

1-1 By: Murr, et al. (Senate Sponsor - Springer) H.B. No. 365
 1-2 (In the Senate - Received from the House April 6, 2021;
 1-3 April 12, 2021, read first time and referred to Committee on State
 1-4 Affairs; May 14, 2021, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 14, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to liability arising from farm animals.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. The heading to Chapter 87, Civil Practice and
 1-22 Remedies Code, is amended to read as follows:
 1-23 CHAPTER 87. LIABILITY ARISING FROM FARM ANIMALS [~~ANIMAL ACTIVITIES~~
 1-24 ~~OR LIVESTOCK SHOWS~~]
 1-25 SECTION 2. Section 87.001, Civil Practice and Remedies
 1-26 Code, is amended by amending Subdivisions (1), (2-a), (3), (4),
 1-27 (5), (6-a), and (9) and adding Subdivision (2-b) to read as follows:
 1-28 (1) "Engages in a farm animal activity" means riding,
 1-29 handling, training, driving, loading, unloading, feeding,
 1-30 vaccinating, exercising, weaning, transporting, producing,
 1-31 herding, corralling, branding, or dehorning of, assisting in or
 1-32 providing health management activities for, assisting in the
 1-33 medical treatment of, being a passenger on, or assisting a
 1-34 participant or sponsor with a farm animal. The term includes
 1-35 management of a show involving farm animals and engagement in
 1-36 routine or customary activities on a farm to handle and manage farm
 1-37 animals. The term does not include being a spectator at a farm
 1-38 animal activity unless the spectator is in an unauthorized area and
 1-39 in immediate proximity to the farm animal activity.
 1-40 (2-a) "Farm" means any real estate, land area,
 1-41 facility, or ranch used wholly or partly for raising, cultivating,
 1-42 propagating, fattening, grazing, or any other farming, livestock,
 1-43 agricultural, apicultural, or aquacultural operation.
 1-44 (2-b) "Farm animal" means:
 1-45 (A) an equine animal;
 1-46 (B) a bovine animal;
 1-47 (C) a sheep or goat;
 1-48 (D) a pig or hog;
 1-49 (E) a ratite, including an ostrich, rhea, or emu;
 1-50 [~~or~~]
 1-51 (F) a chicken or other fowl; or
 1-52 (G) a honeybee kept in a managed colony.
 1-53 (3) "Farm animal activity" means:
 1-54 (A) a farm animal show, fair, competition,
 1-55 performance, rodeo, event, or parade that involves any farm animal;
 1-56 (B) training or teaching activities involving a
 1-57 farm animal;
 1-58 (C) owning, raising, boarding, or pasturing a
 1-59 farm animal, including daily care;
 1-60 (D) riding, inspecting, evaluating, handling,
 1-61 transporting, loading, or unloading a farm animal belonging to

2-1 another, without regard to whether the owner receives monetary
 2-2 consideration or other thing of value for the use of the farm animal
 2-3 or permits a prospective purchaser of the farm animal to ride,
 2-4 inspect, evaluate, handle, load, or unload the farm animal;

2-5 (E) informal farm animal activity, including a
 2-6 ride, trip, or hunt that is sponsored by a farm animal activity
 2-7 sponsor or a farm owner or lessee;

2-8 (F) placing or replacing horseshoes on an equine
 2-9 animal;

2-10 (G) examining or administering medical treatment
 2-11 to a farm animal by a veterinarian; [~~or~~]

2-12 (H) assisting in or providing animal health
 2-13 management activities, including vaccination;

2-14 (I) assisting in or conducting customary tasks on
 2-15 a farm concerning farm animals;

2-16 (J) transporting or moving a farm animal; or

2-17 (K) without regard to whether the participants
 2-18 are compensated, rodeos and single event competitions, including
 2-19 team roping, calf roping, and single steer roping.

