

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

*As Engrossed: H1/18/01;H1/22/01*

# A Bill

Act 176 of 2001  
HOUSE BILL 1013

5 By: Representatives Milum, Jackson, Altes, Boyd, Bennett, G. Jeffress, Jacobs, Parks, Bevis, Scroggin,  
6 Oglesby, Haak, Cleveland

7 By: Senator Beebe  
8  
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## For An Act To Be Entitled

11 AN ACT TO AMEND ARKANSAS CODE 2-39-101, ET SEQ. TO  
12 CLARIFY THE DEFINITION OF "FENCE"; AND FOR OTHER  
13 PURPOSES.  
14

### Subtitle

16 TO CLARIFY THE DEFINITION OF "FENCE".  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code 2-39-101 is amended to read as follows:

22 2-39-101. Kinds required for enclosures.

23 All fields and grounds kept for enclosures shall be enclosed with a  
24 fence, ~~sufficiently close, composed of sufficient posts and rails; posts,~~  
25 ~~rails, and wire; posts and palings or palisades; or rails alone laid up in the~~  
26 ~~manner commonly called a "worm fence".~~  
27

28 SECTION 2. Arkansas Code 2-39-102 is amended to read as follows:

29 2-39-102. ~~Height requirement~~ Definition of Fence.

30 ~~(a) All fences composed of posts and rails; posts, rails, and wire;~~  
31 ~~posts and palings or palisades shall be five feet (5') high, and the posts~~  
32 ~~shall be deeply and firmly set in the earth.~~

33 ~~\_\_\_\_\_ (b) All fences of rails alone, commonly called a worm fence, shall be~~  
34 ~~five feet (5') high.~~

35 For purposes of this chapter and all laws referring to this chapter,  
36 "fence" means a barrier sufficient to indicate an intent to restrict the area

1 to human, livestock, or vehicle ingress or egress.

2  
3 SECTION 3. Arkansas Code 2-39-103 and 104 are hereby repealed.

4 ~~2-39-103. Wire fences.~~

5 ~~—— All fences made of barbed wire and plank securely fastened to~~  
6 ~~substantial posts eight feet (8') apart and five feet (5') above the ground;~~  
7 ~~one (1) plank or strip of timber not less than two inches (2") wide; one (1)~~  
8 ~~strand of wire to be placed above the strip of timber or plank on top of~~  
9 ~~posts; one (1) plank one inch (1") by twelve inches (12"), or two (2) planks~~  
10 ~~one inch (1") by six inches (6"), at the bottom with four (4) strands of wire~~  
11 ~~properly spaced between such planks; or, instead of the one inch (1") by~~  
12 ~~twelve inches (12") or one inch (1") by six inches (6") planks at the bottom,~~  
13 ~~two (2) strands of wire; the strand at the bottom shall be four inches (4")~~  
14 ~~from the ground, and the second strand shall be six inches (6") from the~~  
15 ~~bottom strand, with four (4) other strands of barbed wire properly spaced~~  
16 ~~between the second wire from the bottom, and the top strip of timber or plank;~~  
17 ~~or instead of two (2) strands of wire at the bottom, one (1) plank one inch~~  
18 ~~(1") by six inches (6") and five (5) strands of wire properly spaced between~~  
19 ~~the top and bottom planks shall be a lawful fence.~~

20 ~~—— 2-39-104. Woven wire fences.~~

21 ~~—— All woven wire fences made of eleven (11) parallel, smooth hard steel~~  
22 ~~wires, the top and bottom wire to be not less than number nine (9) and the~~  
23 ~~intermediate wires to be not less than number eleven (11), all to be securely~~  
24 ~~fastened together by upright stays, not exceeding twelve inches (12") apart,~~  
25 ~~and made of number twelve (12) wire, and so constructed that the second wire~~  
26 ~~from the bottom shall be three inches (3") from the bottom wire; the third,~~  
27 ~~three and one-half inches (3 1/2") from the second wire; the fourth, four~~  
28 ~~inches (4") from the third wire; the fifth, four and one-half inches (4 1/2")~~  
29 ~~from the fourth wire; the sixth, five inches (5") from the fifth wire; the~~  
30 ~~seventh, five and one-half inches (5 1/2") from the sixth wire; the eighth,~~  
31 ~~six inches (6") from the seventh wire; the ninth, seven inches (7") from the~~  
32 ~~eighth wire; the tenth, eight inches (8") from the ninth wire, and the~~  
33 ~~eleventh, nine inches (9") from the tenth wire; and also so erected that the~~  
34 ~~bottom wire shall not be more than four inches (4") from the ground, and so~~  
35 ~~that each of the eleven (11) wires shall be securely fastened to upright posts~~  
36 ~~not exceeding ten feet (10') apart, shall be and constitute a lawful fence.~~

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SECTION 4. Arkansas Code 2-39-108 is amended to read as follows:

2-39-108. Animals breaking into enclosures.

If any horse, cattle, or other stock shall break into any enclosure, ~~the fence being of the height and sufficiency required by this chapter,~~ or if any hog, pig, or shoat shall break into it, the owner of the creature shall:

(1) For the first trespass, make reparation to the party injured for the true value of the damages he may have sustained;

(2) For every trespass thereafter, double damages to be recovered with costs, before any justice of the peace or court having jurisdiction thereof, in the name of the injured party; and

(3) For the third offense from any of the animals named breaking into the enclosure, the party injured may kill and destroy the animals so trespassing without being answerable for it.

*/s/ Milum, et al.*

**APPROVED: 2/9/2001**