

- SUBJECT:** Limiting the liability of certain persons for farm animal activities
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Jackson, Lewis, Bohac, S. Davis, Madden, Raymond, Scott, Woolley
- 0 nays
- 3 absent — Castro, Hartnett, Thompson
- SENATE VOTE:** On final passage, March 31 — 31-0
- WITNESSES:** (*On House companion bill, HB 3264:*)  
For — (*Registered, but did not testify:* Jason Skaggs, Texas and Southwestern Cattle Raisers Association)
- Against — None
- BACKGROUND:** Civil Practice and Remedies Code, sec. 87.003 exempts participants, professionals, and sponsors of equine and livestock shows from liability for personal and property damage if the damage results from the dangers or conditions that are an inherent risk of an equine activity or the showing of an animal on a competitive basis in a livestock show.
- Sec. 87.004 contains exceptions to this liability exemption. A sponsor, professional, or participant is liable for personal injury or damage to property if:
- the injury was caused by faulty equipment or tack, the person provided the equipment or tack, and the person knew or should have known that the equipment or tack was faulty;
  - the person provided the equine 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 equine activity or livestock show and determine the ability of the participant to safely manage the equine or livestock animal, taking into account the participant's representations of ability;

- the injury or death was caused by a dangerous latent condition of land for which warnings were not provided to the participant and the land was under the control of the person at the time of the injury or death and the person knew of the dangerous latent condition;
- the person committed an act or omission with willful or wanton disregard for the safety of the participant and that act or omission caused the injury;
- the person intentionally caused the property damage, injury, or death; or
- 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 person to participate in the activity when the deceased person was not registered to compete.

DIGEST:

SB 479 would extend the liability exemption in Civil Practice and Remedies Code, ch. 87 for participants and sponsors of equine activities and livestock shows to cover participants and sponsors of farm animal activities. The bill would replace references to equine activities with farm animal activities in the exceptions to the exemption as well.

SB 479 would define “farm animal activities” as:

- a farm animal show, fair, competition, performance, rodeo, event, or parade that involved any farm animal;
- training or teaching activities involving a farm animal;
- boarding a farm animal, including daily care;
- riding, inspecting, or evaluating a farm animal belonging to another,
- informal farm animal activity, including a ride, trip, or hunt that was sponsored by a farm animal activity sponsor;
- placing or replacing horseshoes on an equine animal;
- examining or administering medical treatment to a farm animal by a veterinarian; or
- rodeos and single event competitions, including team roping, calf roping, and single steer roping.

The bill would define a “farm animal” as:

- an equine animal;
- a cow, bull, ox, or other bovine;
- a sheep or a goat;
- a pig or hog;
- a ratite, including an ostrich, rhea, or emu; or
- a chicken or other fowl.

The bill would require a farm animal professional to post a warning sign that gave notice of liability exceptions.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011. The bill would apply only to causes of action that accrued on or after the effective date.

**SUPPORTERS  
SAY:**

SB 479 would extend the liability exemption for horse-related activities to cover farm animal-related activities. Current law insufficiently protects property owners, sponsors, professionals, and participants during livestock shows, rodeos, petting zoos, and other activities involving non-equine farm animals. An exemption from liability would be appropriate because animals, including farm animals, are possessed of their own will and are unpredictable.

It is obvious that interacting with animals involves inherent risk. SB 479 would place the risk on the people choosing to interact with or be around these animals, while still respecting the sensible exceptions to the liability exemption for property owners, sponsors, and other participants found in existing law.

Waivers are not sufficient protection for property owners or other sponsors of farm animal activities because of high drafting costs and because they often are challenged easily in court.

**OPPONENTS  
SAY:**

SB 479 is a solution looking for a problem. Farm animal activities, such as petting zoos and 4H shows, are not under threat of closure from waves of lawsuits. There is no demonstrable need to exempt all farm animal activities from liability. The people responsible for the animals should be held accountable for their negligent actions so that injured parties can be made whole and to deter negligence.

Current law provides adequate ways to address the fears of animal or property owners worried about lawsuits. Property owners worried about liability also could require that people interacting with or around their animals sign waivers before they participated in farm animal activities.

**NOTES:**

The companion bill, HB 3264 by S. Miller, was considered in a public hearing by the Judiciary and Civil Jurisprudence Committee on April 18 and left pending.