

## AGEC 3713 Agricultural Law - Animal Law

true

# Introduction

- ▶ Animals are tangible personal property
- ▶ If animals are sentient then this will create difficulties in interpreting them as tangible personal property
- ▶ This argument used by abolitionists opposed to slavery
- ▶ Humane treatment of livestock
- ▶ What is humane treatment?
- ▶ Animal rights movement have argued no form of livestock keeping should be allowed

## Rights and obligations as owners

- ▶ Animals capable of moving from place to place
- ▶ Animals carry disease
- ▶ They can cause damage (owner responsible for preventing damage)
- ▶ Ownership rights to animal as tangible personal property
- ▶ Right to recovery for loss of animals killed by others
- ▶ In general owners may recover the fair market value from those causing a loss of livestock

# Animal welfare law

- ▶ Ancient concern for animal welfare
- ▶ Cultural and religious norms often governed animal welfare
- ▶ neglect of animals
- ▶ cruelty animals
- ▶ human health

# Animal species

- ▶ equine species can be considered both pets and livestock
- ▶ non-domesticated animals and bird are wildlife
- ▶ Dogs: agricultural uses and pets
- ▶ Dogs are not classified as livestock
- ▶ Dog breeding and selling is not considered an agricultural activity

# Fencing laws

- ▶ state law determines whether animals need to be fenced
- ▶ fence-in states vs fence-out/open range states
- ▶ Some states only have a portion of the state as open range
- ▶ Roaming of livestock can be species specific, e.g. cattle but not pigs

## Fence-out states

- ▶ Fence-out states owner has no responsibility for damage caused by livestock to others property
- ▶ Property owner's responsibility to keep livestock out
- ▶ Responsibility of third parties to avoid negligent or deliberate damage to free-roaming livestock
- ▶ Identity of free-roaming livestock maintained through branding or other permanent marking
- ▶ Laws prevent the alteration of brands

## Fence-in states

- ▶ livestock owner has the responsibility to construct fencing to contain livestock
- ▶ Owner liable for injuries to others when livestock trespass on others lands
- ▶ legal duty of care and foresight in restraining animals
- ▶ However, no presumption of knowledge or negligence if an animal escapes
- ▶ These may be inferred if this happens repeatedly



## Fence-in states

- ▶ intentionally allowing animals to stray
- ▶ punitive damages under intentional tort or gross negligence theories
- ▶ Criminal penalties also apply in most fence-in states
- ▶ If livestock have a history of causing injuries (strict liability may apply)

## Knowledge of general propensities of animals

- ▶ courts assume owner's have an understanding of this
- ▶ Owner's should know not to let their pet tiger roam around

## Dog and cockfighting is illegal in all states

- ▶ criminal penalties apply
- ▶ gross negligence standard may also apply (punitive and economic damages)
- ▶ Gross negligence: wilful or wanton behavior with reckless disregard for well being of others
- ▶ Difference between gross negligence and intentional tort
- ▶ no intent with gross negligence

# Poultry

Allowing poultry to roam free on others land may be a crime. If it is not a crime it would be considered a tort. whether intentional tort, negligence or strict liability applies depends on the facts of the case and state law.

# Impounding of livestock

- ▶ Fence-in states allow impounding of free-ranging livestock
- ▶ Reimbursement for reasonable costs costs of containing livestock
- ▶ Animals must be provided with food and water
- ▶ If the owner is known they should be notified as soon as practically possible
- ▶ Designated public authority should be informed and a notice of impoundment issued
- ▶ Livestock not claimed may be sold at public auction
- ▶ Rules vary by state
- ▶ Simply slaughtering and eating straying animals is not allowed

# Livestock and poultry health

- ▶ USDA Animal and Plant inspection service
  - ▶ lab services
  - ▶ veterinary certifications
  - ▶ Animal and quarantine inspection
- ▶ Centre for Disease Control (CDC)
  - ▶ zoonotic diseases
  - ▶ AMR (anti-microbial resistance)
- ▶ Department of Homeland Security
  - ▶ Biosecurity threats and bioterrorism

## State Laws

- ▶ Restrict movement of livestock with certain diseases
- ▶ Certifications of livestock required before livestock can be moved into a state
- ▶ Certain diseases must be reported (“notifiable diseases”)

# FDA (food and Drug Administration)

- ▶ Federal Food, Drug and Cosmetics Act
- ▶ prohibition of adulterated or misbranded feed (no minimum quantity)
- ▶ Regulates animal drugs (unless determined to be exempt)
- ▶ States license veterinarians



## USDA FSIS (food safety inspection service)

- ▶ inspection of regulated meat and poultry plants and meat and livestock products
- ▶ States regulate small local producers
- ▶ Developing conflict between small and large-scale production
- ▶ Small-scale (less regulated) producers could serve as a reservoir for diseases
- ▶ Disease control remedies:
  - ▶ destruction of all exposed animals
  - ▶ movement controls
- ▶ small-scale producers have a small genetic base can be eliminated through disease countermeasures

# Feral hogs

- ▶ feral animals can be a reservoir for disease
- ▶ feral hogs destroy crops
- ▶ feral animals not considered wildlife

# Livestock and poultry welfare

- ▶ Livestock and poultry excluded from US (Federal) Animal Welfare Act.
- ▶ Few states regulate on farm treatment of animals
- ▶ gestations crates (sows), veal stalls, battery cages
- ▶ Humane slaughter act (does not apply to poultry)
- ▶ 28 hour law (livestock may be held for no longer than 28 hours without food and water).
- ▶ Rest for five hours between transport
- ▶ Horse protection act (prohibition of showing horses with with injured hooves that alter gate

# Prohibition of horse slaughter

- ▶ not strictly prohibited but no way to transport them to slaughter
- ▶ no slaughterhouses takes horses
- ▶ abandonment and neglect of horses a result

# Poultry production methods

- ▶ cannibalism in cage free production methods
- ▶ predation in free-range
- ▶ complex issue

# Dogs

- ▶ Dog bites
- ▶ One-bite and No-bite states
- ▶ Dog's history has a bearing on liability
- ▶ strict liability
- ▶ intentional tort theory may apply if dog kept with the intent to cause injury
- ▶ gross negligence may also apply (reckless disregard of consequences)

# Dogs

- ▶ May not be killed if trespassing. Exceptions: Attacking, humans, livestock or poultry
- ▶ Right to defend against such attacks
- ▶ Dogs may be killed by designated public officials
- ▶ Rabid dogs must be killed (vaccination required)
- ▶ Prohibition on allowing female dogs in heat to run free
- ▶ Sanctions on owners of dangerous dogs that roam free.

# Wildlife

- ▶ blurred line between domestic species and wildlife
- ▶ deer farming
- ▶ Agritourism operations
- ▶ Farms with hunting, e.g. raising quail for shooting
- ▶ Common law rule of capture: wildlife property of government
- ▶ Ownership changes only through legal permitted hunting
- ▶ A person who legally takes wildlife takes possession at the point in time the wildlife was taken
- ▶ Taking of wildlife regulated in all states
- ▶ Not all species considered game, e.g. songbirds, protections for non-game species



# Wildlife

- ▶ migratory species, federal regulations and international treaty
- ▶ some listed species may not be taken
- ▶ Do farms based on wildlife meet the definition of agriculture
- ▶ Varies by state