

13-501. Trespassing livestock.

In order to recover damages for trespassing livestock, plaintiff must prove [that there was a legal fence around [his] [her] land] [that the defendant drove [his] [her] animals on plaintiff's land] [that the defendant willfully turned [his] [her] animals loose knowing that they would necessarily enter onto plaintiff's land and intending that they should do so].

USE NOTES

Material in brackets is to be used as indicated by the evidence submitted in the trial.

Under New Mexico law, there are three separate and distinct liability situations as spelled out in the cases referred to in the committee commentary. They are:

(1) where a plaintiff has a legal fence enclosing his land or the damaged crops (77-16-1 NMSA 1978);

(2) where the defendant drives his animals onto the land of the plaintiff;

(3) where defendant willfully turns his animals loose knowing that they would enter upon the land of another and intending that they do so.

This instruction does not apply in a herd law district.

Included within the term of "livestock" are cattle, horses, sheep, hogs, goats and even buffaloes (77-16-2 NMSA 1978).

[As amended, effective November 1, 1991.]