2-20 (4) "Farm animal activity sponsor" means:

2-21 (A) a person or group who sponsors, owns,
 2-22 organizes, or provides the facilities for a farm animal activity,
 2-23 including facilities for a pony club, 4-H club, hunt club, riding
 2-24 club, therapeutic riding program, or high school or college class,
 2-25 program, or activity, without regard to whether the person operates
 2-26 for profit; or

2-27 (B) an owner or operator of, instructor at, or
 2-28 promoter for facilities, including a stable, clubhouse, pony ride
 2-29 string, fair, or arena at which a farm animal activity is held.

2-30 (5) "Farm animal professional" means a person engaged
 2-31 for compensation:

2-32 (A) to instruct a participant or rent to a
 2-33 participant a farm animal for the purpose of riding, driving, or
 2-34 being a passenger on the farm animal;

2-35 (B) to rent equipment or tack to a participant;

2-36 (C) to examine or administer medical treatment to
 2-37 a farm animal as a veterinarian or to provide nonmedical care or
 2-38 treatment to a farm animal, including vaccination; [~~or~~]

2-39 (D) to provide veterinarian or farrier services;

2-40 (E) to assist in or provide animal health
 2-41 management activities, including vaccination;

2-42 (F) to provide other care, feeding, and husbandry
 2-43 of farm animals;

2-44 (G) to assist in or conduct customary tasks on a
 2-45 farm concerning farm animals; or

2-46 (H) to transport or move a farm animal.

2-47 (6-a) "Livestock producer" means a person who owns,
 2-48 handles, breeds, raises, buys, sells, or feeds livestock animals.

2-49 (9) "Participant" means:

2-50 (A) with respect to a farm animal activity, a
 2-51 person who engages in the activity, without regard to whether the
 2-52 person:

2-53 (i) is an amateur or professional;

2-54 (ii) [or whether the person] pays for the
 2-55 activity or participates in the activity for free; or

2-56 (iii) is an independent contractor or
 2-57 employee; and

2-58 (B) with respect to a livestock show, a person
 2-59 who registers for and is allowed by a livestock show sponsor to
 2-60 compete in a livestock show by showing an animal on a competitive
 2-61 basis, or a person who assists that person.

2-62 SECTION 3. Chapter 87, Civil Practice and Remedies Code, is
 2-63 amended by adding Section 87.0021 to read as follows:

2-64 Sec. 87.0021. CERTAIN LABOR LAWS NOT AFFECTED. Nothing in
 2-65 this chapter affects the applicability of Chapter 406, Labor Code,
 2-66 or an employer's ability to refuse to subscribe to the workers'
 2-67 compensation system.

2-68 SECTION 4. Sections 87.003 and 87.004, Civil Practice and
 2-69 Remedies Code, are amended to read as follows:

3-1 Sec. 87.003. LIMITATION ON LIABILITY. Except as provided
 3-2 by Section 87.004, all persons [~~any person~~], including a farm
 3-3 animal activity sponsor, farm animal professional, farm owner or
 3-4 lessee, livestock producer, livestock show participant, or
 3-5 livestock show sponsor, are [~~is~~] not liable for property damage or
 3-6 damages arising from the personal injury or death of a participant
 3-7 in a farm animal activity or livestock show if the property damage,
 3-8 injury, or death results from the dangers or conditions that are an
 3-9 inherent risk of a farm animal, a farm animal activity, [~~or~~] the
 3-10 showing of an animal on a competitive basis in a livestock show, or
 3-11 the raising or handling of livestock on a farm, including:

3-12 (1) the propensity of a farm animal or livestock
 3-13 animal to behave in ways that may result in personal injury or death
 3-14 to a person on the animal, handling the animal, or otherwise around
 3-15 the animal [~~it~~];

3-16 (2) the unpredictability of a farm animal's or
 3-17 livestock animal's reaction to sound, a sudden movement, or an
 3-18 unfamiliar object, person, or other animal;

3-19 (3) with respect to farm animal activities involving
 3-20 equine animals, certain land conditions and hazards, including
 3-21 surface and subsurface conditions;

3-22 (4) a collision with another animal or an object; or

3-23 (5) the potential of a participant to act in a
 3-24 negligent manner that may contribute to injury to the participant
 3-25 or another, including failing to maintain control over a farm
 3-26 animal or livestock animal or not acting within the participant's
 3-27 ability.

