

By: Murr

H.B. No. 365

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the limitation of liability for farm animal activities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Chapter 87, Liability Arising From Farm Animals,
5 Civil Practice and Remedies Code, is amended to read as follows:

6 (1) "Engages in a farm animal activity" means riding,
7 handling, training, driving, loading, unloading, feeding,
8 vaccinating, exercising, weaning, transporting, producing,
9 herding, corralling, branding, dehorning, health management
10 activities, assisting in the medical treatment of, being a
11 passenger on, or assisting a participant or sponsor with a farm
12 animal. The term includes management of a show involving farm
13 animals as well as routine or customary activities on a farm to
14 handle and manage farm animals. The term does not include being a
15 spectator at a farm animal activity unless the spectator is in an
16 unauthorized area and in immediate proximity to the farm animal
17 activity.

18 (2) "Equine animal" means a horse, pony, mule, donkey,
19 or hinny.

20 (2-a) "Farm" means: any real estate, land area,
21 facility, or ranch used in whole or in part for raising,
22 cultivating, propagating, fattening, grazing, or any other
23 farming, livestock, agriculture, or aquacultural operation. For
24 purposes of this Chapter, "farm" and "ranch" shall be

1 interchangeable and the act shall apply to either or both.

2 (2-b) "Farm animal" means:

3 (A) an equine animal;

4 (B) a bovine animal;

5 (C) a sheep or goat;

6 (D) a pig or hog;

7 (E) a ratite, including an ostrich, rhea, or emu;

8 or

9 (F) a chicken or other fowl.

10 (3) "Farm animal activity" means:

11 (A) a farm animal show, fair, competition,
12 performance, rodeo, event, or parade that involves any farm animal;

13 (B) training or teaching activities involving a
14 farm animal;

15 (C) owning, raising, boarding, pasturing a farm
16 animal, including daily care;

17 (D) riding, inspecting, evaluating, handling,
18 transporting, loading, or unloading a farm animal belonging to
19 another, without regard to whether the owner receives monetary
20 consideration or other thing of value for the use of the farm animal
21 or permits a prospective purchaser of the farm animal to ride,
22 inspect, evaluate, handle, load, or unload the farm animal;

23 (E) informal farm animal activity, including a
24 ride, trip, or hunt that is sponsored by a farm animal activity
25 sponsor;

26 (F) placing or replacing horseshoes on an equine
27 animal;

1 (G) examining or administering medical treatment
2 to a farm animal by a veterinarian n;

3 (H) assisting or providing animal health
4 management activities, including vaccination;

5 (I) assisting or conducting customary tasks on a
6 farm concerning farm animals;

7 (J) transporting or moving a farm animal; or

8 (K) without regard to whether the participants
9 are compensated, rodeos and single event competitions, including
10 team roping, calf roping, and single steer roping.

11 4) "Farm animal activity sponsor" means:

12 (A) a person or group who sponsors, owns,
13 organizes, or provides the facilities for a farm animal activity,
14 including facilities for a pony club, 4-H club, hunt club, riding
15 club, therapeutic riding program, or high school or college class,
16 program, or activity, without regard to whether the person operates
17 for profit; or

18 (B) an owner, operator of, instructor at, or
19 promoter for facilities, including a stable, clubhouse, pony ride
20 string, fair, or arena at which a farm animal activity is held.

21 (C) an owner of a farm.

22 (5) "Farm animal professional" means a person engaged
23 for compensation:

24 (A) to instruct a participant or rent to a
25 participant a farm animal for the purpose of riding, driving, or
26 being a passenger on the farm animal;

27 (B) to rent equipment or tack to a participant;

1 (C) to examine or administer medical treatment to
2 a farm animal as a veterinarian or other person providing
3 non-medical care or treatment including vaccination;

4 (D) to assist or provide animal health management
5 activities, including vaccination

6 (E) to provide other care, feeding, and husbandry
7 of farm animals;

8 (F) assisting or conducting customary tasks on a
9 farm concerning farm animals; or

10 (G) transporting or moving a farm animal.

11 (6) "Livestock animal" means:

12 (A) an animal raised for human consumption; or

13 (B) a farm animal.

14 (6-a) "Livestock producer" means a person who owns,
15 handles, breeds, raises, buys, sells, or feeds livestock animals.

16 (7) "Livestock show" means a nonprofit event at which
17 more than two species or breeds of livestock animals are gathered
18 for exhibition or competition.

19 (8) "Livestock show sponsor" means a recognized group
20 or association that organizes and sanctions a livestock show,
21 including a political subdivision or nonprofit organization that is
22 exempt from federal income tax under Section 501(a), Internal
23 Revenue Code of 1986, as amended, by being listed as an exempt
24 organization in Section 501(c)(3) of that code.

25 (9) "Participant" means:

26 (A) with respect to a farm animal activity, a
27 person who engages in the activity, without regard to whether the

1 person is an amateur or professional, whether the person pays for
2 the activity or participates in the activity for free or is an
3 independent contractor or employee;

4 B) with respect to a livestock show, a person who
5 registers for and is allowed by a livestock show sponsor to compete
6 in a livestock show by showing an animal on a competitive basis, or
7 a person who assists that person.

8 Sec. 87.002. APPLICABILITY OF CHAPTER. This chapter does
9 not apply to an activity regulated by the Texas Racing Commission.
10 Nothing in this chapter alters the applicability of the provisions
11 of Chapter 406 of the Texas Labor Code or an employer's ability to
12 refuse to subscribe to the worker's compensation system.

