**Equine Activity Liability Acts - Region 8.**

**Arkansas, Louisiana, Oklahoma, and Texas.**

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*Disclaimer -- This presentation and supporting material is not intended to take the place of legal advice on a specific matter nor to establish the attorney-client relationship. It is designed for informational and educational purposes. Participants are encouraged to seek legal counsel from an attorney properly licensed in his or her state and who regularly practices equine law in his or her state. Please be mindful that if you establish an attorney-client relationship, for legal advice and valid representation, all pertinent facts must be disclosed to your attorney.*

1. **Introduction to the Equine Activity Liability Acts (EALA)**

In the mid-1980’s several groups, led primarily by the American Horse Council, began promoting the passage of a liability act to protect owners and participants in equestrian activities. The underlying intention of Equine Activity Liability Act is to encourage equine activities by limiting civil liability of those individuals who offer, organize, or sponsor equine activities. Equine activities provide a variety of benefits to the states in which they occur including a significant economic impact. Studies sponsored by the American Horse Council (see website) reported that in 2005, the horse industry contributed approximately $39 billion in direct economic impact to the U.S. economy, including 1.4 million full time jobs and total spending reached $102 billion. Among other things, EALAs are designed to support the horse community by limiting liability from the inherent risks associated with horse activities, but do not offer complete immunity. Mishaps involving non-inherent risks fall outside the scope of the law – things like faulty tack or equipment, failing to properly match mount and rider, negligence in any way – supervision, instruction, duty of care owed., etc.

 Initially a uniform act was circulated in the 1980’s. Over the next three decades an act was introduced and passed in some form by the majority of the states. (All but CA, MD, NY.) The most recent was passed by Nevada in 2015, effective October 2015. Although the EALA was originally designed to be a uniform law, individual states adjusted and reworked the version that passed their individual state legislature. What passed in individual states was changed and modified before final passage to the extent that it no longer resembles a uniform law and one cannot rely on the version passed in one state to apply in another. Laws differ and must be carefully considered in each state to determine what application and immunity is available in that state. Liability assessment varies state by state and is primarily dependent on the specific language of the unique statute in each state. Before considering what protection is offered by an EALA in any particular state, one must closely read the version that passed in that state, and when possible, read cases to see how the courts in that state have interpreted and applied that law to the unique facts presented in each case.

* **CAVEAT ---- STATE LAW CONTROLS.**

Currently, several online equine resources provide descriptions and links to the various state statutes throughout the country, as well as some discussions regarding possible legal interpretations. For further reading on this subject please refer to the websites of *The American Horse Council, The American Equestrian Alliance, Equine Legal Solutions,* and numerous insurance websites that offer coverage for equine activities. Additional internet information is available by doing a search on “Equine Activity Liability Act (or Law)”. Many resources exist, including magazine articles, blogs, law review articles, etc. The reader is cautioned to consider the source of the information before relying on it. Additionally, one must consider the jurisdiction and any changes that may have been made to the law since its enactment.

1. **Your Individual State law and Components of EALAs.**

 Most states have enacted some form of an EALA. Alaska has a livestock law. Copies of the states’ laws in this region are at the end of this outline. Because the state legislatures can change the law and regularly do so, it is important to make certain that the state law you are relying on is current. To find the current law in your state you may request it from an attorney in your state or obtain it from a subscriber service like West Law, Lexis Nexis, etc. (fees may apply). Alternatively, you may find your state law on the Internet in a several locations: 1) The website for most state legislatures contains a link to the state code; 2) Internet search of “Equine Activity Liability Act”; 3) Website for your county extension office, state horse council, or the American Horse Council; or 4) the lists on the websites of The American Equestrian Alliance or animallaw.info.

Once you obtain a copy of the EALA in your state and verify that it is the current law, break down the specific parts of your law to determine primary points. This is similar to reading the outline you prepared for your high school theme papers. Hierarchy -- Learn how your law is structured and identify the parts. Generally, EALAs contain about 4 components in some order:

1. Definitions – CRITICAL that you understand these in your state. What qualifies as an equine activity, equine professional, equine sponsor, participant, equine (or animal!), inherent risks, etc. is a threshold matter that controls whether the EALA applies.

