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State of Louisiana

DEPARTMENT OF JUSTICE
CRIMINAL DIVISION

Baton Rouge
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OPINION 03-0354

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16 CRIMINAL LAW – Crimes and Offenses
LSA-R.S. 14:63

The new trespass law does provide for open range areas or landowners to retrieve their livestock from the property of another, without having to face criminal prosecution.

Dear Mr. Lampert:

This office is in receipt of your opinion request of recent date wherein you asked whether the new trespass law as codified in Act 802, 2003 Louisiana Regular Legislative Session would subject a landowner retrieving his livestock to criminal prosecution. And secondly, whether the new trespass law prohibits open range areas.

The new trespass law does redefine the codal provision of LSA-R.S. 14:63. The new law states in relevant part, "No person shall enter any structure, watercraft, or movable owned by another without express, legal, or implied authorization."

However, the legislature added specific enumerated exceptions to R.S. 14:63. According to R.S. F (5)(6), "The following persons may enter or remain upon immovable property of another: the owner of a domestic livestock or his employees or agents while in the process of retrieving his domestic livestock that have escaped from an area fenced to retain such domestic livestock; and the owner of a domestic animal while in the sole process of merely retrieving his domestic animal from immovable property and not having a firearm or other weapon on his person."

These exceptions provide an affirmative defense to any person charged with violation of the trespass law. Therefore, it is the opinion of this office, that the new trespass law does provide for open range areas for landowners to retrieve their livestock from the property of another.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY:


BURTON GUIDRY
ASSISTANT ATTORNEY GENERAL

BG/et/jy