Lamb and Sheep Slaughter
- If farmer is to sell meat at farmers market
- If farmer is to sell meat from home
  - Must be slaughtered under state/federal inspection

Custom Slaughter---by consumer
- Must own before killing (document of title/bill of sale to consumer)
- Consumer may have sheep killed and cut at custom slaughter for self (must have ownership)
- Consumer or you must have ownership prior to slaughter and use for self use if animal is not slaughtered at state/federal inspected plant

Selling meat other than on the hoof by Farmer
- At Home
- At Farmers Market
- At Retail
  - Inspected state/federal slaughter site
  - Cannot go to custom house---slaughter and sell

Can Sell to Buyer (Owner)
- Buyer can buy from you and take live animal to and from custom slaughter
Different Rules for Deer
- The goal of the department's meat and poultry program is to ensure the production of a safe, wholesome, and truly labeled meat/poultry product as well as humane treatment of the animals that are processed.

Continuous Inspection
- Meat and poultry business operators who wish to sell their products to other businesses are required to be under continuous inspection. This means that their process is inspected every day during operations to ensure they are producing safe food.
- For example, in a slaughter operation, every animal must be inspected to determine that the meat comes from an animal free from signs of disease or disease.

Custom Exempt Operators
- The Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Virginia Meat and Poultry Inspection Act exempt the preparation of livestock products and the processing of poultry products from mandatory inspection when the owner of the livestock or poultry slaughters it for his own use, or for use by members of his household or nonpaying guests.

Custom Exempt Operators
- Custom slaughter or processing may also be conducted when the animal is slaughtered or processed by someone other than the owner for the personal use of the owner of the animal. The CMIA, PPIA, and VHPIA require that those who custom slaughter or process meat and poultry ensure that the carcasses are products are:
  1. not adulterated or misbranded;
  2. prepared under sanitary conditions;
  3. properly marked and packaged; and
  4. stored separately from other products

Source of information


Dear Lord, thank you for my not being one of Michael Vick's dogs.
Dog law

- Weldy
- Roanoke
- Right to kill dogs---animal protection
- Dog entitled to one bite??--human protection

Dog law

- Any person finding a dog committing any of the depredations mentioned in this section shall have the right to kill such dog on sight, or shall any owner of livestock or his agent finding a dog chasing livestock on land utilized by the livestock when the circumstances show that such chasing is harmful to the livestock. (Emphasis added.)

Dog Bite

- No Statute
  - Liability determined by common law
  - Generally entitled to one bite, but not two
- No knowledge by owner of vicious dog
  - No liability unless--
    - violation of leash law
    - Negligence in restraint
    - Dog is induced by owner to attack
- Owner has knowledge of a vicious or dangerous propensity (scintifer) Liability unless
  - A criminal act is being performed
  - There is contributory negligence

Dog Bite

- Statute
  - Liability if dog bites if statute so states
    - Leash requirement
    - Control
    - Kennel requirement
  - Exception
    - Trespassing
    - Causing a disturbance
    - Tormenting Dog

North Carolina---Dog Law

- By state law, dog owners are strictly liable for any off-premises damage to livestock or poultry caused by their dogs.
- Strict liability means the dog owner is liable even if the owner took all reasonable steps to keep the dog restrained and the dog escaped anyway.

North Carolina---Dog Laws

It is often erroneously assumed by dog owners that North Carolina is a "one bite" state, meaning that liability for a dog cannot arise unless the dog has previously bitten or injured someone. There are no free bites in North Carolina. Liability for injuries caused by a dog will depend upon whether the injury was foreseeable.
Fence law

Division fence

Virginia Fence Law

Robert Frost, "Mending Wall"

There where it is we do not need the wall:
He is all pine and I am apple orchard.
My apple trees will never get across
And eat the cones under his pines, I tell him.
He only says, 'Good fences make good Neighbors.'

It happens

- Ames v. Brooks
- Caroline county—
  - Duty to fence
  - Bull retrieval
  - Dead farmer—self defense or....