2. Statement of limited immunity granted by the law.

3. Exceptions.

4. Requirements to invoke the limited immunity this could be signage, notices on contracts, wordings on releases, etc. Failure to comply with requirements and the law may not protect you!

1. **Case Law**

 When a case is determined by a court, it becomes legal precedent and is binding on very specific facts and law. A case determined in one state may NOT be binding legal precedent in another state for many reasons. First, the laws in the two states must be identical. Any variation in the law from one state to another state can result in a completely different outcome. Similarly, the facts must be nearly identical. Even a slight variation in the facts can result in a totally different determination by the court. These two things, the law and the specific facts of the case, are threshold matters. It is critical that you carefully select an attorney who is well-versed in the equine laws of your state and once you chose your legal counsel, you must be very open and totally candid concerning the exact details (facts) of your situation. A case in a lower court (trial) must be appealed to an upper level court to have a published opinion that can be cited as case law. Some cases are reported without an opinion and are of no legal consequence elsewhere.

 Helpful terms in reading legal cases: At the trial (lower) court level, the *Plaintiff* is the one who brings the action and the *Defendant* is the one who is being sued. If the case goes to a higher court, new names for the parties: the *Appellant* is the one (may be the plaintiff or defendant) who is unhappy with what the trial court decided and takes the case (appeals) to a higher court for consideration hoping for a change in the result. The *Appellee* is in the position on appeal of defending the ruling of the lower court.

1. **Some Interesting Cases**

***Pre-EALA – good read:***

**Ewing v. Prince,** 425 S.W. 2d 732, Kentucky (1968)

 Plaintiff claimed damages for injuries when she was kicked by a mare she approached from behind while riding another horse. Held that no dangerous or vicious propensities in Jezebel, the animal in question. She had plenty of life but could be handled by anyone. Great language re:Flicka, Trigger, Champion and even Mr. Ed!

**North Hardin Developers, Inc. v. Corkran,** 839 S.W. 2d 258, Kentucky (1992)

 Child sustained fractured skull after being kicked by horse she approached from behind out in pasture. Undisputed that child had climbed through barbed wire fence on a dare to touch a horse. Horse was not known to be violent and was startled. Property owner knew kids trespassed, had posted notices and even hired someone part time to chase the children away! Good case re:attractive nuisance doctrine and duty of care owed to others. Ordinary domesticated animals are a natural condition when securely maintained on a farm and do not constitute an unreasonable risk or even a foreseeable risk of harm to others.

***\*\*\*\*\*\*\* Cases after EALA \*\*\*\*\****

**Baker v. McIntosh,** 132 S. @. 3d 20, Kentucky, (2004)

 Plaintiff Baker claims injuries after colt backed into gate pinning and breaking Baker’s wrist. McIntosh was horse trader, Baker, friend and frequent visitor. Baker could not expect McIntosh to make special preparation for his safety when it was obvious that Baker could have discovered that himself. McIntosh was entitled to conduct his business as he was accustomed and had no duty to further warn Baker. Similar, **Allison v. Johnson,** 2001 WL589384, Ohio, (2001)

**Amburgey v. Sauder**, 605 N.W. 2d 84, Michigan, (1999)

The plaintiff, Amburgey, claimed damages for injuries to her arm and shoulder as a result of being bitten by a horse as she was walking in the hallway of defendant Sauder’s boarding stable. The court determined that the intent of the Michigan EALA was to grant immunity to qualifying defendants for certain acts or omissions. It was determined that by the express definition contained in the EALA, Amburgey was a “participant” who was “engaged in an equine activity” while touring the barn (Michigan statute included “visiting, touring, or utilizing an equine facility” within the definition of equine activity) and therefore, Amburgey fell within the class of persons who were barred from recovering from a qualified defendant. The Michigan statute, required posting of specific notices and evidence was presented that more than one appropriate sign was posted “in a clearly visible location in close proximity to the equine activity.” A goat had eaten one of the signs. Other signs posted elsewhere, including at the main entrance, were intact. Because there was appropriate posting of signs, Sauder, who met the statutory definition of “equine professional”, could invoke the protections of the EALA and Amburgey was barred from recovery. This case contains an excellent judicial discussion regarding the strict interpretation of the actual words of the Michigan EALA as well as the purposes of the enactment of the EALA. It also, by footnote, cites the “penalty” imposed by the Alabama EALA for failure to post a sign; i.e. the law will not protect!

