

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2610

By: Leist

AS INTRODUCED

An Act relating to torts; creating the Oklahoma Livestock Activities Liability Act; providing for intent; defining terms; providing for liability; providing certain exceptions; requiring certain posting; providing specifications and contents; providing for application of act; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50.1 of Title 76, unless there is created a duplication in numbering, reads as follows:

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

B. The Oklahoma Legislature recognizes that persons who participate in livestock activities may incur injuries as a result of the risks involved in such activities. The Oklahoma Legislature also finds that the state and its citizens derive numerous economic and personal benefits from such activities. It is, therefore, the intent of the Oklahoma Legislature to encourage livestock activities by limiting the civil liability of those involved in such activities.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50.2 of Title 76, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Livestock Activities Liability Act:

1. "Livestock" means any cattle, bison, hogs, sheep, goats, equidae, chickens or other poultry, and any animal, Ratite or Psittacine in captivity. For purposes of the Oklahoma Livestock Activities Act, dogs, cats and other household pets shall not be included in the definition of "livestock" and "animals"; and

2. "Engaging in livestock activity" means any person involved in:

- a. shows, fairs, competitions, performances, or parades that involve any or all breeds of livestock and any of the livestock disciplines, including, but not limited to, livestock shows, and livestock events such as training, rodeos, driving, pulling, cutting, riding, games and hunting,
- b. livestock training or teaching activities or both such training or teaching activities,
- c. boarding livestock,
- d. inspecting, or evaluating any 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. 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, and
- g. examining or administering medical treatment to any livestock by a veterinarian;

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 in an unauthorized area and in immediate proximity to the livestock activity;

3. "Livestock activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit, which sponsors, organizes, or provides the facilities for a livestock activity, including, but not limited to: 4-H clubs, or other livestock school and college-sponsored classes, programs and activities, livestock programs and operators, instructors, and promoters of livestock facilities, including, but not limited to barns, clubhouses, fairs and arenas at which the activity is held;

4. "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 a livestock activity,
- b. renting equipment or tack to a participant, or
- c. examining or administering medical treatment to any livestock as a veterinarian;

5. "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 or harm 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,
- d. collisions with other livestock or objects, and

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;

6. "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; and

7. "Person" means an individual, and any trust, firm, company, corporation, partnership or other legal entity.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50.3 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as provided in subsection B of this section, a livestock activity sponsor, a livestock professional or any other person shall not be liable for an injury to a participant resulting from the inherent risks of livestock activities.

2. Except as provided in subsection B of this section, no participant or participant's representative shall make any claim against, maintain an action against, or recover from a livestock activity sponsor, a livestock professional or any other person for injury, loss or damage to the participant resulting from any of the inherent risks of livestock activities.

B. Nothing in subsection A of this section shall prevent or limit the liability of a livestock activity sponsor or a livestock professional under liability provisions as set forth in the products liability laws.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50.4 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. Every livestock professional and every livestock activity sponsor shall post and maintain signs which contain the warning

notice specified in subsection B of this section. Such signs shall be placed in a clearly visible location on or near barns, stables, corrals or arenas where the livestock professional or livestock activity sponsor conducts livestock activities if such barns, stables, corrals or arenas are owned, managed or controlled by the livestock professional or livestock activity sponsor. The warning notice specified in subsection 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. Every written contract entered into by a livestock professional or a livestock activity sponsor for the providing of professional services, instruction or the rental of equipment or tack or livestock to a participant, whether or not the contract involves livestock activities on or off the location or site of the livestock professional's or livestock activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection B of this section.

B. The signs and contracts described in subsection A of this section shall contain the following warning notice:

WARNING

Under Oklahoma Law, a livestock activity sponsor or livestock professional is not liable for an injury to a participant in livestock activities resulting from the inherent risks of livestock activities, pursuant to the Oklahoma Livestock Activities Liability Act.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50.5 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. The provisions of the Oklahoma Livestock Activities Liability Act shall not apply to:

1. The horse racing industry as regulated in Title 3A of the Oklahoma Statutes; and

2. Activities which result in the death of a participant from the inherent risks of livestock activities.

B. Nothing in subsection A of this section shall prevent or limit the liability of a livestock activity sponsor, a livestock professional or any other person if the livestock activity sponsor, livestock professional or person:

1. a. 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, or
- b. Provided the livestock and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the livestock activity and determine the ability of the participant to safely manage the particular livestock based on the participant's representations of his ability;

2. 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 latent condition which was known to the livestock activity sponsor, livestock professional or person and for which warning signs have not been conspicuously posted;

3. 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; or

4. Intentionally injures the participant.

SECTION 6. This act shall become effective September 1, 1994.

44-2-7991

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