

Senate File 156 - Introduced

SENATE FILE _____
BY DANIELSON

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

A BILL FOR

1 An Act relating to the erection, maintenance, and removal of
2 partition fences by adjoining landowners.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1846SS 83
5 da/rj/8

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1 1 Section 1. Section 169C.6, subsection 2, paragraph a, Code
1 2 2009, is amended to read as follows:

1 3 a. Once a habitual trespass occurs, a neighboring
1 4 landowner may request that the responsible landowner of the
1 5 land where the trespassing or stray livestock are kept erect
1 6 or maintain a fence on the land. The neighboring landowner
1 7 shall make the request to the responsible landowner in
1 8 writing. The responsible landowner ~~may~~ shall not compel an
1 9 adjacent landowner to contribute to the erection or
1 10 maintenance of the fence ~~except~~ as provided in chapter 359A.

1 11 Sec. 2. Section 359A.1A, Code 2009, is amended to read as
1 12 follows:

1 13 359A.1A PARTITION FENCES.

1 14 An owner of land may erect a partition fence and shall
1 15 provide for its maintenance or removal as provided in this
1 16 chapter. The respective owners of adjoining tracts of land
1 17 shall upon written request of either owner be compelled to
1 18 erect and maintain may agree to divide the responsibility for
1 19 erecting, maintaining, or removing a partition fences fence,
1 20 or contribute thereto, and keep the same in good repair
1 21 throughout the year making a contribution to its erection,
1 22 maintenance, or removal. The agreement shall be in writing,
1 23 describe the terms of the agreement, and be filed in the
1 24 office of the county recorder where the partition fence is
1 25 located.

1 26 Sec. 3. Section 359A.19, Code 2009, is amended to read as
1 27 follows:

1 28 359A.19 DUTY TO MAINTAIN TIGHT FENCES.

1 29 ~~All A~~ A partition fences fence may be made tight by the party
1 30 desiring owner who constructs it, and when that party's. If
1 31 adjoining owners agree to construct a partition fence, each
1 32 owner shall complete the owner's portion is so completed, and
1 33 of the partition fence by making it tight, ensuring that it is
1 34 securely fastened to good substantial posts, and set firmly in
1 35 the ground, not more than twenty feet apart, the adjoining
2 1 property owner shall construct the adjoining owner's portion
2 2 of the adjoining fence, in a lawful tight manner, same to be
2 3 securely fastened to good substantial posts, set firmly in the
2 4 ground, not more than twenty feet apart.

2 5 Sec. 4. Section 359A.22, Code 2009, is amended to read as
2 6 follows:

2 7 359A.22 CONTROVERSIES.

2 8 Upon the application of either owner, after notice is given
2 9 as prescribed in this chapter, the fence viewers shall
2 10 determine all controversies arising under sections 359A.18 ~~to~~
2 11 ~~359A.21, 359A.19, and 359A.20,~~ inclusive, including the
2 12 partition fences made sheep and swine tight.

2 13 Sec. 5. Sections 359A.12 and 359A.21, Code 2009, are
2 14 repealed.

2 15 EXPLANATION

2 16 This bill addresses the circumstance in which a landowner
2 17 is erecting and maintaining a fence on a property line (a
2 18 so-called partition fence). The landowner may do so

2 19 voluntarily (Code section 359A.1A) or involuntarily because of
2 20 the landowner's habitually trespassing livestock (Code
2 21 sections 169C.6 and 359A.22A).
2 22 The bill provides that the landowner can no longer compel
2 23 an adjacent landowner to assist in or contribute toward the
2 24 partition fence erection and maintenance, unless the parties
2 25 otherwise agree in writing. The writing must be signed by the
2 26 parties and filed with the county recorder in the same manner
2 27 as currently provided when landowners elect to apportion
2 28 responsibility for how a partition is to be erected or
2 29 maintained. The bill eliminates the old apportionment section
2 30 (Code section 359A.12) and a provision that requires the
2 31 common maintenance of a partition fence which divide pastured
2 32 sheep or swine.
2 33 LSB 1846SS 83
2 34 da/rj/8.1