A similar horse bite case was determined in Connecticut under similar EALA. See **Vendrella v. Astriab**, 87 A. 3d 546, (2014) final decision at 60 Conn. L. Rptr. 592 (July 2015). Vendrella has a long history, was bounced around in the courts on legal and technical issues, not related to the EALA. However, good language and fun reading regarding the propensity of a horse to bite.

**Kangas v. Perry**, 620 N.W. 2d 429, Wisconsin (2000)

Kangas claimed damages for injuries she sustained when she fell backwards from a horse-drawn sled owned by Perry. Kangas was standing behind the only seat on the sled and during a rest stop, let go of the seat to open a beer. When the horses unexpectedly moved forward, she lost her balance and fell off backwards sustaining serious injuries. Perry trained and competed draft horses and used a sled for some of the training. Kangas was visiting the horse farm with her husband and was invited to ride on the sled. She chose her position on the sled and was caught off-guard while opening a beer. Finding that Perry was an equine activity sponsor within the definition of the Wisconsin EALA, and that Kangas was a participant, the court applied the protections of that law to Perry. The court further found that the propensity of a horse to move without warning is an inherent risk of equine activity as contemplated by the statute.

**Gamble v. Peyton**, 182 S.W. 3d 1, Texas, (2005)

 Plaintiff Peyton claimed damages from falling from a horse she was purchasing from Defendant, Gamble. The trainer rode the horse, then Peyton rode the horse in Gamble’s riding pen under Gamble’s trainer’s supervision. As Peyton was dismounting, the horse tossed her and she seriously injured her back requiring surgery. The trainer had mentioned the fire ants in the pen before Peyton mounted and when he returned the horse to the barn after the accident, he found fire ants on the horse’s back legs. Peyton sued and Gamble prevailed under the Texas EALA. The court found that Gamble was a horse professional, and that Peyton was a participant in an equine activity. The court determined that the presence of fire ants in an outdoor riding pen is a natural condition that was known to Peyton and the behavior of the horse was an inherent risk of riding.

**Gibson V. Donahue**, 772 N.E. 2d 646, Ohio, 2002.

 Rider Gibson, on her own horse, suffered personal injuries when she fell from her horse after being chased by free-running dogs on a city-owned field. Gibson sued Donahue, the dog-owner, and the city. Donahue claimed immunity under the EALA – court said EALA cannot be applied to dog owner or city, and simply does not qualify under the terms of the equine law. However, the leash laws might make the dog owner responsible so it was sent back to the trial court to consider that. City, of course, went out on immunity. This case is hilarious reading and worth the view!

**Friedli v. Kerr**, Tenn. App., not reported in S.W.3d, 2001 WL 177184, Tennessee.(2001)

 The Friedli’s were touring downtown Nashville in horse-drawn carriage owned by Kerr when a loud noise frightened the horse and the horse bolted. Ultimately, the Friedl’s were dumped on the street, the horse broke free, and then went his usual route without the carriage, the driver, or the passengers. The Friedli’s sued and Kerr claimed EALA. The trial court originally determined that Kerr owed a heightened duty of care as an “amusement ride operator” or as a “common carrier” rather than as an equine professional under EALA. On appeal, the Ct. of Appeals determined that this was a case of first impression and disagreed with the t/ct. The appeals court held that Kerr owed the Friedli’s only an ordinary duty of care. The appeals court expressly reversed the t/ct’s judgment determining that Kerr should NOT be held to the same heightened duty expected of common carriers and operators of amusement rides and remanded for the t/ct to proceed consistent with that holding. Case made no final rulings whether the EALA applied. Costs were taxed to BOTH parties – giving rise to doubt and questions.

