

## **BILL ANALYSIS**

Senate Research Center

H.B. 365  
By: Murr et al. (Springer)  
State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 1995, the Texas Legislature passed the Texas Equine Act, which protected horse owners from being liable for a participants' injuries due to the inherent risks of being involved with horses. In 2011, the Equine Act was amended to the Farm Animal Liability Act (FALA). FALA expanded coverage from equine to bovines, sheep, goats, pigs, hogs, ratites, ostriches, rheas, emus, chicken, and other fowl and protected property owners from exposure to liability for injuries caused by non-equine farm animals. The Texas Supreme Court recently affirmed that the Texas Farm Animal Act does not apply to ranchers and ranch hands.

H.B. 365 would expand the farm animal activities to include routine/customary activities on a farm, handling and managing farm animals, and ranching activities. H.B. 365 would further extend liability projections to routine management of farm and ranch livestock.

H.B. 365 amends current law relating to liability arising from farm animals.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Chapter 87, Civil Practice and Remedies Code, to read as follows:

#### CHAPTER 87. LIABILITY ARISING FROM FARM ANIMALS

SECTION 2. Amends Section 87.001, Civil Practice and Remedies Code, by amending Subdivisions (1), (2-a), (3), (4), (5), (6-a), and (9) and adding Subdivision (2-b), as follows:

- (1) Redefines "engages in a farm animal activity" for purposes of Chapter 87 (Liability Arising from Farm Animal Activities or Livestock Shows).
- (2-a) Defines "farm" for purposes of Chapter 87.
- (2-b) Creates this subdivision from existing text. Redefines "farm animal" for purposes of Chapter 87 and makes nonsubstantive changes.
- (3) Redefines "farm animal activity" for purposes of Chapter 87. Makes nonsubstantive changes.
- (4) Redefines "farm animal activity sponsor" for purposes of Chapter 87.
- (5) Redefines "farm animal professional" for purposes of Chapter 87.
- (6-a) Redefines "livestock producer" for purposes of Chapter 87.
- (9) Redefines "participant" for purposes of Chapter 87. Makes nonsubstantive changes.

SECTION 3. Amends Chapter 87, Civil Practice and Remedies Code, by adding Section 87.0021, as follows:

Sec. 87.0021. CERTAIN LABOR LAWS NOT AFFECTED. Provides that nothing in Chapter 87 affects the applicability of Chapter 406 (Workers' Compensation Insurance Coverage), Labor Code, or an employer's ability to refuse to subscribe to the workers' compensation system.

SECTION 4. Amends Sections 87.003 and 87.004, Civil Practice and Remedies Code, as follows:

Sec. 87.003. LIMITATION ON LIABILITY. Provides that, except as provided by Section 87.004, all persons, including a farm owner or lessee, are not liable for property damage or damages arising from the personal injury or death of a participant in a farm animal activity or livestock show if the property damage, injury, or death results from the dangers or conditions that are an inherent risk of certain activities, including an inherent risk of a farm animal and the raising or handling of livestock on a farm, including:

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

(2)-(5) makes no changes to these subdivisions.

Makes nonsubstantive changes.

Sec. 87.004. EXCEPTIONS TO LIMITATION ON LIABILITY. Provides that a person, including a farm owner or lessee, may be liable, rather than is liable, for property damage or damages arising from the personal injury or death caused by a participant in a farm animal activity or livestock show if:

(1) makes no changes to this subdivision;

(2) the person provided the farm animal or livestock animal and the person did not make a reasonable and prudent effort to determine the ability of the participant to engage safely in the farm animal activity, including a work activity, or livestock show, rather than in the farm animal activity or livestock show, and determine the ability of the participant to safely manage the farm animal or livestock animal, taking into account the participant's representations of ability; or

(3)-(6) makes no changes to these subdivisions.

SECTION 5. Amends Sections 87.005(a), (b), and (c), Civil Practice and Remedies Code, as follows:

(a) Requires a farm owner or lessee to post and maintain a sign that contains the warning contained in Subsection (c) if the owner or lessee manages or controls a farm, stable, corral, or arena where the owner or lessee conducts a farm animal activity. Requires the owner or lessee to post the sign in a clearly visible location on or near the stable, corral, or arena.

(b) Requires a farm professional or owner or lessee, rather than a farm animal professional, to include the warning contained in Subsection (c) in every written contract that the professional, owner, or lessee enters into with a participant, including an employee or independent contractor, for professional services, instruction, or the rental of equipment or tack or a farm animal. Requires that the warning be included without regard to whether the contract involves farm animal activities on or off the location or site of the business of the farm animal professional or farm owner or lessee.

(c) Requires that the warning posted by a farm animal professional or a farm owner or lessee, rather than posted by a farm animal professional, under Section 87.005 (Warning Notice) be in a certain form. Sets forth the required language of the warning.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2021.