

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.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 78, sec. 5, effective July 15, 1996.