: *Joe Koenen, ag business specialist*

Heifer Breeding Soundness Exams

Replacement heifers are a long-term investment, both financially and genetically. On average, a cow must raise five calves to weaning in order to pay for her development costs. By performing a breeding soundness exam before a heifer's first breeding season, heifers with poor reproductive potential can be culled before any further development or maintenance costs are incurred.

Exams should be performed 30-60 days before the start of the breeding season. Producers utilizing a long-term estrus synchronization protocol can schedule breeding soundness exams on the same day as the start of the synchronization protocol to minimize trips through the chute. The two main components of a heifer breeding soundness exam are reproductive tract scoring and pelvic measurements.

Reproductive Tract Scores

Reproductive tract scoring (RTS) is a method for evaluating reproductive tract maturity and cyclicity in heifers. The exam is performed by a veterinarian through rectal palpation. Heifers are assigned a score of 1-5 based on uterine size and tone, and ovarian structures. Heifers scoring 4 or 5 have reached puberty,

are cycling, and ready to be bred at the start of the breeding season. A score of 3 indicates a heifer is pre-pubertal, and will most likely be cycling in 30 days. Heifers scoring a 1 or 2 are reproductively immature and should be culled, as they will most likely not be mature by the end of the breeding season and will have lower pregnancy rates. The table below describes each of the scores in more detail.

Heifer Reproductive Tract Scores		
RTS	Uterine Horns	Ovarian structures
1	Immature, <20mm diameter, no tone	No palpable follicles
2	20-25mm diameter, no tone	8mm follicles
3	25-30mm diameter, slight tone	8-10mm follicles
4	30mm diameter, good tone	>10mm follicles, corpus luteum possible
5	>30mm diameter, good tone, erect	>10mm follicles, corpus luteum present

Modified from Anderson et al., 1991

Pelvic Measurements

There are many reasons for calving difficulty in heifers, but one of the most common is a disproportion between the calf size and pelvic area. Larger framed heifers do not always have large pelvic areas. A 12- to 14-month-old heifer's pelvis will continue to grow as she ages, but will most likely continue to have a proportionately smaller pelvic area as a cow. By measuring pelvic area at the time of the breeding soundness exam, heifers with smaller pelvic areas can be culled to prevent calving difficulty later. To calculate the pelvic area, pelvic width and height are measured in centimeters transrectally with a pelvimeter. The two measurements are multiplied together to obtain the pelvic area. A heifer should have a minimum pelvic area of 150 cm² at 30 days before breeding. The pelvic area can be divided by 2.1 to estimate the birth weight of a calf the heifer should be able to deliver unassisted, as long as the calf is presented normally. For example, if the pelvic area is 150 cm², a heifer could be expected to deliver a 71 lb calf unassisted (150/2.1=71).

In addition to RTS and pelvic measurements, the breeding soundness exam is a good time to assess the overall physical health, conformation, and body condition of heifers. These tools allow producers to select heifers that are healthy and reproductively sound, ultimately saving valuable time and feed resources.

Source: *Jenna Monnig, livestock specialist*

Personal Protective Equipment for Pesticide Handlers

Pesticides are used to control weeds, insects and diseases. It is important to read the label to safely and effectively use pesticides. A signal word ranging from caution to danger will be found on the product label. It tells the user how toxic the pesticide is to humans and the environment. Caution indicates the pesticide is slightly toxic; danger indicates it is highly toxic. Vigilant handling and application of these products is important for the safety of the applicator and the environment. The label is a legal document, which will provide information about how to mix and apply the product, which personal protective equipment (PPE) must be worn when using the product, and what to do with the unused portion or empty container.

Proper handling begins with wearing the appropriate PPE when mixing, loading, and applying pesticides. Nearly every label will instruct the user to wear at a minimum: a long sleeve shirt, long pants, shoes and socks, and chemical resistant gloves at all times while using the product. Different PPE may be required when mixing and loading than when applying the product.

Dermal exposure occurs when pesticides come in contact with skin. Handlers get the most pesticide exposure on hands and forearms; therefore, chemical resistant gloves should be worn at all times. Gloves should be unlined and made from a chemical resistant material like nitrile or neoprene. Latex gloves are not chemical resistant and do not provide adequate protection. Wearing the proper chemical resistant gloves can reduce the user's dermal exposure by 99 percent. Gloves should be tucked inside sleeves unless working overhead. This prevents pesticides from running into gloves if there is a spill or splash. When applying pesticides overhead, gloves should be on the outside of shirt sleeves to prevent the pesticide from running into the sleeve and having direct contact with skin.

