

Kentucky Equine Activity Statute

KENTUCKY STATUTES

TITLE XXI. AGRICULTURE AND ANIMALS

CHAPTER 247. PROMOTION OF AGRICULTURE AND HORTICULTURE FARM ANIMAL ACTIVITIES

Current through End of 1996 1st Ex. Sess.

247.401 LEGISLATIVE FINDINGS FOR KRS 247.401 TO 247.4029

The General Assembly finds that activities involving the use and exhibition of farm animals are engaged in by a large number of citizens of Kentucky and that these activities also attract to Kentucky a large number of nonresidents, significantly contributing to the economy of Kentucky. Since it is recognized that there are inherent risks in working with, exhibiting, and using farm animals which should be understood by participants in farm animal activities and which are essentially impossible for owners of farm animals or sponsors of farm animal activities to eliminate, it is the purpose of KRS 247.401 to 247.4029 to define the areas of responsibility and affirmative acts for which activity sponsors, professionals, and participants shall be responsible, to specify risks of injury for which activity sponsors, professionals, and participants shall not be responsible, and to specify areas of responsibilities of farm animal participants.

Therefore, the General Assembly determines that to preserve and promote the long Kentucky tradition of activities involving farm animals and the health and safety of the citizens of Kentucky and visitors to the Commonwealth of Kentucky, KRS 247.401 to 247.4029 are necessary to instruct persons voluntarily engaging in farm animal activities of the potential risks inherent in the activities.

247.4013 SCOPE AND POLICIES OF KRS 247.401 TO 247.4029

KRS 247.401 to 247.4029 are intended to aid courts and juries in defining the duties of persons responsible for farm animals to others who have chosen to participate in farm animal activities. KRS 247.401 to 247.4029 also establish the policy of the Commonwealth of Kentucky that persons do not have a duty to eliminate risks inherent in farm animal activities which are beyond their immediate control if those risks are or should be reasonably obvious, expected, or necessary to participants engaged in farm animal activities. Furthermore, KRS 247.401 to 247.4029 establish the policy that the sponsor, instructor, or other professional engaged in farm animal activities who breaches a duty to a farm animal activity participant and causes foreseeable injury to the participant shall be responsible for the injury in accordance with other applicable law.

247.4015 DEFINITIONS FOR KRS 247.401 TO 247.4029

As used in KRS 247.401 to 247.4029, unless the context requires otherwise:

(1) “Engages in a farm animal activity” means leading, showing, exhibiting, riding, training, providing, or assisting in providing medical treatment of, grooming, driving, or being a passenger upon a farm animal, whether mounted or unmounted; visiting, touring, or utilizing a farm animal facility as part of an organized event or activity; or assisting a participant or show management in farm animal activities. The term does not include being a spectator at a farm animal activity, except in cases where the spectator voluntarily places himself or herself in immediate proximity to the activity;

(2) “Farm animal” means one or more of the following domesticated animals: cattle, oxen, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, ratites (ostrich, rhea, emu), and poultry;

(3) “Farm animal activity” means:

(a) Shows, fairs, exhibits, competitions, performances, or parades that involve farm animals;

(b) Training or teaching activities, or both, involving farm animals;

(c) Boarding farm animals, including normal daily care;

(d) Rides, trips, shows, clinics, hunts, parades, games, exhibitions, or other activities of any type, however informal or impromptu, that are sponsored by a farm animal activity sponsor or other person;

(e) Testing, riding, inspecting, or evaluating a farm animal belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the farm animal or is permitting a prospective purchaser of the farm animal to ride, inspect, or evaluate the farm animal;

(f) Placing or repairing horseshoes, trimming the hooves on a farm animal, or otherwise providing farrier services; or

(g) Examining or administering medical treatment to a farm animal by a veterinarian;

(4) “Farm animal activity sponsor” means an individual, group, club, partnership, corporation, or other legally constituted entity, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, allows, or provides the facilities for a farm animal activity, including, but not limited to: pony clubs, 4-H clubs, hunt clubs, riding clubs, polo clubs, school and college sponsored classes, programs, activities, and therapeutic riding programs, and operators, instructors, and promoters of farm animal

facilities, including, but not limited to, stables, clubhouses, ponyride strings, fairs, exhibitions, and arenas at which the activity is held;

