

1-1 By: Estes S.B. No. 479  
1-2 (In the Senate - Filed February 1, 2011; February 14, 2011,  
1-3 read first time and referred to Committee on Agriculture and Rural  
1-4 Affairs; March 17, 2011, reported favorably by the following vote:  
1-5 Yeas 3, Nays 0; March 17, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to limiting the liability of certain persons for farm  
1-9 animal activities.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. The heading to Chapter 87, Civil Practice and  
1-12 Remedies Code, is amended to read as follows:

1-13 CHAPTER 87. LIABILITY ARISING FROM FARM ANIMAL  
1-14 [EQUINE] ACTIVITIES OR LIVESTOCK SHOWS

1-15 SECTION 2. Section 87.001, Civil Practice and Remedies  
1-16 Code, is amended by amending Subdivisions (1), (3) through (6), and  
1-17 (9) and adding Subdivision (2-a) to read as follows:

1-18 (1) "Engages in a farm animal ~~[an equine]~~ activity"  
1-19 means riding, handling, training, driving, assisting in the medical  
1-20 treatment of, being a passenger on, or assisting a participant or  
1-21 sponsor with a farm ~~[an equine]~~ animal. The term includes  
1-22 management of a show involving farm ~~[equine]~~ animals. The term does  
1-23 not include being a spectator at a farm animal ~~[an equine]~~ activity  
1-24 unless the spectator is in an unauthorized area and in immediate  
1-25 proximity to the farm animal ~~[equine]~~ activity.

1-26 (2-a) "Farm animal" means:

1-27 (A) an equine animal;

1-28 (B) a cow, bull, ox, or other bovine;

1-29 (C) a sheep or goat;

1-30 (D) a pig or hog;

1-31 (E) a ratite, including an ostrich, rhea, or emu;

1-32 or

1-33 (F) a chicken or other fowl.

1-34 (3) "Farm animal ~~["Equine] activity~~" means:

1-35 (A) a farm ~~[an equine]~~ animal show, fair,  
1-36 competition, performance, rodeo, event, or parade that involves any  
1-37 farm animal ~~[breed of equine animal and any equine discipline,~~  
1-38 ~~including dressage, hunter and jumper horse shows, grand prix~~  
1-39 ~~jumping, three-day events, combined training, driving, pulling,~~  
1-40 ~~cutting, polo, steeplechasing, English and Western performance~~  
1-41 ~~riding, endurance trail riding and Western games, and hunting];~~

1-42 (B) [equine] training or teaching activities  
1-43 involving a farm animal;

1-44 (C) boarding a farm animal, including daily care  
1-45 ~~[equine animals];~~

1-46 (D) riding, inspecting, or evaluating a farm ~~[an~~  
1-47 ~~equine]~~ animal belonging to another, without regard to whether the  
1-48 owner receives monetary consideration or other thing of value for  
1-49 the use of the farm ~~[equine]~~ animal or permits a prospective  
1-50 purchaser of the farm ~~[equine]~~ animal to ride, inspect, or evaluate  
1-51 the farm ~~[equine]~~ animal;

1-52 (E) informal farm animal ~~[equine]~~ activity,  
1-53 including a ride, trip, or hunt that is sponsored by a farm animal  
1-54 ~~[an equine]~~ activity sponsor;

1-55 (F) placing or replacing horseshoes on an equine  
1-56 animal; ~~or~~

1-57 (G) examining or administering medical treatment  
1-58 to a farm animal by a veterinarian; or

1-59 (H) without regard to whether the participants  
1-60 are compensated, rodeos and single event competitions, including  
1-61 team roping, calf roping, and single steer roping.

