

HOUSE BILL NO. 557

INTRODUCED BY B. HARRIS

A BILL FOR AN ACT ENTITLED: "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(1) 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 at least 44 inches high 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 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



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

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

5 ~~(2)(3)~~ all fences constructed of any standard woven wire ~~not less than 28 inches in height~~, securely
6 fastened to substantial posts not more than 30 feet apart, ~~provided that~~ with two equidistant barbed wires ~~shall~~
7 ~~be placed above the same woven wire at a height of not less than~~ at least 48 inches from the ground;

8 ~~(3)(4)~~ all other fences at least 44-42 inches high made of barbed wire, which ~~shall~~ must be as strong and
9 as well calculated to protect enclosures as those ~~above described~~ in subsections (1) through (3);

10 ~~(4)(5)~~ all fences consisting of four boards, rails, or poles with standing or leaning posts not over 17 feet
11 and 6 inches apart, ~~provided that~~ and, if leaning posts are used, ~~there shall be~~ a pole or wire fastened securely
12 on the inside of the leg or support of ~~such~~ each leaning post;

13 (6) electric fences at least 44 inches high consisting of three or more wires; and

14 ~~(5)(7)~~ all rivers, hedges, mountain ridges and bluffs, or other barriers over or through which it is
15 impossible for stock to pass."

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

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