**Stoffels v. Harmony Hill**, 912 A. 2d 184, New Jersey (2006).

 Plaintiff Stoffels was injured when she was thrown from a horse owned by Harmony Hills. T/ct initially ruled for defendant giving full coverage to the EALA. NJ Superior court held it was a case of first impression, that EALA clearly applied, however, not absolute immunity. Rider claimed on appeal that the stable owner was negligent in horse assignment for her abilities. Appeals court returned to the t/ct for a determination of whether the stable owner was negligent in matching the horse and rider. No further published opinion.

**Snider v. Ft. Madison Rodeo**, 2002 WL 570890, Iowa (2002) Unpublished opinion.

 Plaintiff Snider crossed the street mid-parade and was injured by a pony in the parade. She sued the parade sponsor, the rodeo company. T/ct ruled against Snider and she appealed. The Court of Appeals in Iowa upheld that summary judgment was proper. (Summary judgment is when there is no material issue of fact and the moving party, here Ft. Madison, is entitled to judgment as a matter of law.) A spectator is specifically listed as a participant involved in a “domestic animal activity” according to the very terms of the Iowa EALA and therefore, the sponsor was not responsible for the injuries.

**Markowitz v. Bainbridge Equestrian Center, Inc.,** 11th District, 2007 WL 959906, Ohio. Unpublished opinion. Horse camp rider injured when pony startled by thunder, reared. Good language re: “Precisely the kind of activity” the EALA is intended to immunize.

**Columbus v. Moore**, 2006 WL 2089210, Michigan. Unpublished. Plaintiff injured by horse kick at a horse sale. Contended she was a spectator since she was not buying. Court said she was a participant – she looked, talked with sellers, and was in the area of the activity. EALA applied.

1. **Take Away.**

 KNOW YOUR LAW! The law in someone else’s state has no implication in your state!

Discussion focusing on the comparative analysis of the state Equine Activity Liability Acts in the states in Region 8 – Arkansas, Louisiana, Oklahoma, and Texas.

**\*\*\*\* ARKANSAS CODE OF 1987 ANNOTATED**

TITLE 16. PRACTICE, PROCEDURE, AND COURTS

SUBTITLE 7. PARTICULAR PROCEEDINGS AND REMEDIES

CHAPTER 120. IMMUNITY FROM TORT LIABILITY

SUBCHAPTER 2. EQUINE ACTIVITIES

**Ark. Stat. Ann. § 16-120-201 and § 16-120-202 (1993)**

**§ 16-120-201.** Definitions

As used in this subchapter, unless the context otherwise requires:

**(1)** "Equine" means a horse, pony, mule, donkey, or hinny;

**(2)** "Equine activity" means:

(A) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, pulling, cutting, polo, steeplechasing, endurance trail riding and western games, and hunting;

(B) Equine training and teaching activities;

(C) Boarding equines;

(D) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine; and

(E) Rides, hunts, or other equine activities of any type however informal or impromptu.

**(3)** "Equine activity sponsor” means an individual, group, club, partnership, or corporation, whether nonprofit or operating for profit, which sponsors, organizes or provides facilities for an equine activity.

**(4)** "Participant” means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

**§ 16-120-202. Liability**

**(1)** Except as provided in subdivision (2) of this section, an equine activity sponsor or employee of an equine activity sponsor shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities.

**(2)** Nothing in subdivision (1) of this section shall prevent or limit the liability of an equine activity sponsor or employee of an equine activity sponsor who:

(A)(I)Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause injury.

(II) Provided the equine animal and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity, or to determine the ability of the participant to engage safely in the equine activity and to safely manage the particular equine based on the participant’s representation of his ability.

(B) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injury because of a dangerous latent condition which was known or should have been known to the equine activity sponsor or to an employee of the sponsor and for which warning signs have not been conspicuously posted.

