

**13-503. Livestock on fenced highway.**

There was in force in this state, at the time of the occurrence in question, a certain statute which provided:

"It is unlawful for any person negligently to permit livestock to wander or graze upon any fenced highway at any time".

If you find from the evidence that the defendant violated this statute in the specific manner claimed by the plaintiff, then you are instructed that such conduct constituted negligence as a matter of law.

**USE NOTE**

This instruction is a quotation from Section 66-7-363B NMSA 1978 and is the instruction which will be used in most cases involving livestock wandering or grazing on a fenced highway.

As with other contentions of negligent conduct, it is necessary that the plaintiff prove specific negligence and that the jury not be cast adrift with such an indefinite term.

The usual tort instructions explaining negligence, ordinary care and duty should all be given with this instruction.

This instruction will need to be modified if any other pertinent provision of the statute dealing with animals on the highway is involved. It should be pointed out that the legislature has not used the requirement of negligence with reference to Subsection A of the statute, but has with reference to Subsection C, and, therefore, care need be exercised in drafting the instruction applicable to the particular facts and circumstances of the case in question.