

Sixtieth  
Legislative Assembly  
of North Dakota

ENGROSSED 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 and to any person suffering  
11 bodily injury or property damage by the stock that has escaped by reason of the  
12 want of the fence, unless the injury or damage was occasioned by the grossly  
13 negligent act of the owner of the stock or the owner's agent. To recover, the owner  
14 of the stock or other person must prove only the loss of or injury to the ~~owner's~~  
15 property or bodily injury. Notice in writing that a loss ~~of~~, injury, or damage has  
16 occurred, accompanied by an affidavit ~~thereof~~, of the loss, injury, or damage must  
17 be served upon an officer of the corporation or upon a station or ticket agent  
18 employed by the corporation in the county where the loss ~~of~~, injury, or damage  
19 occurred. If the corporation fails or neglects to pay the damages within ninety days  
20 after the notice is served on it, the owner is entitled to recover from the corporation  
21 double the amount of damages actually sustained by the owner, and a reasonable  
22 attorney's fee when it is adjudged by a court of competent jurisdiction that the  
23 claimant is entitled to the amount claimed.

1           2. A landowner adjacent to a fence that a railroad corporation has a duty to maintain  
2           may notify the railroad corporation that a certain portion of the fence requires  
3           maintenance. The railroad corporation shall maintain the fence within thirty days  
4           of receipt of the notice. If the railroad corporation does not maintain that portion of  
5           the fence within thirty days of receipt of the notice, the adjacent landowner may  
6           notify the commission. The commission shall provide a form without charge to  
7           notify a railroad corporation in this state of the failure to maintain a portion of fence.  
8           The commission shall provide an address on the form for the appropriate railroad  
9           corporation to receive the notice. Each railroad corporation shall provide the  
10          commission an address to which notices under this subsection may be sent.