Concepts

- Fence In v. Fence Out
- Common Law v. Open Range
- Division Fence
  - Un subdivided land
- Trespass of Cattle v. Negligence
- Cattle Guards
- Railroad
- And More

Questions

- What are the fence duties of Virginia citizens to maintain "lawful" fences?
- What is a lawful fence in Virginia?
- Who is responsible for repairing and keeping up a fence in Virginia?
- Can you require your neighbor to share in the upkeep or the installation cost of a fence?
- Is an electric fence legal in Virginia?
- What can you do to prevent someone's cattle from entering your land or to recover damages should this occur?
Common Law

- Duty to Fence In/Out
  - VA – Like "Wild" West—fence OUT
  - Open Range -
  - No duty to Fence In unless building supervisors declare boundary lawful fence – then duty to fence IN

Fence Purpose

- What is the purpose of a fence?
  - Divide Property?
  - Tool of protection?
  - Promote Good Neighbors?
  - Keep Animals Apart?
    - Social Disease?
    - Keep animals from eating neighbor’s grass?
    - Unwanted pregnancy?

North Carolina

- [http://www.ag-econ.ncsu.edu/VIRTUAL_LIBRARY/ECO NOMIST/septoct06.pdf](http://www.ag-econ.ncsu.edu/VIRTUAL_LIBRARY/ECO NOMIST/septoct06.pdf)
  - Ted Feitshans

North Carolina—Fence In

- North Carolina Is a Fencing-in State
  - North Carolina law requires keepers of livestock to enclose their livestock, poultry and horses with an adequate fence.

North Carolina—No fence type required

- There is no law in North Carolina regulating the type of fencing that must be used to restrain livestock.
- The livestock keeper must take reasonable precautions to keep the animals within the fence. What is considered reasonable is determined by the type of livestock, the terrain, customary practices, past experiences and whether the livestock are kept for business or pleasure.

North Carolina—Build and Maintain.

- N.C. landowners are fully responsible for the cost and maintenance of their own fences.
- Absent agreement from the neighboring landowner, fences must be placed within the boundaries of their property.
- It is acceptable practice for landowners to enter a contract to build and maintain a common fence; however, the agreement may not be enforceable against subsequent landowners, without some sort of deed restriction (covenant).
North Carolina -- Liability for Loose Livestock

- Liability for Loose Livestock
- Livestock keepers who do not act reasonably to keep their animals properly fenced are liable for damages caused by their stray animals.
- This potential liability could range from damage to a neighbor's vegetable garden to a fatal traffic accident.
- A livestock keeper in North Carolina who knowingly or recklessly fails to keep his animals fenced can be charged by the police or sheriff with a misdemeanor.
- Negligence is the key

Fence Laws

- Fence In –
  - Source -- English Common Law
  - Definition -- Boundary lines have been declared to be lawful fences under § 55-310 of the Virginia Code. Landowners must fence their animals in.
- Fence Out –
  - Source -- Virginia General Law
  - Definition -- Landowner must construct lawful fences around their properties in order to keep wandering animals out.

Fence In Entitlement

- Rancher
- Homeowner

Fence Out Entitlement

- Rancher
- Homeowner
Fence-Out Counties

- County has not declared boundary lines to be legal fences.
- A livestock owner has no duty to fence his animals in.
- Landowners have the duty to fence animals out.

Fence-In Counties

- County has declared boundary lines of every tract of land to be legal fences.
- Livestock owners have absolute duty to fence their animals in.

Fence-Out Counties

Accomack, Alleghany, Amelia, Amherst, Appomattox, Bath, Bland, Brunswick, Buchanan, Caroline, Carroll, Charles City, Chesapeake, Chesterfield, Craig, Culpeper, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Franklin, Frederick, Giles, Grayson, Greeneville, Hampton, Henrico, Henry, Highland, Isle of Wight, James City, King William, Lancaster, Lee, Lunenburg, Madison, Matthews, Mecklenburg, Middlesex, Montgomery, Nelson, Newport News, Northumberland, Northampton, Nottoway, Powhatan, Prince Edward, Prince George, Prince William, Richmond, Rockbridge, Russell, Shenandoah, Suffolk, Surry, Tazewell, Sussex, Virginia Beach, Westmoreland, York (Check with county attorney)

Fence-In Counties

Albemarle, Augusta, Bedford, Botetourt, Buckingham, Campbell, Clarke, Cumberland, Floyd, Fluvanna, Gloucester, Goochland, Greene, Halifax, Hanover, King George, King and Queen, Loudon, Louisa, New Kent, Orange, Page, Patrick, Pittsylvania, Pulaski, Rappahannock, Rockingham, Roanoke, Southampton, Spotsylvania, Smyth, Warren, Washington, Wise, Wythe (Check with county attorney)

Virginia Fence Law:

Fence In and Fence Out Counties

What is a Legal Fence?
Are Any of These Legal?

