13-502. Legal fence.

There was in force in this state, at the time of the occurrence in question, a certain statute which describes a legal fence as follows:

(Quote or paraphrase the applicable parts of the statute in question.)

If you find from the evidence that the lands or crops of the plaintiff were enclosed within a legal fence, then you are instructed that the plaintiff had complied with the law.

USE NOTES

This instruction is to be used with UJI 13-501 NMRA but only if the evidence raises a substantial issue that the damages were caused by the failure of the plaintiff to have [~~his~~] the crops or land enclosed by a legal fence.

[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.]

Committee commentary. — The lawyers and judge involved in a case of this nature are directed to Article 16 of Chapter 77 of the 1978 Compilation of the New Mexico Statutes. Section 4 [NMSA 1978, § 77-16-4 [~~NMSA 1978~~] (1909)] states the specifications of a barbed wire fence. Section 6 [NMSA 1978, § 77-16-6 [~~NMSA 1978~~] (1909)] lists the specifications of a board fence. Section 7 [NMSA 1978, § 77-16-7 [~~NMSA 1978~~] (1909)] declares the required specifications of a pole and post fence. Section 8 [NMSA 1978, § 77-16-8 [~~NMSA 1978~~] (1909)] describes the requirements of a stone, adobe, or woven wire fence.

The format of this instruction is similar to that used in Chapter 15 but has been modified to fit the particular situation. Whether or not excuse or justification is applicable in a case for damages arising out of trespassing animals apparently has not been decided by the New Mexico appellate courts.

1 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]