(C) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury.

(D) Intentionally injures the participant.

**(3)** Nothing in subdivision (1) of this section shall prevent or limit the liability of an equine activity sponsor or employee thereof under liability provisions as set forth in products liability laws.

**(4)** (A) Every equine activity sponsor shall post and maintain signs which contain the warning notice specified in subdivision (B) of this section. Such signs shall be placed in a clearly visible location on or near stables, corrals or arenas where the equine activity sponsor conducts equine activities. The warning notice specified in subdivision (B) of this section shall appear on the sign in black letters, with each letter to be a minimum of one (1) inch in height.

(B) The signs described in subdivision (A) of this section shall contain the following warning notice:

WARNING

UNDER ARKANSAS LAW, AN EQUINE ACTIVITY SPONSOR IS NOT LIABLE FOR AN INJURY TO, OR THE DEATH OF, A PARTICIPANT IN EQUINE ACTIVITIES RESULTING FROM THE INHERENT RISK OF EQUINE ACTIVITIES.

HISTORY: Acts 1991, No. 103, § 2; Amended in 1995.

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**\*\*\*\* LOUISIANA REVISED STATUTES**

TITLE 9. CIVIL CODE ANCILLARIES

**La. R.S. 9:2795.1 (1993)**

**§ 2795.1**. Limitation of liability of equine activity sponsor; exceptions; required warning

**A**. As used in this Section, the following terms shall have the following meanings, unless the context requires otherwise:

(1) "Engages in an equine activity" means riding, training, providing, or assisting in providing medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted, or any person assisting a participant or show management. The term engages in an equine activity does not include being a spectator at an equine activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the equine activity.

(2) "Equine" means a horse, pony, mule, donkey, or hinny.

(3) "Equine activity" includes any or all of the following:

(a) An equine show, fair, competition, performance, or parade that involves any or all breeds of equine and any of the equine disciplines, including but not limited to any dressage, hunter and jumper horse show, grand prix jumping, three-day event, combined training, rodeo, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding, and western game and hunting.

(b) Equine training or teaching activities, or both.

(c) Boarding equine.

(d) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine.

(e) A ride, trip, hunt, or other equine activity of any type however informal or impromptu that is sponsored by an equine activity sponsor.

(f) Placing or replacing horseshoes on an equine.

(g) Examining or administering medical treatment to an equine by a veterinarian.

(4) "Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to: a pony club; 4-H club; hunt club; riding club; school and college sponsored class, program, and activity; therapeutic riding program; and any operator, instructor, and promoter of an equine facility, including, but not limited to: a stable; clubhouse; ponyride string; fair; and arena at which the activity is held.

(5) "Equine professional" means a person engaged for compensation in any of the following:

(a) Instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine.

(b) Renting equipment or tack to a participant.

(c) Examining or administering medical treatment to an equine as a veterinarian.

(6) "Inherent risks of equine activities" means those dangers or conditions which are an integral part of equine activities, including, but not limited to:

(a) The propensity of an equine to behave in ways that may result in injury, harm, or death to persons on or around them.

(b) The unpredictability of an equine's reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals.

(c) Certain hazards such as surface and subsurface conditions.

(d) Collisions with other equine or objects.

(e) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his ability.

(7) "Participant" means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

**B.** Except as provided in Subsection C of this Section, an equine activity sponsor, an equine professional, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities and, except as provided in Subsection C of this Section, no participant or participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities.

**C.** Nothing in Subsection B of this Section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person if the equine activity sponsor, equine professional, or person either:

(1) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury.

(2) Failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and to safely manage the particular equine based on the participant's representations of his ability.

(3) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facility upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the equine activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted.

(4) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury.

(5) Intentionally injures the participant.

**D.** Nothing in Subsection B of this Section shall prevent or limit the liability of an equine activity sponsor or an equine professional under liability provisions as set forth in the "Louisiana Products Liability Act," R.S. 9:2800.51 through 2800.59.