Current Lawful Fence

- Every fence shall be deemed a lawful fence as to any stock named in § 55-306, which could not creep through the same, if
- (1) Five feet high, including, if the fence be on a mound, the mounds to the bottom of the ditch,
- (2) Of barbed wire, forty-two inches high, consisting of eight strands of barbed wire, firmly fastened to posts substantially set in the ground at intervals of sixteen feet, with a substantial post or brace halfway between such posts, to which such wires shall be also fixed, when such fence is to be used for barbed wire; the first nine inches, the second 10½, the third nine inches, the fourth 10½, the fifth nineteen inches, the sixth 26½, the seventh 34½, and the eighth forty-two inches,
- (3) Of boards, four feet high, consisting of five boards not less than four inches wide and firmly attached to posts placed at intervals of eight feet,
- (4) Three feet high within the limits of any incorporated town whose charter does not prescribe, nor give to the council thereof power of prescribing, what shall constitute a lawful fence within such corporate limits.

Lawful fence; definition.

new

- Amends the definition of a lawful fence for fences of barbed wire and fences of boards. The definition of a lawful fence is also expanded to include any fence that is at least 42 inches high, constructed from materials sold for fencing and appropriate for the confinement of livestock, and installed so that livestock cannot creep through the fence.
- The bill also grants the Board of Agriculture and Consumer Services the authority to adopt rules and regulations to provide greater specificity as to the requirements of lawful fencing.

Cattle Guard Allowed... easement holders expense

- A cattle guard reasonably sufficient to turn all kinds of livestock shall also be deemed a lawful fence as to any livestock mentioned in § 55-306.

Duty to Build

Fence In -
Source: English Common Law
Definition: Boundary lines have been declared to be lawful fences under §55-310 of the Virginia Code. Landowners must fence their animals in.

Fence Out -
Source: Virginia General Law
Definition: Landowners must construct lawful fences around their properties in order to keep wandering animals out. This is similar to open range law in some western states.
Duty to Build
- Option to lay open is to all but users of fence (fellow livestock farmers)
- Harry, Harriet, Grandma, Northern States, Big Box
- Fence out county and farmer does not fence? ...and lay open
- Issue of negligence when the cow is on the road????

Duty to repair
- Current owners: Where a division fence exists, the adjoining landowners share the responsibility for its repairs.
- Must new owners of adjacent lands share expense of maintenance of division fences?
- Depends:
  - Did prior owners sign and file agreement to share duties.

No duty to build division fence
- The 2005 amendment to Va. Code § 55-317 did not change the law that an adjoining landowner could choose to let his or her land lie open; instead it removed the prohibition that precluded the owner of land used for industrial or commercial purposes from deciding to let their land lie open.

What if division fence already built under old or new law?
- The primary question is whether a division fence exists or not.

What if division fence already built---duty to share in repair?
- Although there hasn't been any court cases discussing the interplay of these statutes, their relation was explained in an 1981 Attorney General's opinion as follows: "The option to let land lie open is mentioned in §§ 55-317 and 55-318, and by the terms of those sections, the option applies only when no division fence has been built.

What if division fence already built---duty to share in repair?
- Section 55-319, by its terms, applies when a division fence has already been built. Section 55-319, unlike § 55-317, allows no option to a landowner to let his land lie open. Accordingly, it is my opinion that, under § 55-319, a landowner may not avoid liability for repairs to an existing division fence by choosing to let his land lie open, as provided in § 55-317. Under the Attorney General's reasoning, if no fence exists, a landowner could choose to let his land lie open under the provisions of §§ 55-317 and 55-318. However, where such a fence exists, the adjoining landowners share the responsibility for its repairs.
What if division fence already built—duty to share in repair?

- It should also be noted that the question of whether successive landowners would be bound by old agreements concerning division fences is governed by Va. Code § 55-321. Under this title, successors in title are only so bound if any agreement between the previous owner and the adjoining landowner was in writing and recorded in the deed book in the clerk's office.

What if division fence already built—duty to share in repair?

