

FEB 1 0 2006
Agriculture

HOUSE FILE 2342
BY WHITAKER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing standards for partition fences.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2342

1 Section 1. Section 359A.1, Code 2005, is amended to read
2 as follows:

3 359A.1 DEFINITIONS.

4 As used in this chapter, unless the context otherwise
5 requires, ~~"book"~~:

6 1. "Book", "list", "record", or "schedule" kept by a
7 county auditor, assessor, treasurer, recorder, sheriff, or
8 other county officer means the county system as defined in
9 section 445.1.

10 2. "Department" means the department of agriculture and
11 land stewardship.

12 3. "Livestock" means cattle, sheep, goats, or swine.

13 Sec. 2. Section 359A.18, subsection 6, Code 2005, is
14 amended to read as follows:

15 6. Any other kind of fence which the fence viewers
16 consider to be equivalent to a lawful fence or which meets
17 standards established by the department ~~of agriculture and~~
18 ~~land stewardship~~ by rule as equivalent to a lawful fence.

19 Sec. 3. Section 359A.19, Code 2005, is amended to read as
20 follows:

21 359A.19 DUTY TO MAINTAIN TIGHT FENCES.

22 All partition fences ~~may~~ shall be a lawful fence as
23 provided in section 359A.18 and shall be made tight by the
24 party desiring ~~it, and when~~ the fence. When that party's
25 portion of the partition fence is so completed, and securely
26 fastened to good substantial posts, set firmly in the ground,
27 ~~not more than twenty feet apart,~~ as provided in section
28 359A.20 or 359A.21, the adjoining property owner shall
29 construct the adjoining owner's portion of the adjoining
30 fence, in a lawful tight manner, ~~same to be~~ securely fastened
31 to good substantial posts, and set firmly in the ground, ~~not~~
32 ~~more than twenty feet apart~~ as provided in section 359A.20 or
33 359A.21.

34 Sec. 4. Section 359A.20, Code 2005, is amended to read as
35 follows:

1 359A.20 TIGHT FENCE.

2 ~~All~~ A tight partition fences fence shall consist of:

3 ~~1.---Not-less-than-twenty-six-inches-of-substantial-woven~~
4 ~~wire-on-the-bottom,with-three-strands-of-barbed-wire-with-not~~
5 ~~less-than-thirty-six-barbs-of-at-least-two-points-to-the-rod,~~
6 ~~on-top, the-top-wire-to-be-not-less-than-forty-eight-inches,~~
7 ~~nor-more-than-fifty-four-inches-high a lawful fence as~~
8 ~~provided in section 359A.18. However, in addition to those~~
9 ~~requirements, a tight partition fence must meet standards~~
10 ~~established by rules which shall be adopted by the department.~~

11 1. A barbed wire fence must comply with requirements
12 adopted by A.S.T.M. (American society for testing and
13 materials) international, including but not limited to
14 requirements relating to the grade, tensile strength,
15 elongation, dimensions, and tolerances of the wire. At a
16 minimum, the barbs shall consist of two tightly wrapped sharp
17 points spaced at least five inches apart. The barbed wire
18 shall be stretched tight between posts which are spaced at
19 least one rod apart.

20 ~~2.---Good-substantial-woven-wire-not-less-than Unless~~
21 ~~otherwise provided by departmental rule, the barbed wire fence~~
22 ~~shall be at least forty-eight inches nor but not more than~~
23 ~~fifty-four inches high with-one-barbed-wire-of-not-less-than~~
24 ~~thirty-six-barbs-of-two-points-to-the-rod,not-more-than-four~~
25 ~~inches-above-said-woven-wire.~~

26 ~~3. 2. Any A partition fence may consist of any other kind~~
27 ~~of fence which the fence viewers consider to be equivalent to~~
28 ~~a tight-partition fence or-which-meets-standards-established~~
29 ~~by provided in subsection 1, unless otherwise provided by~~
30 ~~rules adopted by the department of-agriculture-and-land~~
31 ~~stewardship-by-rule-as-equivalent-to-a-tight-partition-fence.~~

32 Sec. 5. Section 359A.21, Code 2005, is amended to read as
33 follows:

34 359A.21 DUTY TO KEEP FENCE TIGHT.

35 In case adjoining owners or occupants of land shall use the

1 same for pasturing ~~sheep-or-swine~~ livestock, each shall keep
2 that one's share of the partition fence tight as provided in
3 section 359A.20 and in such condition as shall restrain such
4 ~~sheep-or-swine~~ livestock.

5 Sec. 6. Section 359A.22, Code 2005, is amended to read as
6 follows:

7 359A.22 CONTROVERSIES.

8 Upon the application of either owner, after notice is given
9 as prescribed in this chapter, the fence viewers shall
10 determine all controversies arising under sections 359A.18 to
11 ~~359A.21, inclusive, including the partition fences made sheep~~
12 ~~and swine tight.~~

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EXPLANATION

14 This bill amends Code chapter 359A which contains
15 provisions first codified in 1851. The Code chapter provides
16 for partition fences erected between land of adjoining owners.
17 The Code chapter describes two different types of fences.
18 Code section 359A.18 describes a "lawful fence", which
19 consists of rails or barbed wire. However, the Code chapter
20 includes no special provisions relating to a lawful fence
21 other than imposing a duty on adjoining landowners to
22 construct their portions of the partition fence in a "lawful
23 tight manner" (see Code section 359A.19). There are a number
24 of different types of barbed wire fences which satisfy the
25 lawful fence requirement, including the requirement that the
26 posts be spaced no further than two rods apart. A rod equals
27 12 and one-half feet. Alternatively, Code section 359A.20
28 provides for tight fences. These requirements are apparently
29 used when an owner keeps sheep or swine pastured (see Code
30 section 359A.21). Code section 359A.19 provides that a lawful
31 tight fence includes posts set not more than 20 feet apart.

32 The bill amends a number of sections in Code chapter 359A.
33 It provides that a tight partition fence consists of a lawful
34 fence as provided in Code section 359A.18. However, in
35 addition to those requirements, a tight partition fence must

1 meet standards established by rules which shall be adopted by
2 the department of agriculture and land stewardship in the same
3 manner as the department may adopt standards for a lawful
4 fence. The bill provides that a barbed wire fence must comply
5 with requirements adopted by A.S.T.M. (American society for
6 testing and materials) international. At a minimum, the barbs
7 must consist of two tightly wrapped sharp points spaced at
8 least five inches apart. The barbed wire must be stretched
9 tight between posts which are spaced at least one rod apart.

10 The bill retains the requirement that the fence must be at
11 least 48 inches but not more than 54 inches high.

12 Finally, the bill provides that the duty to maintain a
13 tight fence applies to restraining livestock rather than only
14 swine and sheep, including cattle and goats.

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