A chemical resistant apron or suit will provide more protection when handling concentrated products during mixing and loading operations. If clothing becomes saturated with pesticides, change them immediately. If pesticides remain in contact with the skin for long periods of time, it could cause illness. Leather boots, leather or cloth gloves, and cloth hats do not protect the wearer from pesticide exposure. These may absorb pesticides and hold them in contact with the skin every time they are worn, increasing dermal exposure.

If pesticides come in contact with feet, the applicator should wear chemical resistant boots. If there is a risk of exposure from above, wear a chemical resistant hood or hat to protect the head and neck. Face shields and safety glasses provide protection for eyes. Prescription

eyeglasses or sunglasses do not provide adequate eye protection.

Some pesticides will require the applicator to wear a respirator. There are two types of respirators, air supplying and air purifying. Air supplying respirators supply oxygen to the wearer. In most cases, an air purifying respirator is adequate. Air purifying respirators will filter out dust, mists and particles, and remove gases and vapors. It does not protect the wearer from fumigants, extremely high concentrations of vapor, or when the oxygen supply is low. Perform a fit test before using a respirator. A respirator must fit securely to be effective.

Clean PPE according to the manufacturer's directions and wash hands, forearms, face, and neck when the handling activity is complete. Launder clothing worn when handling pesticides separate from other clothing to avoid contaminating clothing worn by other family members.

Always read and follow all pesticide label directions.

Source: Valerie Tate, agronomy specialist



Understanding Tax Implications of Cattle Sales

The manner in which livestock sales are kept and how those receipts are reported for income tax purposes can greatly impact the amount of tax owed. Reporting livestock sales which qualify for capital gains assessment can decrease self-employment taxes and total income received. Typically, livestock producers market animals in two forms: livestock sold which were specifically retained for marketing, and livestock primarily retained for breeding or other production purposes, including milk production.

Raised or procured livestock intended for sale and not intended to be retained are reported on Schedule F for tax purposes. On the Schedule F, typical income taxes are applicable thus making that income subject to self-employment tax. However, profit from livestock marketed for breeding or other production purposes is neither reported on the Schedule F nor is it subjected to self-employment taxes. Profit received from this type of marketing is instead reported on Sales of Business Property (Form 4797). In calculating this, the outstanding cost basis is then subtracted to calculate the profit or loss. Determined by depreciation and the length of time the animal was held, the realized profit or loss can be either short-term or long-term. Important record keeping will enable the livestock producer's tax preparer to reduce the tax liability.

Profits from animals which are purchased for resale are determined through subtracting the cost of the individual

animal or animals versus the price brought when sold. (If you keep pre-production records then the cost of replacement females would include all expenses to raise them.) This form of marketing is noted as ordinary income.

Sales from breeding and production animals are treated differently when reporting taxes. Income reporting from sales of these animals are determined by three primary factors. Was the animal raised or purchased? What was the time length the animal was held? Was the sale a profit or loss?

When raising breeding animals, the producer sees no cost or basis when expensing the animal. This is due to the expense already being deducted while the animal was being grown. Sales of breeding and production livestock can be subject to capital gains tax. These sales are reported on form 4797 and include males and females utilized for breeding (i.e. bulls, cows, heifers) as well as other culled animals designated for breeding purposes. Sales of animals purchased for breeding or

production and held for the designated length of time can result in either a taxable gain or loss. This is determined by depreciation and sale price of animal purchased. As with any asset, animals purchased for breeding and production can be depreciated. To attain the profit or loss, a producer subtracts the sold price from the purchase price and then adjusts for all allowable depreciation. Gains received from this is measured as ordinary gains and thus is taxed as ordinary income.

Those involved in animal agriculture need to understand the value of accurate record keeping and the importance of separating the sales from breeding stock and market animals. Additionally, it should be noted that animals purchased for breeding or production can be additionally separated according to whether they were grown for that purpose or procured. Accurate record keeping provides tax preparers with a better means of minimizing tax liabilities.

Source: Jason Morris, ag business specialist

Return Service Requested



Northeast Missouri
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