

By: Estes
(Miller of Erath)

S.B. No. 479

A BILL TO BE ENTITLED

AN ACT

relating to limiting the liability of certain persons for farm animal activities.

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

SECTION 1. The heading to Chapter 87, Civil Practice and Remedies Code, is amended to read as follows:

CHAPTER 87. LIABILITY ARISING FROM FARM ANIMAL
~~[EQUINE]~~ ACTIVITIES OR LIVESTOCK SHOWS

SECTION 2. Section 87.001, Civil Practice and Remedies Code, is amended by amending Subdivisions (1), (3) through (6), and (9) and adding Subdivision (2-a) to read as follows:

(1) "Engages in a farm animal ~~[an equine]~~ activity" means riding, handling, training, driving, assisting in the medical treatment of, being a passenger on, or assisting a participant or sponsor with a farm ~~[an equine]~~ animal. The term includes management of a show involving farm ~~[equine]~~ animals. The term does not include being a spectator at a farm animal ~~[an equine]~~ activity unless the spectator is in an unauthorized area and in immediate proximity to the farm animal ~~[equine]~~ activity.

(2-a) "Farm animal" means:

(A) an equine animal;

(B) a cow, bull, ox, or other bovine;

(C) a sheep or goat;

(D) a pig or hog;

- 1 (E) a ratite, including an ostrich, rhea, or emu;
2 or
3 (F) a chicken or other fowl.
4 (3) "Farm animal [~~Equine~~] activity" means:
5 (A) a farm [~~an equine~~] animal show, fair,
6 competition, performance, rodeo, event, or parade that involves any
7 farm animal [~~breed of equine animal and any equine discipline,~~
8 ~~including dressage, hunter and jumper horse shows, grand prix~~
9 ~~jumping, three-day events, combined training, driving, pulling,~~
10 ~~cutting, polo, steeplechasing, English and Western performance~~
11 ~~riding, endurance trail riding and Western games, and hunting~~];
12 (B) [~~equine~~] training or teaching activities
13 involving a farm animal;
14 (C) boarding a farm animal, including daily care
15 [~~equine animals~~];
16 (D) riding, inspecting, or evaluating a farm [~~an~~
17 ~~equine~~] animal belonging to another, without regard to whether the
18 owner receives monetary consideration or other thing of value for
19 the use of the farm [~~equine~~] animal or permits a prospective
20 purchaser of the farm [~~equine~~] animal to ride, inspect, or evaluate
21 the farm [~~equine~~] animal;
22 (E) informal farm animal [~~equine~~] activity,
23 including a ride, trip, or hunt that is sponsored by a farm animal
24 [~~an equine~~] activity sponsor;
25 (F) placing or replacing horseshoes on an equine
26 animal; [~~or~~]
27 (G) examining or administering medical treatment

1 to a farm animal by a veterinarian; or

2 (H) without regard to whether the participants
3 are compensated, rodeos and single event competitions, including
4 team roping, calf roping, and single steer roping.

5 (4) "Farm animal [~~"Equine]~~ activity sponsor" means:

6 (A) a person or group who sponsors, organizes, or
7 provides the facilities for a farm animal [~~an equine]~~ activity,
8 including [~~equine]~~ facilities for a pony club, 4-H club, hunt club,
9 riding club, therapeutic riding program, or high school or college
10 class, program, or activity, without regard to whether the person
11 operates for profit; or

12 (B) an operator of, instructor at, or promoter
13 for [~~equine]~~ facilities, including a stable, clubhouse, pony ride
14 string, fair, or arena at which a farm animal [~~an equine]~~ activity
15 is held.

16 (5) "Farm animal [~~"Equine]~~ professional" means a
17 person engaged for compensation:

18 (A) to instruct a participant or rent to a
19 participant a farm [~~an equine]~~ animal for the purpose of riding,
20 driving, or being a passenger on the farm [~~equine]~~ animal; [~~or]~~

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

22 (C) to examine or administer medical treatment to
23 a farm animal as a veterinarian; or

24 (D) to provide veterinarian or farrier services.

25 (6) "Livestock animal" means:

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

27 (B) a farm [~~an equine]~~ animal.

1 (9) "Participant" means:

2 (A) with respect to a farm animal [~~an equine~~]
3 activity, a person who engages in the activity, without regard to
4 whether the person is an amateur or professional or whether the
5 person pays for the activity or participates in the activity for
6 free; and

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

11 SECTION 3. Section 87.003, Civil Practice and Remedies
12 Code, is amended to read as follows:

13 Sec. 87.003. LIMITATION ON LIABILITY. Except as provided
14 by Section 87.004, any person, including a farm animal [~~an equine~~]
15 activity sponsor, farm animal [~~equine~~] professional, livestock
16 show participant, or livestock show sponsor, is not liable for
17 property damage or damages arising from the personal injury or
18 death of a participant in a farm animal [~~an equine~~] 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 a farm
21 animal [~~an equine~~] activity or the showing of an animal on a
22 competitive basis in a livestock show, including:

23 (1) the propensity of a farm animal [~~an equine~~] or
24 livestock animal to behave in ways that may result in personal
25 injury or death to a person on or around it;

26 (2) the unpredictability of a farm animal's [~~an~~
27 ~~equine~~] or livestock animal's reaction to sound, a sudden movement,

1 or an unfamiliar object, person, or other animal;

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

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

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

11 SECTION 4. Section 87.004, Civil Practice and Remedies
12 Code, is amended to read as follows:

13 Sec. 87.004. EXCEPTIONS TO LIMITATION ON LIABILITY. A
14 person, including a farm animal [~~an equine~~] activity sponsor, farm
15 animal [~~equine~~] professional, livestock show participant, or
16 livestock show sponsor, is liable for property damage or damages
17 arising from the personal injury or death caused by a participant in
18 a farm animal [~~an equine~~] activity or livestock show if:

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

23 (2) the person provided the farm animal [~~equine~~] or
24 livestock animal and the person did not make a reasonable and
25 prudent effort to determine the ability of the participant to
26 engage safely in the farm animal [~~equine~~] activity or livestock
27 show and determine the ability of the participant to safely manage

1 the farm animal [~~equine~~] or livestock animal, taking into account
2 the participant's representations of ability;

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

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

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

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

20 SECTION 5. Subsections (a), (b), and (c), Section 87.005,
21 Civil Practice and Remedies Code, are amended to read as follows:

22 (a) A farm animal [~~An equine~~] professional shall post and
23 maintain a sign that contains the warning contained in Subsection
24 (c) if the professional manages or controls a stable, corral, or
25 arena where the professional conducts a farm animal [~~an equine~~]
26 activity. The professional must post the sign in a clearly visible
27 location on or near the stable, corral, or arena.

1 (b) A farm animal [~~An equine~~] professional shall include the
2 warning contained in Subsection (c) in every written contract that
3 the professional enters into with a participant for professional
4 services, instruction, or the rental of equipment or tack or a farm
5 [~~an equine~~] animal. The warning must be included without regard to
6 whether the contract involves farm animal [~~equine~~] activities on or
7 off the location or site of the business of the farm animal [~~equine~~]
8 professional. The warning must be clearly readable.

9 (c) The warning posted by a farm animal [~~an equine~~]
10 professional under this section must be as follows:

11 WARNING

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

17 SECTION 6. The change in law made by this Act applies only
18 to a cause of action that accrues on or after the effective date of
19 this Act. A cause of action that accrues before the effective date
20 of this Act is governed by the law in effect immediately before that
21 date, and that law is continued in effect for that purpose.

22 SECTION 7. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2011.