**E.** Every equine professional and every equine activity sponsor shall post and maintain a sign conspicuously located which contains the warning notice specified in Subsection F of this Section. The sign shall be placed in a clearly visible location on or near any stable, corral, or arena where the equine professional or the equine activity sponsor conducts equine activities. The warning notice specified in Subsection F of this Section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional or by an equine activity sponsor for the provision of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's or the equine activity sponsor's business, shall contain in clearly readable print the warning notice specified in Subsection F of this Section.

**F.** The signs and contracts described in Subsection E of this Section shall contain the following warning notice:

WARNING

Under Louisiana law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to R.S. 9:2795.1.

**G.** Failure to comply with the requirements concerning warning notices provided in this Section shall prevent an equine activity sponsor or equine professional from invoking the privilege of immunity provided by this Section. \*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

**\*\*\*\*\*\*\*\*\*\*\*\*\*\*\* OKLAHOMA STATUTES ANNOTATED.**

**Title 76. Torts. Livestock Activities Liability Limitation Act.**

 **76 Okl. St. Ann. § 50.1 through § 50.4**

**§ 50.1**. Short title--Legislative intent—Construction

**A.** This act shall be known and may be cited as the "Oklahoma Livestock Activities Liability Limitation Act".

**B.** 1. The Oklahoma Legislature recognizes that persons who engage in livestock activities may incur injuries as a result of the risks involved in such activities even in the absence of any fault or negligence on the part of persons or entities who sponsor, participate or organize those activities.

2. The Oklahoma Legislature finds that the state and its citizens derive numerous economic and personal benefits from livestock activities.

3. It is, therefore, the intent of the Oklahoma Legislature to encourage livestock activities by limiting the civil liability of livestock activities sponsors, participants and livestock professionals involved in such activities.

**C.** The provisions of the Oklahoma Livestock Activities Liability Limitation Act shall not be construed to conflict or amend Sections 10 through 15.1 of Title 76 of the Oklahoma Statutes.

Laws 1999, c. 326, § 1, eff. Nov. 1, 1999.

**§ 50.2.** Definitions

As used in the Oklahoma Livestock Activities Liability Limitation Act:

1. “Engages in a livestock activity” includes training, racing, showing, riding, or assisting in medical treatment of, or driving livestock, or engaging in any agritourism activity involving livestock or on a location where livestock are displayed or raised, and any person assisting a participant, livestock activity sponsor or livestock professional. The term “engages in a livestock activity” does not include being a spectator at a livestock activity, except in cases where the spectator places himself or herself in immediate proximity to livestock activity;

2. “Agritourism activity” includes, but is not limited to, any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant pays to participate in the activity;

3. “Livestock” means any cattle, bison, hog, sheep, goat, equine livestock, including but not limited to animals of the families bovidae, cervidae and antilocapridae or birds of the ratite group;

4. “Livestock activity” includes but is not limited to:

a. livestock shows, fairs, livestock sales, competitions, performances, or parades that involve any or all breeds of livestock and any of the livestock disciplines, including, but not limited to, rodeos, auctions, driving, pulling, judging, cutting and showing,

b. livestock training or teaching activities or both such training and teaching activities,

c. boarding or pasturing livestock,

d. inspecting or evaluating livestock belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the livestock or is permitting a prospective purchaser of the livestock to inspect or evaluate the livestock,

e. drives, rides, trips, hunts or other livestock activities of any type however informal or impromptu that are sponsored by a livestock activity sponsor,

f. placing or replacing horseshoes on an equine, or otherwise preparing livestock for show, and

g. agritourism activities involving the viewing of, handling of, riding of, showing of, or other interactive activities with livestock;

5. “Livestock activity sponsor” means an individual, group, club, partnership or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for, a livestock activity, including but not limited to: livestock clubs, 4-H clubs, FFA chapters, school and college-sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of livestock facilities, including, but not limited to, barns, stables, clubhouses, ponyride strings, fairs and arenas at which the activity is held;

