

BILL ANALYSIS

C.S.H.B. 365
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1995, the Texas Legislature passed the Texas Equine Activity Limitation of Liability Act, which provided a limitation of liability to equine facility operators due to the inherent risks of being involved with horses. In 2011, that act was amended to become the Texas Farm Animal Liability Act (FALA), which expanded coverage from equines to farm animals for purposes of protecting individuals involved in farm animal activities or livestock shows from exposure to liability. However, the Texas Supreme Court recently ruled that the FALA does not specifically apply to ranchers and ranch hands. C.S.H.B. 365 would expand the scope of the liability limitation under the FALA to cover routine and customary activities on a farm, the handling and managing of farm animals, and ranching activities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 365 amends the Civil Practice and Remedies Code to expand the scope of statutory provisions commonly referred to as the Texas Farm Animal Liability Act (FALA) that exempt a person from liability for property damage or damages arising from personal injury or death in connection with farm animal activities or livestock shows under certain circumstances.

C.S.H.B. 365 specifically includes a farm owner or lessee as a person to whom that limitation on liability and related exceptions and warning notice requirements apply. The bill expands the circumstances under which a person is exempt from liability to include those in which the property damage, injury, or death results from dangers or conditions that are an inherent risk of a farm animal or the raising or handling of livestock on a farm.

C.S.H.B. 365 revises the exceptions to the limitation on liability as follows:

- replaces the specification that a person is liable under the excepted circumstances with a specification that a person may be liable under those circumstances; and
- specifies that work activities are covered by the exception for circumstances in which the person subject to liability did not make a reasonable and prudent effort to determine the ability of a participant to engage safely in a farm animal activity and determine the ability of the participant to safely manage the farm animal.

C.S.H.B. 365 does the following with respect to the warning notice regarding limited liability that must be posted where a farm animal activity is conducted and included in certain related contracts:

- includes an employee and independent contractor among those persons considered participants for purposes of contracts that require the notice; and
- revises the language of the warning notice.

C.S.H.B. 365 establishes that the FALA does not affect the applicability of statutory provisions relating to workers' compensation insurance coverage or an employer's ability to refuse to subscribe to the workers' compensation system.

C.S.H.B. 365 makes the following changes to the FALA definitions:

- defines "farm" as any real estate, land area, facility, or ranch used wholly or partly for raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, agricultural, or aquacultural operation;
- expands the definitions of "engages in a farm animal activity," "farm animal activity," and "farm animal professional" to include certain additional activities relating to the care, transportation, handling, or management of farm animals;
- includes in the definition of "farm animal activity sponsor" a person or group who owns the facilities for a farm animal activity;
- includes in the definition of "livestock producer" a person who handles, buys, or sells livestock animals; and
- clarifies that a person who engages in a farm animal activity is considered a "participant" in that activity without regard to whether the person is an independent contractor or employee.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 365 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute contains language subjecting a farm owner or lessee to the requirement to include the warning notice regarding limited liability in a written contract with an applicable participant.