- § 55-321. Requirements for agreement to bind successors in title; subsequent owners. No agreement made between adjoining landowners, with respect to the construction or maintenance of the division fence between their lands, shall be binding on their succession in title, unless it be in writing and specifically so state, and be recorded in the deed book in the clerk's office of the county in which the land is located, and properly indexed as deeds are required by law to be indexed.

What if division fence already built—duty to share in repair?

- If any notice, as required by § 55-318 or § 55-319 is recorded in the deed book in the clerk's office of the county in which the land is located and is properly indexed as deeds are required by law to be indexed, then any subsequent owners of such land shall be liable for any sum which may be due pursuant to § 55-320.

What if division fence already built—duty to share in repair?

- Thus, the answer to the question regarding whether new owners of adjacent lands are bound by old agreements concerning division fences is going to depend on whether the requirements of § 55-321 have or have not been met.

Sheep or cow on neighbors land?

- Trespass.... Strict liability
- Pen the animal
- Damages

Sheep and cow on the road

- Negligence
Indiana solution to fence building and repair
- Only users pay
- Users build and maintain right half...
  - Each build to ability of deterring livestock, pocket book and fence preference.
- Liability based on where whose fence the animal went through

Protecting your agritourism from liability
- Business organization may help
- Exclude people from selected areas.
- Audit your business
- Purchase appropriate insurance
- Follow the rules—and more

By Law---
- An agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities.
- But, that has always been the law.
- False hope and false protection

"Agritourism Activity" defined.
- The Bill applies to land used to produce, cultivate or process agricultural products, such as livestock, flowers, wine grapes and farm crops. It covers a wide range of rural activities in which members of the public participate for recreational, entertainment or educational purposes.

Specifically included in the protected activities or business are:
- Farming
- Wineries
- Ranching
- Historical and cultural activities
- Pick-Your-Own businesses, and
- Natural activities and attractions

Immunity from what risks?
- The liability protection is afforded to those risks that are "inherent" in the agricultural activities. What is inherent?
- These include dangers resulting from the natural conditions of the land, the behavior of animals, the structures and equipment used in the operations, and the potential that a participant will fail to follow instructions or to exercise reasonable caution.
What you must do.
- The legislation contains a very specific warning that you must use to afford yourself of its protections.
- Do not deviating from the prescribed language

WARNING:
- Under Virginia law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity.
- Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death.
- You are assuming the risk of participating in the agritourism activity.

Warning to be posted
- **WARNING** posted in a clearly visible manner at both the entrance of your location and where the activity is actually conducted. The sign must be in black letters that are at least one inch tall.
- In addition, every written contract you enter for professional services, instruction or equipment rental must contain this warning.

When sued
- If you are sued for damages, plead the affirmative defense of assumption of the risk.
- Assumption of the risk is the current law for many activities.
- As appropriate, police the area of activities and have individuals and parents sign that have received notice of nature of activities.

Limitations. Nothing in the agritourism law protects you from liability if you:
- are, affirmatively negligent or act with a willful disregard for the participant's safety, and that act or omission causes the injury;
- knew or should have known of a dangerous condition with the land, facilities or equipment, or of the dangerous propensity of an animal, and you fail to warn the participant; or intentionally injure a participant.
- your employee failed to warn or intentionally injured a participant.

Protecting your agritourism from liability
- Business organization may help
- Exclude people from selected areas.
- Audit your business
- Purchase appropriate insurance
- Follow the rules—and more
Facts II Dick Chain LLC

- Dick Chain invites people to visit his apple orchard. Adam, works for Dick and Eve and son Michael come to pick apples. Eve puts a step ladder up and her son Michael breaks his hips and misses out on his next two seasons with the Atlanta Pitt Bull. Eve gets sick form the excessive pesticide residus on the apples. Dick allows his friend Harry to hunt in the woods next to his apple operation. Harry shot for a bird and hit Eve's arms. As a sculptor, Eve was unable to complete her work of Jimmie Carters bust and lost many commissions. Eve and Michael sue. Who wins and why? Will Agri-tourism Statute solve the issue?

Who will be sued?

- Dick Chain
- Dick Chain LLC

Who is likely to win?

- Eve and Michael
- Dick LLC looses all...of his assets
  - All assets were in side—LLC pays out
  - All assets outside—Pierce the veil
- Solution—get the right insurance, farm policy not likely to cover these activities. Follow formalities of LLC