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H.B. No. 365

A BILL TO BE ENTITLED

AN ACT

relating to liability arising from farm animals.

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 ANIMALS [~~ANIMAL ACTIVITIES  
OR LIVESTOCK SHOWS~~]

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

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

(2-a) "Farm" means any real estate, land area, facility, or ranch used wholly or partly for raising, cultivating,

1 propagating, fattening, grazing, or any other farming, livestock,  
2 agricultural, apicultural, or aquacultural operation.

3 (2-b) "Farm animal" means:

4 (A) an equine animal;

5 (B) a bovine animal;

6 (C) a sheep or goat;

7 (D) a pig or hog;

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

9 [~~or~~]

10 (F) a chicken or other fowl; or

11 (G) a honeybee kept in a managed colony.

12 (3) "Farm animal activity" means:

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

15 (B) training or teaching activities involving a  
16 farm animal;

17 (C) owning, raising, boarding, or pasturing a  
18 farm animal, including daily care;

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

25 (E) informal farm animal activity, including a  
26 ride, trip, or hunt that is sponsored by a farm animal activity  
27 sponsor or a farm owner or lessee;

1 (F) placing or replacing horseshoes on an equine  
2 animal;

3 (G) examining or administering medical treatment  
4 to a farm animal by a veterinarian; [~~or~~]

5 (H) assisting in or providing animal health  
6 management activities, including vaccination;

7 (I) assisting in or conducting customary tasks on  
8 a farm concerning farm animals;

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

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

13 (4) "Farm animal activity sponsor" means:

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

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

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

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

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

2 (C) to examine or administer medical treatment to  
3 a farm animal as a veterinarian or to provide nonmedical care or  
4 treatment to a farm animal, including vaccination; [~~or~~]

5 (D) to provide veterinarian or farrier services;

6 (E) to assist in or provide animal health  
7 management activities, including vaccination;

8 (F) to provide other care, feeding, and husbandry  
9 of farm animals;

10 (G) to assist in or conduct customary tasks on a  
11 farm concerning farm animals; or

12 (H) to transport or move a farm animal.

13 (6-a) "Livestock producer" means a person who owns,  
14 handles, breeds, raises, buys, sells, or feeds livestock animals.

15 (9) "Participant" means:

16 (A) with respect to a farm animal activity, a  
17 person who engages in the activity, without regard to whether the  
18 person:

19 (i) is an amateur or professional;

20 (ii) [~~or whether the person~~] pays for the  
21 activity or participates in the activity for free; or

22 (iii) is an independent contractor or  
23 employee; and

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

1 SECTION 3. Chapter 87, Civil Practice and Remedies Code, is  
2 amended by adding Section 87.0021 to read as follows:

3 Sec. 87.0021. CERTAIN LABOR LAWS NOT AFFECTED. Nothing in  
4 this chapter affects the applicability of Chapter 406, Labor Code,  
5 or an employer's ability to refuse to subscribe to the workers'  
6 compensation system.

7 SECTION 4. Sections 87.003 and 87.004, Civil Practice and  
8 Remedies Code, are amended to read as follows:

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

20 (1) the propensity of a farm animal or livestock  
21 animal to behave in ways that may result in personal injury or death  
22 to a person on the animal, handling the animal, or otherwise around  
23 the animal [~~it~~];

24 (2) the unpredictability of a farm animal's or  
25 livestock animal's reaction to sound, a sudden movement, or an  
26 unfamiliar object, person, or other animal;

27 (3) with respect to farm animal activities involving

1 equine animals, certain land conditions and hazards, including  
2 surface and subsurface conditions;

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

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

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

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

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

26 (3) the injury or death was caused by a dangerous  
27 latent condition of land for which warning signs, written notices,

1 or verbal warnings were not conspicuously posted or provided to the  
2 participant, and the land was owned, leased, or otherwise under the  
3 control of the person at the time of the injury or death and the  
4 person knew of the dangerous latent condition;

5 (4) the person committed an act or omission with  
6 wilful or wanton disregard for the safety of the participant and  
7 that act or omission caused the injury;

8 (5) the person intentionally caused the property  
9 damage, injury, or death; or

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

16 SECTION 5. Sections 87.005(a), (b), and (c), Civil Practice  
17 and Remedies Code, are amended to read as follows:

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

25 (b) A farm animal professional or a farm owner or lessee  
26 shall include the warning contained in Subsection (c) in every  
27 written contract that the professional, owner, or lessee enters

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

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

10 WARNING

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

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

22 SECTION 7. This Act takes effect September 1, 2021.