

SUBJECT: Extending limitations on liability to nonprofit livestock shows

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 6 ayes — Bosse, Janek, Clark, Hope, Martinez Fischer, Zbranek
0 nays
3 absent — Dutton, Nixon, Smithee

WITNESSES: For — Chris Elliott, Texas Trial Lawyers Association
Against — None

BACKGROUND: Civil Practice and Remedies Code, ch. 87 provides rules for imposing and limiting liability arising from equine activities such as riding competitions, horse racing, or rodeos. The chapter limits the liability of any person for personal injury, death, or property damage that arises out of risks inherent in participating in an equine activity, such as the unpredictability of the animals, collisions between animals, or the negligent failure of a participant to control an animal. Specifically defined exceptions to the non-liability provisions exist for:

- ! persons who caused injury or death by supplying faulty equipment that the person knew or should have known was faulty;
- ! persons who provided an animal to a participant but failed to reasonably try to assess the ability of the participant to engage safely in the equine activity;
- ! landowners and operators who did not conspicuously post or give verbal warnings about a dangerous latent condition known to the owner or operator that caused the injury or death;
- ! persons who intentionally caused injury, death or property damage or who acted willfully or with reckless disregard in causing an injury; or
- ! persons who allowed someone who was not a participant in a livestock show to participate in an activity connected with the show, and the injury or death resulted from the activity.

DIGEST: CSHB 2400 would extend limitations on liability to liability that could arise from the equine activity of showing animals on a competitive basis at nonprofit livestock shows.

The bill would define livestock animal as one either raised for human consumption or an equine animal. It also would define livestock show as a nonprofit event at which two or more species or breeds of livestock were brought together for exhibition or competition. Finally, a participant would be defined as a person or assistant of a person registered to and permitted by the sponsor of the event to show an animal on a competitive basis.

The bill would not apply the provision of current law listing a condition or hazard of the land as one of the inherent risks of participating in the event.

The bill would add intentionally-caused property damage to the list of liabilities that were excepted from the limitations on liability.

In addition, the bill would provide a warning regarding the subchapter's limitation of liability and require that a livestock show sponsor post it if the sponsor managed or controlled a stable, barn, corral, or arena at the livestock show. The sponsor would have to post a legible copy of the warning in a clearly visible location near the relevant building, as well as include the warning in its contracts with livestock participants.

The bill would take effect September 1, 2001, and only would apply to causes of action that accrued on or after the effective date of the bill.

NOTES: The committee substitute altered the original definition of a participant and the original liability limitation only to include the activity of showing an animal on a competitive basis, instead of exempting livestock show activities generally. The substitute also added the provision specifically preserving potential liability for injuries to a non-participant at a livestock show who was invited or allowed to participate in an activity connected with the show.