

13-501. Trespassing livestock.

In order to recover damages for trespassing livestock, the plaintiff must prove [that there was a legal fence around the plaintiff's land] [that the defendant drove animals on the plaintiff's land] [that the defendant willfully turned animals loose knowing that they would necessarily enter onto the 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's land or damaged crops are enclosed in a legal fence (NMSA 1978, § 77-16-1 (1909));
2. where the defendant drives animals onto the land of the plaintiff;
3. where the defendant willfully turns 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 "livestock" are cattle, horses, sheep, hogs, goats, and even buffaloes (NMSA 1978, § 77-16-2 (1977)).

[As amended, effective November 1, 1991; as amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending or filed on or after December 31, 2025.]