6. “Livestock professional” means a person engaged for compensation in:

a. instructing a participant or renting to a participant livestock for the purpose of engaging in livestock activity, or

b. renting equipment or tack to a participant;

7. “Inherent risks of livestock activities” means those dangers or conditions which are an integral part of livestock activities, including but not limited to:

a. the propensity of livestock to behave in ways that may result in injury to persons on or around them,

b. the unpredictability of livestock's reaction to such things as sounds, sudden movement and unfamiliar objects, persons or other animals,

c. certain hazards such as surface and subsurface conditions unknown to the livestock activity sponsor,

d. collisions with other livestock or objects, and

e. the potential of tack to become dislodged or move in ways that may result in injury to persons on or around livestock activities; and

8. “Participant” means any person, whether amateur or professional, who engages in a livestock activity, whether or not a fee is paid to participate in the livestock activity.

Laws 1999, c. 326, § 2, eff. Nov. 1, 1999; Laws 2009, c. 228, § 47, eff. Nov. 1, 2009; Laws 2013, 1st Ex.Sess., c. 6, §§ 2, 3, emerg. eff. Sept. 10, 2013.

**§ 50.3.** Scope of liability

**A.** Except as provided in subsection B of this section, a livestock activity sponsor, a participant or a livestock professional acting in good faith and pursuant to the standards of the livestock industry shall not be liable for injuries to any person engaged in livestock activities when such injuries result from the inherent risks of livestock activities.

**B.** 1. The provisions of the Oklahoma Livestock Activities Liability Limitation Act shall not apply to employees of the sponsor or livestock professional in the performance of their duties who are covered by or subject to the provisions of the workers' compensation laws of Title 85 of the Oklahoma Statutes.

2. Nothing in subsection A of this section shall prevent or limit the liability of a livestock activity sponsor, a participant or a livestock professional, if the livestock activity sponsor, a participant or livestock professional:

a. commits an act or omission that constitutes willful or wanton disregard for the safety of any person engaged in livestock activities, and that act or omission caused the injury,

b. intentionally injures a person engaged in livestock activities,

c. provided the equipment or tack, which was faulty, and such equipment or tack was faulty to the extent that it did cause the injury. The provisions of this subparagraph shall not apply to livestock activities sponsored by youth organizations when youth participants share equipment or tack between themselves,

d. provided the livestock and failed to make a reasonable effort to determine the ability of the participant to manage the particular livestock based upon the participant's representations of such participant's ability. Provided, however, a participant in a livestock show, livestock sale, or rodeo shall be presumed to be competent in the handling of livestock if an entry form is required for the activity and signed by the participant, or

e. owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous condition which was known to the livestock activity sponsor, livestock professional or person and not made known to the participant.

3. Nothing in subsection A of this section shall prevent or limit the liability of a livestock activity sponsor, a participant or a livestock professional:

a. under liability provisions as set forth in the products liability laws, or

b. for livestock activities which result in the death of any person engaged in livestock activities from the inherent risks of livestock activities.

**C.** A sponsor shall not be held vicariously liable for the acts or omission of a participant or a livestock professional.

Laws 1999, c. 326, § 3, eff. Nov. 1, 1999.

**§ 50.4.** Waiver of liability

Two or more persons may agree, in writing, to extend the waiver of liability pursuant to the provisions of the Oklahoma Livestock Activities Liability Limitation Act. Such waiver shall be valid and binding by its terms.

Laws 1999, c. 326, § 4, eff. Nov. 1, 1999.

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**\*\*\*\*\* TEXAS STATE EQUINE STATUTE**

TITLE 4. LIABILITY IN TORT

CHAPTER 87. LIABILITY ARISING FROM FARM ANIMAL ACTIVITIES OR LIVESTOCK SHOWS **Sec. 87.001.** **through Sec. 87.005.**

**Sec. 87.001.** DEFINITIONS. In this chapter:

(1) "Engages in a farm animal activity" means riding, handling, training, driving, loading, unloading, 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. 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) "Equine animal" means a horse, pony, mule, donkey, or hinny.

