

2007 DRAFTING REQUEST

Bill

Received: 09/27/2007

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Mary Lazich (608) 266-5400

By/Representing: Paul Beard

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact:

Addl. Drafters:

Subject: Agriculture - animals
Real Estate - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Sen.Lazich@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Make person who owns livestock solely responsible for keeping up fence

Instructions:

See 90.03 and topic. If both own livestock, the law would not change. Also continue to allow parties to make different agreements.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	btradewe 10/19/2007	jdyer 10/22/2007	jfrantze 10/22/2007	_____	cduerst 10/22/2007	sbasford 02/01/2008	

FE Sent For:

<END>

NO

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/?	btradewe	JLD 10/22		Self 10/22			

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

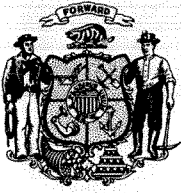
Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Ch. 90- Only the person who owns livestock
is liable for keeping up the fence -
landowners could choose differently



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3246/1

RCT:.....

500N (in 10/19)

Jld

2007 BILL

Wde

Gen

1 AN ACT ...; relating to: the requirement to build and maintain partition fences. ✓

Analysis by the Legislative Reference Bureau

Current law gives the occupants of adjacent properties equal responsibility to build and maintain a partition fence between the properties if one or both of the occupants use the property for farming or grazing, unless the occupants agree to a different arrangement.

partition

This bill narrows the applicability of the law relating to partition fences so that occupants of adjacent properties have equal responsibility to build and maintain a partition fence only if both of the adjacent properties are used for grazing or keeping livestock. *

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 90.03^x of the statutes is amended to read:

3 **90.03 Partition fences; when required.** The respective occupants of
4 adjoining lands used and occupied for farming or grazing purposes, and the
5 respective owners of adjoining lands when the lands of one of such owners is used and
6 occupied for farming or grazing purposes, grazing or keeping livestock ✓ shall keep and

BILL**SECTION 1**

1 maintain partition fences between their ~~own and the adjoining~~ premises in equal
2 shares so long as ~~either party continues~~ both parties continue to so occupy the lands,
3 except that the occupants of the lands may agree to the use of markers instead of
4 fences, and ~~such~~ shall keep those fences shall be kept in good repair throughout the
5 year unless the occupants of the lands on both sides otherwise mutually agree.

6 History: 1995 a. 41.

SECTION 2. 90.035^x of the statutes is amended to read:

7 **90.035 Public fences.** Where the 2 parties, one of whom is the state or a
8 subdivision thereof, agree that a fence is reasonably necessary, the duty to erect and
9 maintain partition fences shall apply equally to the state, ~~as provided in s. 90.03,~~ and
10 its subdivisions as occupants of lands whenever such lands are bounded by privately
11 owned ~~agricultural or grazing~~ lands used for grazing or keeping livestock.

12 **SECTION 3.** 90.04^x of the statutes is amended to read:

13 **90.04 Effect of fences on action for trespass by animals.** Owners of lands
14 who do not maintain and keep in repair lawful partition fences as required under s.
15 95.03 may not recover any damages for trespasses by the animals of owners of any
16 adjoining lands with whom partition fences ~~might~~ were required to have been
17 maintained if such lands had been enclosed; but the construction of such a fence does
18 not relieve the owner of swine, horses, sheep or goats from liability for any damage
19 they commit upon the enclosed premises of an adjoining owner.

20 History: 1995 a. 148.

SECTION 4. 90.05 (1) (c)^x of the statutes is amended to read:

21 90.05 (1) (c) ~~An~~ Notwithstanding pars. (a) and (b), an owner, or the owner's
22 heirs or assigns, are not obligated to build or maintain any part of a partition fence

BILL

1 during any time when ~~none of the~~ his or her adjoining lands is occupied for farming
2 or are not used for grazing or keeping livestock. ✓

3 **History:** 1977 c. 229; 1983 a. 532 s. 36; 1991 a. 316; 1997 a. 253.

(END)

Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3246/1dn

RCT:.....

date

Jld

Paul Beard:

This is a draft of the proposal changing the fence law. Please review it carefully.

Section 90.03[✓] allows landowners to agree to use markers instead of fences[✓]. I did not remove that language. Because under this draft the shared requirement to maintain a petition fence only applies if both landowners use the land for grazing or keeping livestock, the use of markers rather than fences seems impractical. Please let me know if you wish to remove that language.

Section 90.035[✓] requires the state or a local government to share the cost of erecting or maintaining a fence of both parties agree a fence is necessary. Please consider whether the treatment of that provision in this draft is consistent with the intent of this request or whether that provision should be repealed or changed in some other way.

Please contact me with any questions or redraft instructions[✓].

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

partition

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3246/1dn
RCT:jld:jf

October 22, 2007

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Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Basford, Sarah

From: Sen.Lazich
Sent: Friday, February 01, 2008 11:19 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-3246/1 Topic: Make person who owns livestock solely responsible for keeping up fence

Please Jacket LRB 07-3246/1 for the SENATE.