1-62 (4) "Farm animal ~~["Equine] activity sponsor~~" means:

1-63 (A) a person or group who sponsors, organizes, or  
1-64 provides the facilities for a farm animal ~~[an equine]~~ activity,

2-1 including ~~[equine]~~ facilities for a pony club, 4-H club, hunt club,  
 2-2 riding club, therapeutic riding program, or high school or college  
 2-3 class, program, or activity, without regard to whether the person  
 2-4 operates for profit; or

2-5 (B) an operator of, instructor at, or promoter  
 2-6 for ~~[equine]~~ facilities, including a stable, clubhouse, pony ride  
 2-7 string, fair, or arena at which a farm animal ~~[an equine]~~ activity  
 2-8 is held.

2-9 (5) "Farm animal ~~["Equine]~~ professional" means a  
 2-10 person engaged for compensation:

2-11 (A) to instruct a participant or rent to a  
 2-12 participant a farm ~~[an equine]~~ animal for the purpose of riding,  
 2-13 driving, or being a passenger on the farm ~~[equine]~~ animal; ~~[or]~~

2-14 (B) to rent equipment or tack to a participant;

2-15 (C) to examine or administer medical treatment to  
 2-16 a farm animal as a veterinarian; or

2-17 (D) to provide veterinarian or farrier services.

2-18 (6) "Livestock animal" means:

2-19 (A) an animal raised for human consumption; or

2-20 (B) a farm ~~[an equine]~~ animal.

2-21 (9) "Participant" means:

2-22 (A) with respect to a farm animal ~~[an equine]~~  
 2-23 activity, a person who engages in the activity, without regard to  
 2-24 whether the person is an amateur or professional or whether the  
 2-25 person pays for the activity or participates in the activity for  
 2-26 free; and

2-27 (B) with respect to a livestock show, a person  
 2-28 who registers for and is allowed by a livestock show sponsor to  
 2-29 compete in a livestock show by showing an animal on a competitive  
 2-30 basis, or a person who assists that person.

2-31 SECTION 3. Section 87.003, Civil Practice and Remedies  
 2-32 Code, is amended to read as follows:

2-33 Sec. 87.003. LIMITATION ON LIABILITY. Except as provided  
 2-34 by Section 87.004, any person, including a farm animal ~~[an equine]~~  
 2-35 activity sponsor, farm animal ~~[equine]~~ professional, livestock  
 2-36 show participant, or livestock show sponsor, is not liable for  
 2-37 property damage or damages arising from the personal injury or  
 2-38 death of a participant in a farm animal ~~[an equine]~~ activity or  
 2-39 livestock show if the property damage, injury, or death results  
 2-40 from the dangers or conditions that are an inherent risk of a farm  
 2-41 animal ~~[an equine]~~ activity or the showing of an animal on a  
 2-42 competitive basis in a livestock show, including:

2-43 (1) the propensity of a farm animal ~~[an equine]~~ or  
 2-44 livestock animal to behave in ways that may result in personal  
 2-45 injury or death to a person on or around it;

2-46 (2) the unpredictability of a farm animal's ~~[an~~  
 2-47 ~~equine]~~ or livestock animal's reaction to sound, a sudden movement,  
 2-48 or an unfamiliar object, person, or other animal;

2-49 (3) with respect to farm animal ~~[equine]~~ activities  
 2-50 involving equine animals, certain land conditions and hazards,  
 2-51 including surface and subsurface conditions;

2-52 (4) a collision with another animal or an object; or

2-53 (5) the potential of a participant to act in a  
 2-54 negligent manner that may contribute to injury to the participant  
 2-55 or another, including failing to maintain control over a farm  
 2-56 animal ~~[the equine]~~ or livestock animal or not acting within the  
 2-57 participant's ability.