(5) "Farm animal facility" means any areas used for any farm animal activity, including, but not limited to, farms, ranches, riding arenas, training stables or barns, pastures, riding trails, show rings, polo fields, and other areas or facilities used or provided by farm animal activity sponsors or where participants engage in farm animal activities;

(6) "Farm animal professional" means a person engaged for compensation in any of the following:

(a) Instructing a participant or renting to a participant a farm animal for the purpose of riding, driving, or being a passenger upon the farm animal;

(b) Providing daily care of farm animals boarded at a farm animal facility;

(c) Renting equipment or tack to a participant in a farm animal activity;

(d) Training a farm animal;

(e) Examining or administering medical treatment to a farm animal as a veterinarian; or

(f) Providing farrier services to a farm animal;

(7) "Horse racing activities" means the conduct of horse racing activities within the confines of any horse racing facility licensed and regulated by KRS 230.070 to 230.990, but shall not include harness racing at county fairs;

(8) "Inherent risks of farm animal activities" means dangers or conditions which are an integral part of farm animal activities, including, but not limited to;

(a) The propensity of a farm animal to behave in ways that may result in injury, harm, or death to persons around them;

(b) The unpredictability of the reaction of a farm animal to sounds, sudden movement, and unfamiliar objects, persons, or other animals;

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

(d) Collisions with other farm animals 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 a farm animal or not acting within his or her ability;

(9) "Participant" means any individual, whether amateur or professional, who engages in a farm animal activity, whether or not a fee is paid to participate in the farm animal activity; and

(10) "Person" means any individual, corporation, association, or other legally constituted entity that owns or controls one or more farm animals.

247.4019 RESPONSIBILITY OF PARTICIPANTS

A farm animal activity participant shall act in a safe and responsible manner at all times to avoid injury to the participant and others and to be aware of risks inherent in farm animal activities to the best of the participant's ability.

247.402 WARNING OF INHERENT RISKS; LIMITATION OF CLAIMS BY PARTICIPANTS; EXCEPTIONS

(1) The inherent risks of farm animal activities are deemed to be beyond the reasonable control of farm animal activity sponsors, farm animal professionals, or other persons. Therefore, farm animal activity sponsors, farm animal professionals, or other persons are deemed to have the duty to reasonably warn participants in farm animal activities of the inherent risks of the farm animal activities but not the duty to reduce or eliminate the inherent risks of farm animal activities. Except as provided in subsections (2) and (3) of this section, no participant or representative of a participant who has been reasonably warned of the inherent risks of farm animal activities shall make any claim against, maintain an action against, or recover from a farm animal activity sponsor, a farm animal professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of farm animal activities.

(2) Nothing in subsection (1) of this section shall prevent or limit the liability of a farm animal activity sponsor, a farm animal professional, or any other person if the farm animal activity sponsor, farm animal professional, or person:

(a) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and the equipment or tack was faulty to the extent that it contributed to the injury;

(b) Provided the farm animal and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the farm animal activity and to safely manage the particular farm animal based on the participant's representations of the participant's ability;

(c) Owns, leases, has authorized use of, 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 or should have been known to the farm

animal activity sponsor, farm animal professional, or person and for which warning signs have not been conspicuously posted;

(d) 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

(e) Negligently or wrongfully injures the participant.

(3) Nothing in subsection (1) of this section shall prevent or limit the liability of a farm animal activity sponsor or a farm animal professional under liability provisions as set forth in the Product Liability Act of Kentucky found at KRS 411.300 to 411.340.

(4) Nothing in subsection (1) of this section shall, in the event of a breach of duty by a farm animal activity sponsor, farm animal professional, or other person;

(a) Limit the amount to be recovered for injuries resulting in death, or for injuries to person or property; or

(b) Deny or delay a person's remedies in open court for injury done him in his lands, goods, person, or reputation.

