

# A Farm Business's Three Lines of Defense (Statutory Immunities • Contracting • Insurance)

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*Practice Handout for Webinar presented January 14, 2026  
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This practice pointers handout was prepared for Texas practitioners who advise or litigate on behalf of farm and ranch businesses, boarding barns, trainers, veterinary clinics, petting zoos, livestock shows, rodeos, horse shows, agritourism operators, and similar “farm animal” enterprises. While the webinar was designed to be an introduction to these three lines of defense, this handout was designed to provide additional practice information that can be used as a desk reference you can hand to a client, use as an intake roadmap, or use in a motion outline.

***Fair notice:*** *This handout was prepared with some assistance from AI in that I entered (into ChatGPT 5.2) my presentation outline and detailed notes plus an additional list of practice notes that were jotted down in random order, along with statutes and case citations. I asked AI to organize everything into a practice handout. I found it did a fairly good job and did not require too much work to edit into something I think is useable. I hope you agree.*

The basic idea is simple: you do not usually “win” a farm-animal injury case with a single document. You win with layers, much like a three-rail fence. If one rail fails (a sign is outdated, a waiver is defective, or coverage is disputed), the other rails can still hold.

## **At-a-glance framework**

Think of the three lines of defense in order of how fast they can end, or reshape, a case:

- First Line of Defense (Statutes): Use Chapter 87 (Farm Animals)[1] and/or Chapter 75A (Agritourism)[5] to narrow or bar claims tied to “inherent risks” or particular activities.
- Second Line of Defense (Contracting): Use releases, assumption-of-risk language, and indemnity provisions drafted for Texas “fair notice” rules (express negligence + conspicuousness).[9][10]
- Third Line of Defense (Insurance): Make sure there is actually money on the table for defense and indemnity and that coverage defenses are handled early and correctly.

## **Why this matters in animal-law practices**

Many animal-law practices begin with dog bite and pet injury cases. Farm and ranch cases feel similar on the surface (“unpredictable animal + injury”), but the legal landscape is different. Texas has two specialized liability-limitation statutes that can be case-dispositive, and the operational facts (signs, facilities, tack, land conditions, employees, and waivers used repeatedly over years) create predictable evidence patterns.

## First Line of Defense: Statutory shields (where you will start)

When a farm-animal business asks, “Will a waiver protect me?”, the better first question is: “Do the statutes protect you even without a waiver?” In Texas, Chapter 87 (Farm Animals) and Chapter 75A (Agritourism) are often your first and strongest defense - if the prerequisites are met and you can prove them.

### A. CPRC Chapter 87: Liability arising from farm animals

Chapter 87 is commonly called the Texas Farm Animal Liability Act. The statute aims to limit liability when an injury results from the inherent risks of farm animal activities.[1]

#### 1. Coverage - who and what

- Protected defendants are just about *everyone*. The statute reads “...all persons, including a farm animal activity sponsor, farm animal professional, farm owner or lessee, livestock producer, livestock show participant, or livestock show sponsor”.
- Protected activities generally include riding, handling, training, feeding, loading/unloading, and other interactions where the risk comes from animal behavior and normal farm-animal conditions.
- Participants in these activities are barred from claims for property damage, personal injury or death.
- The statute is aimed at damage, injuries or death caused by “inherent risks” of these activities - the kinds of risks everyone understands exist around large animals (spooking, kicking, biting, bolting, collisions, uneven ground, and mistakes by other participants).

A practical way to explain “inherent risk” to a jury is: the risk that exists even if everyone is trying to be careful. A horse can still spook. A steer can still lunge. A rider can still make a bad decision.

#### 2. Mandatory warning notice (signs + contracts)

Chapter 87 requires specific warning language on a sign, and it also requires the same warning to be included in every written contract with a participant (including an employee or independent contractor) for services, instruction, or rental of equipment/tack/animals. Treat this as a compliance “pair”: signage + forms.[2][8]

#### Chapter 87 warning notice (farm animal activities) - use verbatim text [2][8]

WARNING

UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES CODE), A FARM ANIMAL PROFESSIONAL OR FARM OWNER OR LESSEE IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN FARM ANIMAL ACTIVITIES, INCLUDING AN EMPLOYEE OR INDEPENDENT CONTRACTOR, RESULTING FROM THE INHERENT RISKS OF FARM ANIMAL ACTIVITIES.

## **Chapter 87 warning notice (livestock show activities) - use verbatim text [2][8]**

### **WARNING**

UNDER TEXAS LAW (CHAPTER 87, CIVIL PRACTICE AND REMEDIES CODE), A LIVESTOCK SHOW SPONSOR IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN A LIVESTOCK SHOW RESULTING FROM THE INHERENT RISKS OF LIVESTOCK SHOW ACTIVITIES.

