

SENATE BILL NO. 2315

Introduced by

Senators Christmann, G. Lee

Representatives Heller, Kreidt

1 A BILL for an Act to amend and reenact section 49-11-30 of the North Dakota Century Code,
2 relating to damages for a railroad's failure to fence.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 49-11-30 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **49-11-30. Failure of railroad to fence - Damage to owner of stock - How collected.**

- 7 1. Any A corporation operating a railroad and failing to fence the ~~same~~ the railroad
8 against livestock ~~running at large~~ where the duty to fence exists is liable to the
9 owner of any stock killed or injured by reason of the want of ~~such~~ the fence for the
10 full amount of the damages sustained by the owner, unless the injury was
11 occasioned by the grossly negligent act of the owner of the stock or the owner's
12 agent. To recover, the owner of the stock must prove only the loss of or injury to
13 the owner's property. Notice in writing that a loss or injury has occurred,
14 accompanied by an affidavit ~~thereof~~, of the loss or injury must be served upon an
15 officer of the corporation or upon a station or ticket agent employed by the
16 corporation in the county where the loss or injury occurred. If the corporation fails
17 or neglects to pay the damages within ninety days after the notice is served on it,
18 the owner is entitled to recover from the corporation double the amount of
19 damages actually sustained by the owner, and a reasonable attorney's fee when it
20 is adjudged by a court of competent jurisdiction that the claimant is entitled to the
21 amount claimed.
- 22 2. A landowner adjacent to a fence that a railroad corporation has a duty to maintain
23 may notify the railroad corporation that a certain portion of the fence requires
24 maintenance. The railroad corporation shall maintain the fence within thirty days of

1 receipt of the notice. If the railroad corporation does not maintain that portion of
2 the fence within thirty days of receipt of the notice, the adjacent landowner is
3 entitled to recover from the corporation treble damages as to any livestock killed or
4 injured due to the unmaintained fence regardless of any fault of the owner. The
5 commission shall provide a form without charge to notify a railroad corporation in
6 this state of the failure to maintain a portion of fence. The commission shall
7 provide an address on the form for the appropriate railroad corporation to receive
8 the notice. Each railroad corporation shall provide the commission an address to
9 which notices under this subsection may be sent.