3-28 Sec. 87.004. EXCEPTIONS TO LIMITATION ON LIABILITY. A
 3-29 person, including a farm animal activity sponsor, farm animal
 3-30 professional, farm owner or lessee, livestock show participant, or
 3-31 livestock show sponsor, may be [~~is~~] liable for property damage or
 3-32 damages arising from the personal injury or death caused by a
 3-33 participant in a farm animal activity or livestock show if:

3-34 (1) the injury or death was caused by faulty equipment
 3-35 or tack used in the farm animal activity or livestock show, the
 3-36 person provided the equipment or tack, and the person knew or should
 3-37 have known that the equipment or tack was faulty;

3-38 (2) the person provided the farm animal or livestock
 3-39 animal and the person did not make a reasonable and prudent effort
 3-40 to determine the ability of the participant to engage safely in the
 3-41 farm animal activity, including a work activity, or livestock show
 3-42 and determine the ability of the participant to safely manage the
 3-43 farm animal or livestock animal, taking into account the
 3-44 participant's representations of ability;

3-45 (3) the injury or death was caused by a dangerous
 3-46 latent condition of land for which warning signs, written notices,
 3-47 or verbal warnings were not conspicuously posted or provided to the
 3-48 participant, and the land was owned, leased, or otherwise under the
 3-49 control of the person at the time of the injury or death and the
 3-50 person knew of the dangerous latent condition;

3-51 (4) the person committed an act or omission with
 3-52 wilful or wanton disregard for the safety of the participant and
 3-53 that act or omission caused the injury;

3-54 (5) the person intentionally caused the property
 3-55 damage, injury, or death; or

3-56 (6) with respect to a livestock show, the injury or
 3-57 death occurred as a result of an activity connected with the
 3-58 livestock show and the person invited or otherwise allowed the
 3-59 injured or deceased person to participate in the activity and the
 3-60 injured or deceased person was not a participant as defined by
 3-61 Section 87.001(9)(B).

3-62 SECTION 5. Sections 87.005(a), (b), and (c), Civil Practice
 3-63 and Remedies Code, are amended to read as follows:

3-64 (a) A farm animal professional or a farm owner or lessee
 3-65 shall post and maintain a sign that contains the warning contained
 3-66 in Subsection (c) if the professional, owner, or lessee manages or
 3-67 controls a farm, stable, corral, or arena where the professional,
 3-68 owner, or lessee conducts a farm animal activity. The professional,
 3-69 owner, or lessee must post the sign in a clearly visible location on

4-1 or near the stable, corral, or arena.

4-2 (b) A farm animal professional or a farm owner or lessee
4-3 shall include the warning contained in Subsection (c) in every
4-4 written contract that the professional, owner, or lessee enters
4-5 into with a participant, including an employee or independent
4-6 contractor, for professional services, instruction, or the rental
4-7 of equipment or tack or a farm animal. The warning must be included
4-8 without regard to whether the contract involves farm animal
4-9 activities on or off the location or site of the business of the
4-10 farm animal professional or farm owner or lessee. The warning must
4-11 be clearly readable.

4-12 (c) The warning posted by a farm animal professional or a
4-13 farm owner or lessee under this section must be as follows:

4-14 WARNING

4-15 UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES CODE), A
4-16 FARM ANIMAL PROFESSIONAL OR FARM OWNER OR LESSEE IS NOT LIABLE FOR
4-17 AN INJURY TO OR THE DEATH OF A PARTICIPANT IN FARM ANIMAL
4-18 ACTIVITIES, INCLUDING AN EMPLOYEE OR INDEPENDENT CONTRACTOR,
4-19 RESULTING FROM THE INHERENT RISKS OF FARM ANIMAL ACTIVITIES.

4-20 SECTION 6. The change in law made by this Act applies only
4-21 to a cause of action that accrues on or after the effective date of
4-22 this Act. A cause of action that accrued before the effective date
4-23 of this Act is governed by the law as it existed immediately before
4-24 the effective date of this Act, and that law is continued in effect
4-25 for that purpose.

4-26 SECTION 7. This Act takes effect September 1, 2021.

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