

By: Murr, Slawson, Burns, Rogers, et al.

H.B. No. 365

Substitute the following for H.B. No. 365:

By: Dutton

C.S.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, 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.

11 (3) "Farm animal activity" means:

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

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

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

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

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

- 27 (F) placing or replacing horseshoes on an equine

1 animal;

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

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

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

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

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

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

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

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

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

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

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

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

4 (D) to provide veterinarian or farrier services;

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

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

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

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

12 (6-a) "Livestock producer" means a person who owns,
13 handles, breeds, raises, buys, sells, or feeds livestock animals.

14 (9) "Participant" means:

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

18 (i) is an amateur or professional;

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

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

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

27 SECTION 3. Chapter 87, Civil Practice and Remedies Code, is

1 amended by adding Section 87.0021 to read as follows:

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

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

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

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

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

26 (3) with respect to farm animal activities involving
27 equine animals, certain land conditions and hazards, including

1 surface and subsurface conditions;

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

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

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

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

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

25 (3) the injury or death was caused by a dangerous
26 latent condition of land for which warning signs, written notices,
27 or verbal warnings were not conspicuously posted or provided to the

1 participant, and the land was owned, leased, or otherwise under the
2 control of the person at the time of the injury or death and the
3 person knew of the dangerous latent condition;

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

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

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

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

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

24 (b) A farm animal professional or a farm owner or lessee
25 shall include the warning contained in Subsection (c) in every
26 written contract that the professional, owner, or lessee enters
27 into with a participant, including an employee or independent

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

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

9 WARNING

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

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

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