(2-a) "Farm animal" means:

(A) an equine animal;

(B) a bovine animal;

(C) a sheep or goat;

(D) a pig or hog;

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

(F) a chicken or other fowl.

(3) "Farm animal activity" means:

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

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

(C) boarding a farm animal, including daily care;

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

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

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

(G) examining or administering medical treatment to a farm animal by a veterinarian; or

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

(4) "Farm animal activity sponsor" means:

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

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

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

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

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

(C) to examine or administer medical treatment to a farm animal as a veterinarian; or

(D) to provide veterinarian or farrier services.

(6) "Livestock animal" means:

(A) an animal raised for human consumption; or

(B) a farm animal.

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

(7) "Livestock show" means a nonprofit event at which more than two species or breeds of livestock animals are gathered for exhibition or competition.

(8) "Livestock show sponsor" means a recognized group or association that organizes and sanctions a livestock show, including a political subdivision or nonprofit organization that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt organization in Section 501(c)(3) of that code.

(9) "Participant" means:

(A) with respect to a farm animal activity, a person who engages in the activity, without regard to whether the person is an amateur or professional or whether the person pays for the activity or participates in the activity for free; and

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

Acts 1995, Amended 2011, eff. June 17, 2011.

**Sec. 87.002.** APPLICABILITY OF CHAPTER. This chapter does not apply to an activity regulated by the Texas Racing Commission.

Acts 1995, eff. Sept. 1, 1995.

**Sec. 87.003.** LIMITATION ON LIABILITY. Except as provided by Section 87.004, any person, including a farm animal activity sponsor, farm animal professional, livestock producer, livestock show participant, or livestock show sponsor, is 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 a farm animal activity or the showing of an animal on a competitive basis in a livestock show, 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 or around it;

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

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

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

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

Acts 1995, Amended 2011, eff. June 17, 2011.

**Sec. 87.004.** EXCEPTIONS TO LIMITATION ON LIABILITY. A person, including a farm animal activity sponsor, farm animal professional, livestock show participant, or livestock show sponsor, 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) the injury or death was caused by faulty equipment or tack used in the farm animal activity or livestock show, the person provided the equipment or tack, and the person knew or should have known that the equipment or tack was faulty;

(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 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;

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

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

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

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

Added by Acts 1995, Amended 2011, eff. June 17, 2011.

**Sec. 87.005.** WARNING NOTICE. (a) A farm animal professional shall post and maintain a sign that contains the warning contained in Subsection (c) if the professional manages or controls a stable, corral, or arena where the professional conducts a farm animal activity. The professional must post the sign in a clearly visible location on or near the stable, corral, or arena.

(b) A farm animal professional shall include the warning contained in Subsection (c) in every written contract that the professional enters into with a participant for professional services, instruction, or the rental of equipment or tack or a farm animal. The warning must 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. The warning must be clearly readable.

(c) The warning posted by a farm animal professional under this section must be as follows:

WARNING

UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES CODE), A FARM ANIMAL PROFESSIONAL IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN FARM ANIMAL ACTIVITIES RESULTING FROM THE INHERENT RISKS OF FARM ANIMAL ACTIVITIES.

(d) A livestock show sponsor shall post and maintain a sign that contains the warning prescribed by Subsection (f) if the livestock show sponsor manages or controls a stable, barn, corral, or arena at which the livestock show sponsor conducts a livestock show. The livestock show sponsor must post the sign in a clearly visible location near the stable, barn, corral, or arena.

(e) A livestock show sponsor shall include the warning prescribed by Subsection (f) in every written contract that the sponsor enters into with a livestock show participant. The warning must be clearly readable.

(f) The warning posted by a livestock show sponsor under this section must be as follows:

WARNING

UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES CODE), A LIVESTOCK SHOW SPONSOR IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN A LIVESTOCK SHOW RESULTING FROM THE INHERENT RISKS OF LIVESTOCK SHOW ACTIVITIES.

Acts 1995, Amended, 2011, eff. June 17, 2011.

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