

## Open or Closed Range

**O**n a dark night, it's hard to see a dark cow or horse that might have escaped its pasture and be wandering down the middle of the road.

When cows and cars collide, the first hope is the people are okay. Then, when everyone starts assessing vehicle damage and the livestock injuries, the next most likely questions are who's at fault, and who's liable for the damage?

*The Cattleman* ran an in-depth article on this topic in April 2004, written by Susan Wagner. We also address the questions of open or closed range on [tsra.org](http://tsra.org). Under the Theft and Law tab, click on Livestock Laws and scroll through the questions and answers.

Are you in an area of open range or closed range? There is no clear-cut answer. It depends on a complicated set of livestock laws that vary from county to county, and even to precincts within a county.

It's important for livestock owners to be familiar with the stock laws in their area. Unfortunately, there is not a statewide standard for recording or indexing local stock laws in official records. There is no known list of "open range" or "closed range" Texas counties. Local stock law elections are recorded in the minutes of county commissioners' courts.

Contact your county clerk or sheriff's office. If they don't know, it may be necessary for the clerk to search the election records to determine if a local stock option election has been held to close the range.

Many of these elections were held between 1910 and 1930, so it may take some research to determine the status of your county.

### Open range – fences keep livestock off your property

Open range means the county has never held a local stock option election within the county; therefore the county is "open range." Chapter 143 of the Texas Agriculture Code allows a county, or portion of a county, to decide by local option election whether to prohibit certain classes of livestock from running at large in the locality.

In open range counties, property owners are required to build and maintain a fence that is sufficient



to keep livestock off their property.

However, this does not exempt livestock owners from damages that may be caused by trespassing livestock. Even though a county is open range, livestock are not permitted to roam or traverse unattended along a U.S. or state highway. A livestock owner may be charged with a Class C misdemeanor for allowing his or her livestock to do so.

### Closed range – fences keep livestock on your property

Closed range means that at some point the entire county or a precinct, or designated area within the county, held a local stock option election and has adopted a stock law.

Usually the stock law, or closed range, means you are responsible for fencing in your livestock.



### Closed range fencing requirements

The Texas Agriculture code specifically states that, to be sufficient, a fence must be at least 4 feet high and comply with these requirements:

- A barbed wire fence must consist of 3 wires on posts not more than 30 feet apart, with 1 or more stays between every 2 posts;
- A picket fence must consist of pickets that are not more than 6 inches apart;
- A board fence must consist of 3 boards not less than 5 inches wide and 1-inch thick; and
- A rail fence must consist of 4 rails.

Violating these provisions is a Class C misdemeanor, punishable by a fine not to exceed \$500. There is a separate offence for each day an animal is permitted to roam. ■

#### Safety tips

Assume your livestock are in a closed-range jurisdiction.

Inspect, repair and maintain fences on a regular basis.

Monitor livestock periodically to ensure that none has escaped.