

SUBJECT: Extending FALA liability limitations to cover ranchers and employees

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Leach, Davis, Dutton, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

0 nays

WITNESSES: For — Jay Evans, Texas and Southwestern Cattle Raisers Association; Mickey Edwards, Texas Farm Bureau; (*Registered, but did not testify*: Jay Thompson, AFACT; Robert Howard, South Texans' Property Rights Association; Lee Parsley, Texans for Lawsuit Reform; Arthur Uhl, Texas and Southwestern Cattle Raisers Association; George Christian, Texas Civil Justice League)

Against — None

On — (*Registered, but did not testify*: Pat Fry)

BACKGROUND: Civil Practice and Remedies Code ch. 87, the Texas Farm Animal Liability Act (FALA), was created in 2011 when the Legislature extended existing liability limitations relating to horses and equine activities to all farm animals. The chapter limits the liability of operators of "farm animal activities," which includes events like rodeos, livestock shows, or other activities. In June 2020 the Texas Supreme Court ruled that FALA did not apply to ranchers and their employees.

DIGEST: CSHB 365 would expand the definitions of "farm animal activity," "engages in a farm animal activity," and "farm animal professional" to include certain activities relating to the care, management, or transportation of farm animals routinely performed on ranches and other livestock facilities. The definition of "farm animal activity sponsor" would be expanded to include a person or group who owns the facilities for farm animal activities. A "participant" in a farm animal activity would include a person who engages in the activity who is an independent contractor or

employee.

Farm owners or lessees would be included among those for whom limitations on liability for property damage or damages from personal injury or death under certain circumstances applied. Farm owners or lessees also would be added to those required to post certain warning notices regarding limited liability. A farm owner or lessee also would be added to those to whom certain potential exceptions to the limitation on liability applied. Property damage, injury, or death as a result of conditions that are an inherent risk of a farm animal or the raising or handling of livestock on a farm would be added to the circumstances under which a person could be exempt from liability.

The bill would not affect the applicability of provisions relating to workers' compensation insurance coverage or an employer's ability to refuse to subscribe to the workers' compensation system.

The bill would take effect September 1, 2021, and would apply only to an act that occurred on or after that date.

**SUPPORTERS
SAY:**

CSHB 365 would provide necessary legal protections to a crucial industry by explicitly granting liability limitations that many ranchers assumed they already had.

Ranchers and others in the livestock business form a critical link in the state's food supply chain. Despite its critical nature, many ranchers operate on slim margins and a lawsuit has the ability to cause serious harm to operations. Ensuring the continued functioning of this crucial industry creates a need for added liability protections.

Large animals are inherently dangerous and unpredictable. This is known by anyone who works in the industry. Without liability limitations, the risk of legal action might make ranching unaffordable for some owners. Expanding the scope of the Texas Farm Animal Liability Act (FALA) to cover ranchers and their employees and contractors engaging in routine farm and livestock activities is an effective method of preventing this

unfair liability.

From FALA's creation in 2011 until June 2020, many assumed that liability limitations extended to ranchers and their employees. This changed when the Texas Supreme Court ruled that ranchers were not covered under the act. The bill would explicitly extend liability limitations to ranchers and allow them to operate as they have been for much of the past decade.

CRITICS
SAY:

No concerns identified