

Loose Livestock Could Result in Liability for Insureds



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In early Texas, cattle were allowed to roam free to graze upon open ranges. The use of barbed wire started to close the open prairie and the Texas Legislature passed laws that allowed citizens to vote in individual counties to impose stock laws which would create liability standards on owners of livestock in the state.

However, it is not well known that if a vehicle hits livestock on a highway that the owner of the livestock is not automatically liable for the damage to the vehicle or the injury or death to individuals. In fact, this is a very complicated area of the law that even seasoned attorneys must study to understand how liability may be assessed in any given situation. This article only tries to give a brief overview of some of the issues related to loose livestock.

In Texas, there is no common law duty to fence in livestock and any restrictions are imposed by statute (Chapter 143, Texas Agriculture Code) or by stock laws adopted at the county precinct level. For example, Section 143.102, Agriculture Code states "A person who owns or has responsibility for the control of a horse, mule, donkey, cow, bull, steer, hog, sheep, or goat may not knowingly permit the animal to traverse or roam at large, unattended, on the right-of-way of a highway". Upon the adoption of a county stock law, a person within that county or county precinct may not permit any animal of the class mentioned in the proclamation that was passed by the voters to run at large in the county or area in which the election was held. Failure to control livestock after an election imposing stock laws could create a possible negligence standard that may result in liability to the owner of livestock involved in an accident.

All legal requirements aside, one should always try to mitigate any possible harm to individuals by trying to keep livestock from fast moving vehicles on highways. For livestock owners, it is prudent to always maintain your fences by checking their condition and ensuring the fences are at a proper height and close completely. The Agriculture Code also provides some standards for fencing under Section 143.028.

If your livestock are continuously escaping fenced-in areas, this could illustrate a failure by you to control your livestock and a finding of negligence against you should an accident occur. There may be witnesses, employee testimony, or 911 calls about loose livestock that provides evidence illustrating a lack of maintaining control of your livestock that could prove costly to you in



litigation if a judgment is rendered against you. Should an accident occur, it would be important to determine whether there was a stock law adopted in the county where the accident happened. A lack of the conditions listed above may result in a ruling in the favor of the owner of livestock if it was the first time the livestock ever escaped or someone else damaged the fence which resulted in the escape of livestock. If the owner had no knowledge of damage to their fences or lacked control of the fences because they were maintained or owned by a third party, the owner of the livestock may not be liable for an accident.

To drivers on our state highways and interstates, it is important to be alert to the dangers of livestock and other wild animals as you travel across the state. Some cattle may weigh as much as a small vehicle and impact with that animal will cause damage to your vehicle and injury or possible death to the occupants of a vehicle. Drivers and livestock owners should always try to protect each other from these dangers.

