



AN ACT REVISING WHAT CONSTITUTES A LEGAL FENCE IN MONTANA; ADDING THREE-WIRE ELECTRIC FENCE TO THE LIST OF LEGAL FENCES; AMENDING SECTIONS 76-16-322 AND 81-4-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-16-322, MCA, is amended to read:

"76-16-322. Fence-out requirement. Farming lands lying within the external boundaries of a state district ~~shall~~ must be protected by the owner or lessee to the extent of a legal fence as described in ~~81-4-101(4)~~ 81-4-101. The state district or its members ~~shall not be~~ are not liable for damages unless ~~such~~ the farming lands are protected by a sufficient fence as described in this section."

Section 2. Section 81-4-101, MCA, is amended to read:

"81-4-101. Legal fences defined. ~~Any one of the following, if not less than 44 inches or more than 48 inches in height, shall be a legal fence in the state of Montana~~ Except as provided in subsections (2) and (7), a legal fence must be at least 42 inches but not more than 48 inches in height. The following are legal fences in Montana:

(1) ~~all~~ fences constructed of at least three barbed, horizontal, well-stretched wires, the lowest of which ~~must~~ is not ~~be~~ less than 15 inches or more than 18 inches from the ground, securely fastened as nearly equidistant as possible to substantial posts firmly set in the ground or to well-supported leaning posts not exceeding 20 feet apart or 33 feet apart where two or more stays or pickets are used equidistant between posts;

(2) (a) ~~All~~ corral fences ~~which~~ that are used exclusively for the purposes of enclosing stacks ~~which are~~ situated outside of any lawful enclosure ~~shall~~ and that:

(i) ~~are~~ are not ~~be~~ less than 16 feet from ~~such~~ the enclosed stack; ~~so enclosed and shall~~

(ii) ~~be~~ are substantially built with posts not more than 8 feet distant from each other ~~and not less than~~;

and

(iii) consist of at least five strands of well-stretched barbed wire and shall not be not less than 5 or more than 6 feet high;

(b) Any kind of a fence equally as effectual for the purpose of a corral fence as the type described in subsection (2)(a) may be made in lieu thereof;

(2)(3) all fences constructed of any standard woven wire not less than 28 inches in height, securely fastened to substantial posts not more than 30 feet apart, provided that with two equidistant barbed wires shall be placed above the same woven wire at a height of not less than 48 inches from the ground;

(3)(4) all other fences made of barbed wire, which shall must be as strong and as well calculated to protect enclosures as those above described in subsections (1) through (3);

(4)(5) all fences consisting of four boards, rails, or poles with standing or leaning posts not over 17 feet and 6 inches apart, provided that and, if leaning posts are used, there shall be a pole or wire fastened securely on the inside of the leg or support of such each leaning post;

(6) electric fences consisting of three or more wires; and

(5)(7) all rivers, hedges, mountain ridges and bluffs, or other barriers over or through which it is impossible for stock to pass."

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0557, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2015.

President of the Senate

Signed this _____ day
of _____, 2015.

HOUSE BILL NO. 557
INTRODUCED BY B. HARRIS

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