2-58 SECTION 4. Section 87.004, Civil Practice and Remedies  
 2-59 Code, is amended to read as follows:

2-60 Sec. 87.004. EXCEPTIONS TO LIMITATION ON LIABILITY. A  
 2-61 person, including a farm animal ~~[an equine]~~ activity sponsor, farm  
 2-62 animal ~~[equine]~~ professional, livestock show participant, or  
 2-63 livestock show sponsor, is liable for property damage or damages  
 2-64 arising from the personal injury or death caused by a participant in  
 2-65 a farm animal ~~[an equine]~~ activity or livestock show if:

2-66 (1) the injury or death was caused by faulty equipment  
 2-67 or tack used in the farm animal ~~[equine]~~ activity or livestock show,  
 2-68 the person provided the equipment or tack, and the person knew or  
 2-69 should have known that the equipment or tack was faulty;

3-1 (2) the person provided the farm animal [~~equine~~] or  
3-2 livestock animal and the person did not make a reasonable and  
3-3 prudent effort to determine the ability of the participant to  
3-4 engage safely in the farm animal [~~equine~~] activity or livestock  
3-5 show and determine the ability of the participant to safely manage  
3-6 the farm animal [~~equine~~] or livestock animal, taking into account  
3-7 the participant's representations of ability;

3-8 (3) the injury or death was caused by a dangerous  
3-9 latent condition of land for which warning signs, written notices,  
3-10 or verbal warnings were not conspicuously posted or provided to the  
3-11 participant, and the land was owned, leased, or otherwise under the  
3-12 control of the person at the time of the injury or death and the  
3-13 person knew of the dangerous latent condition;

3-14 (4) the person committed an act or omission with  
3-15 wilful or wanton disregard for the safety of the participant and  
3-16 that act or omission caused the injury;

3-17 (5) the person intentionally caused the property  
3-18 damage, injury, or death; or

3-19 (6) with respect to a livestock show, the injury or  
3-20 death occurred as a result of an activity connected with the  
3-21 livestock show and the person invited or otherwise allowed the  
3-22 injured or deceased person to participate in the activity and the  
3-23 injured or deceased person was not a participant as defined by  
3-24 Section 87.001(9)(B).

3-25 SECTION 5. Subsections (a), (b), and (c), Section 87.005,  
3-26 Civil Practice and Remedies Code, are amended to read as follows:

3-27 (a) A farm animal [~~An equine~~] professional shall post and  
3-28 maintain a sign that contains the warning contained in Subsection  
3-29 (c) if the professional manages or controls a stable, corral, or  
3-30 arena where the professional conducts a farm animal [~~an equine~~]  
3-31 activity. The professional must post the sign in a clearly visible  
3-32 location on or near the stable, corral, or arena.

3-33 (b) A farm animal [~~An equine~~] professional shall include the  
3-34 warning contained in Subsection (c) in every written contract that  
3-35 the professional enters into with a participant for professional  
3-36 services, instruction, or the rental of equipment or tack or a farm  
3-37 [~~an equine~~] animal. The warning must be included without regard to  
3-38 whether the contract involves farm animal [~~equine~~] activities on or  
3-39 off the location or site of the business of the farm animal [~~equine~~]  
3-40 professional. The warning must be clearly readable.

3-41 (c) The warning posted by a farm animal [~~an equine~~]  
3-42 professional under this section must be as follows:

3-43 WARNING

3-44 UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES  
3-45 CODE), A FARM ANIMAL [~~AN EQUINE~~] PROFESSIONAL IS NOT  
3-46 LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN  
3-47 FARM ANIMAL [~~EQUINE~~] ACTIVITIES RESULTING FROM THE  
3-48 INHERENT RISKS OF FARM ANIMAL [~~EQUINE~~] ACTIVITIES.

3-49 SECTION 6. The change in law made by this Act applies only  
3-50 to a cause of action that accrues on or after the effective date of  
3-51 this Act. A cause of action that accrues before the effective date  
3-52 of this Act is governed by the law in effect immediately before that  
3-53 date, and that law is continued in effect for that purpose.

3-54 SECTION 7. This Act takes effect immediately if it receives  
3-55 a vote of two-thirds of all the members elected to each house, as  
3-56 provided by Section 39, Article III, Texas Constitution. If this  
3-57 Act does not receive the vote necessary for immediate effect, this  
3-58 Act takes effect September 1, 2011.

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