(5) Adherence by a farm animal activity sponsor or farm animal professional to the standards of care within the profession creates a rebuttable presumption that the conduct of the farm animal activity sponsor or farm animal professional was not negligent.

(6) Compliance by a farm animal activity sponsor, farm animal professional, or other person with the provisions of KRS 247.4027 creates the presumption that the farm animal activity sponsor, farm animal professional, or other person has given the participant reasonable notice of the inherent risks of farm animal activities.

247.4025 ACTIVITIES EXEMPT FROM KRS 247.401 TO 247.4029

(1) KRS 247.401 to 247.4029 shall not apply to farm animal activity sponsors, farm animal activity professionals, persons, or participants when engaged in horse racing activities.

(2) KRS 247.401 to 247.4029 shall not apply to questions of liability arising from fencing and enclosure as regulated by KRS 256.010 to 256.990.

(3) KRS 247.401 to 247.4029 shall not affect the liability of landowners to trespassers as regulated by KRS 381.231 and 381.232 except to codify Kentucky common law that horses in pastures are not attractive nuisances.

247.4027 WARNING SIGNS AND NOTICES; WAIVER; EFFECT OF NONCOMPLIANCE; EXCLUSIONS

(1) Every farm animal activity sponsor and every farm animal professional shall post and maintain signs which contain the warning notice specified in subsection (3) of this section. Signs shall be placed in a clearly visible location on or near stables, corrals, or areas where the farm animal professional or the farm animal activity sponsor conducts farm animal activities. The warning notice specified in subsection (3) of this section shall appear on the sign in black letters, with each letter to be a minimum of one (1) inch in height.

(2) Every written contract entered into by a farm animal professional or by a farm animal activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or a farm animal to a participant, whether the contract involves farm animal activities on or off the location or site of the farm animal professional's or the farm animal activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (3) of this section.

(a) If a participant or parent or guardian of a minor prior to participation in a farm animal activity knowingly signs a contract containing the warning set forth in subsection (3) of this section, the contract shall be deemed a waiver of the right to bring an action against the farm animal professional or farm animal activity sponsor for any injury, damage, loss, or death arising out of any farm animal activity. The waiver shall be binding upon the participant, except as regards acts of negligence by a farm animal professional, a farm animal activity sponsor, or any other person covered in KRS 247.402(2).

(b) The waiver shall remain valid unless expressly revoked in writing by the participant or parent or guardian of a minor. In the case of school and college sponsored classes and programs, waivers executed by a participant or parent or guardian of a participant shall apply to all farm animal activities in which the participant is involved in the next succeeding twelve (12) month period unless earlier expressly revoked in writing.

(3) The signs and contracts described in subsections (1) and (2) of this section shall contain the following warning notice:

“WARNING

Under Kentucky law, a farm animal activity sponsor, farm animal professional, or other person does not have the duty to eliminate all risks of injury of participation in farm animal activities. There are inherent risks of injury that you voluntarily accept if you participate in farm animal activities.”

(4) Failure to comply with the requirements concerning warning signs and notices provided in this section shall prevent a farm animal activity sponsor or farm animal professional from invoking the provisions of KRS 247.401 to 247.4029.

(5) Nothing in KRS 247.401 to 247.4029 shall create a duty for a farm animal activity sponsor, farm animal professional, or other person to give a warning to a participant engaged in a farm animal activity with his own farm animal, or to a participant whom the farm animal activity sponsor, farm animal professional, or other person knows to possess reasonable knowledge of or experience with the inherent risk of farm animal activities, or who has represented to the farm animal activity sponsor, farm animal professional, or other person that he possesses reasonable knowledge or experience with the inherent risks of farm animal activities.

247.4029 SEVERABILITY; APPLICABILITY

(1) The provisions of KRS 247.401 to 247.4027 are severable. If any part of KRS 247.401 to 247.4027 is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

(2) KRS 247.401 to 247.4027 shall apply only to causes of action which arise on or after July 15, 1996.