13 Sec. 87.003. LIMITATION ON LIABILITY. Except as provided
14 by Section 87.004, all persons, including a farm animal activity
15 sponsor, farm animal professional, farm owner or lessee livestock
16 producer, livestock show participant, or livestock show sponsor, is
17 not liable for property damage or damages arising from the personal
18 injury or death of a participant in a farm animal activity or
19 livestock show if the property damage, injury, or death results
20 from the dangers or conditions that are an inherent risk of farm
21 animals, a farm animal activity, showing of an animal on a
22 competitive basis in a livestock show, or raising or handling
23 livestock on a farm, including:

24 (1) the propensity of a farm animal or livestock
25 animal to behave in ways that may result in personal injury or death
26 to a person on, handling, or around it;

27 (2) the unpredictability of a farm animal's or

1 livestock animal's reaction to sound, a sudden movement, or an
2 unfamiliar object, person, or other animal;

3 (3) with respect to farm animal activities involving
4 equine animals, certain land conditions and hazards, including
5 surface and subsurface conditions;

6 (4) a collision with another animal or an object; or

7 (5) the potential of a participant to act in a
8 negligent manner that may contribute to injury to the participant
9 or another, including failing to maintain control over a farm
10 animal or livestock animal or not acting within the participant's
11 ability.

12 Sec. 87.004. EXCEPTIONS TO LIMITATION ON LIABILITY. A
13 person, including a farm animal activity sponsor, farm owner or
14 lessee, farm animal professional, livestock show participant, or
15 livestock show sponsor, may be liable for property damage or
16 damages arising from the personal injury or death caused by a
17 participant in a farm animal activity or livestock show if:

18 (1) the injury or death was caused by faulty equipment
19 or tack used in the farm animal activity or livestock show, the
20 person provided the equipment or tack, and the person knew or should
21 have known that the equipment or tack was faulty;

22 (2) the person provided the farm animal or livestock
23 animal and the person did not make a reasonable and prudent effort
24 to determine the ability of the participant to engage safely in the
25 farm animal activity, work, or livestock show and determine the
26 ability of the participant to safely manage the farm animal or
27 livestock animal, taking into account the participant's

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1 representations of ability;

2 (3) the injury or death was caused by a dangerous
3 latent condition of land for which warning signs, written notices,
4 or verbal warnings were not conspicuously posted or provided to the
5 participant, and the land was owned, leased, or otherwise under the
6 control of the person at the time of the injury or death and the
7 person knew of the dangerous latent condition;

8 (4) the person committed an act or omission with
9 willful or wanton disregard for the safety of the participant and
10 that act or omission caused the injury;

11 (5) the person intentionally caused the property
12 damage, injury, or death; or

13 (6) with respect to a livestock show, the injury or
14 death occurred as a result of an activity connected with the
15 livestock show and the person invited or otherwise allowed the
16 injured or deceased person to participate in the activity and the
17 injured or deceased person was not a participant as defined by
18 Section 87.001(9)(B).

19 Sec. 87.005. WARNING NOTICE. (a) A farm animal
20 professional, a farm owner or lessee, shall post and maintain a sign
21 that contains the warning contained in Subsection (c) if the
22 professional manages or controls a farm, stable, corral, or arena
23 where the professional conducts a farm animal activity. The
24 professional must post the sign in a clearly visible location on or
25 near the stable, corral, or arena.

26 (b) A farm animal professional shall include the warning
27 contained in Subsection (c) in every written contract that the

1 professional enters into with a participant, employee or
2 independent contractor for professional services, instruction, or
3 the rental of equipment or tack or a farm animal. The warning must
4 be included without regard to whether the contract involves farm
5 animal activities on or off the location or site of the business of
6 the farm animal professional. The warning must be clearly
7 readable.

8 (c) The warning posted by a farm animal professional under
9 this section must be as follows:

10 WARNING

11 UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES
12 CODE), A FARM ANIMAL PROFESSIONAL IS NOT LIABLE FOR AN INJURY TO OR
13 THE DEATH OF A PARTICIPANT, INDEPENDENT CONTRACTOR OR EMPLOYEE IN
14 FARM ANIMAL ACTIVITIES RESULTING FROM THE INHERENT RISKS OF FARM
15 ANIMAL ACTIVITIES.

16 (d) A livestock show sponsor shall post and maintain a sign
17 that contains the warning prescribed by Subsection (f) if the
18 livestock show sponsor manages or controls a stable, barn, corral,
19 or arena at which the livestock show sponsor conducts a livestock
20 show. The livestock show sponsor must post the sign in a clearly
21 visible location near the stable, barn, corral, or arena.

22 (e) A livestock show sponsor shall include the warning
23 prescribed by Subsection (f) in every written contract that the
24 sponsor enters into with a livestock show participant. The warning
25 must be clearly readable.

26 (f) The warning posted by a livestock show sponsor under
27 this section must be as follows:

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WARNING

UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES
CODE), A LIVESTOCK SHOW SPONSOR IS NOT LIABLE FOR AN INJURY TO OR
THE DEATH OF A PARTICIPANT IN A LIVESTOCK SHOW RESULTING FROM THE
INHERENT RISKS OF LIVESTOCK SHOW ACTIVITIES.

SECTION 3. This Act takes effect September 1, 2021.