

STATE HIGHWAY PATROL: Responsibility in cases where automobile strikes live stock on highway.

FILED

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Missouri State Highway Patrol,
3rd and Quincey,
Sedalia, Missouri.

Attention: Officer Paul E. Corl

Gentlemen:

A request for an opinion has been received from you under date of November 3, 1934, such request being in the following terms:

"We have had much controversy about fixing responsibility in cases where stock has been hit by automobiles while said stock was on the Highway right of way.

Would you please quote the statutes governing such cases and give any other information which might help in clearing up the matter."

We have examined the laws governing the Missouri State Highway Patrol (Laws of 1931, page 230, as amended by Laws of 1933, page 409) which define the duties of your Department. We are unable to discover any criminal statute imposing any liability in the event an automobile should strike an animal on a highway of this State, absent an intent on the part of the motorist to strike such animal, or an intent on the part of the custodian of the animal to cause injury to motorists, which we assume do not exist in the cases referred to by you. The only other kind of liability for such an act would be civil liability as distinguished from criminal liability, in that the owner of such animal might have a cause of action against the person operating the automobile for damages in the event the operation of such automobile was negligent, or in that the person operating the automobile might have a cause of action against the owner of the animal for damage to his car, in the event the custodian of the animal was negligent in allowing the animal on the highway. In connection with the possible liability of the owners of animals, Revised Statutes of Missouri, 1929, Section 12803, provided as follows:

"Nothing contained in this article shall be construed as to prevent owners or other persons from driving any of the species of animals enumerated in this article from one place to another, or along any public highway, the owner or owners being responsible for all damages that any person or persons may sustain in consequence of the driving of such stock."

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However, in 1931 this Section was amended by striking out such part of said Section as follows the last comma, which would indicate an intention on the part of the General Assembly to restrict the liability of such persons, although the part of the statute still remaining in force shows that it is entirely legal to drive certain animals on the public highways. These two types of possible civil liability would concern only the parties involved, and not the State Highway Patrol.

In conclusion, we are unable to see where the Missouri State Highway Patrol has any duty to fix responsibilities in cases of collisions between automobiles and live stock on the highways of this State.

Very truly yours,

EDWARD H. MILLER
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General