Evidence tip: in litigation, treat the warning notice as an exhibit you must prove like a contract. Photograph the signs, map their location, identify who posted/maintained them, and lock down versions and dates. If the defendant's sign is "close but not exact," expect plaintiff's counsel to argue that the statutory condition precedent failed.

### **3. Exceptions and "bad facts" that defeat Chapter 87**

Chapter 87 does not protect against every claim. Common plaintiff angles include:

- Defective tack or equipment that the defendant provided (or knowingly allowed to be used).
- Hidden land or facility dangers that are not inherent risks (e.g., concealed holes, dangerous debris, known but undisclosed hazards).
- Negligent acts that are not "inherent" (e.g., knowingly pairing an unsuitable horse with an inexperienced rider, or violating a safety protocol).
- Failure to provide the statutory warning notice as required.

### **4. Litigation posture: how Chapter 87 changes the case**

- Pleading: Assert Chapter 87 as an affirmative defense early. Build it into your narrative so the case is about "inherent risk" rather than "bad actor."
- Discovery: Ask for photos, social media, incident reports, and witness statements that show the participant understood the animal risks.
- Motion practice: If the predicate facts are clean (proper warning + inherent risk), consider early summary judgment or targeted no-evidence motions on negligence theories that depend on "non-inherent" risks.

## **B. CPRC Chapter 75A: Agritourism limited liability**

Chapter 75A covers agritourism activities on agricultural land including but not limited to hay rides, ranch tours, pumpkin patches, U-pick operations, petting barns, farm stays, and many "experience" businesses that overlap with animal operations.[5] Like Chapter 87, it is built around inherent risks and mandatory warnings.

### **1. Two ways to comply: sign or separate written agreement**

- Post the statutory warning sign in clearly visible locations on or near the premises where agritourism activities occur.
- OR use a separate written agreement containing the statutory "Agreement and Warning" statement, with strict formatting requirements (including at least 10-point bold type).

## **Chapter 75A warning sign - use verbatim text [15]**

### **WARNING**

UNDER TEXAS LAW (CHAPTER 75A, CIVIL PRACTICE AND REMEDIES CODE), AN AGRITOURISM ENTITY IS NOT LIABLE FOR ANY INJURY TO OR DEATH OF AN AGRITOURISM PARTICIPANT RESULTING FROM AN AGRITOURISM ACTIVITY.

## **Chapter 75A “Agreement and Warning” - use verbatim text (formatting matters) [6][7]**

### **AGREEMENT AND WARNING**

I UNDERSTAND AND ACKNOWLEDGE THAT AN AGRITOURISM ENTITY IS NOT LIABLE FOR ANY INJURY TO OR DEATH OF AN AGRITOURISM PARTICIPANT RESULTING FROM AGRITOURISM ACTIVITIES. I UNDERSTAND THAT I HAVE ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE, AND OTHER LOSS THAT MAY RESULT FROM AGRITOURISM ACTIVITIES.

## **2. Practice points some lawyers miss**

- Chapter 75A is about the “experience business,” not just animals. A hayride incident, a fall from a viewing platform, or a trip hazard during a tour can implicate 75A even when 87 does not.
- If you are relying on the written “Agreement and Warning,” treat the formatting requirement as non-negotiable. Plaintiffs will attack font size, bolding, and whether the agreement was truly separate.
- Sign placement is a facts issue. Build a simple sign map and keep it updated like you would an OSHA binder.

## **C. Quick comparison: Chapter 87 vs. Chapter 75A**

Topic	Chapter 87 (Farm Animals)	Chapter 75A (Agritourism)
What it covers	Farm animal activities and (separately) livestock show activities.	Agritourism activities on agricultural land (animal and non-animal experiences).
Core concept	Inherent risks of farm animal activities.	Inherent risks of agritourism activities.
Prerequisite	Statutory warning notice (sign; and often contract notice in practice).	Statutory warning sign OR separate written Agreement and Warning with formatting requirements.
Common plaintiff attack	Outdated or missing sign language; non-inherent	Failure to meet “separate document / bold / 10-point”

	negligence (equipment defects, hidden hazards).	requirements; sign placement; scope disputes.
Best early evidence	Photos of signs, versions/dates, facility map, participant's experience, animal behavior facts.	Signed agreement + formatting proof, sign map/photos, description of activity as "agritourism."

## **Second Line of Defense: Contracting defenses (waivers, assumptions of risk, indemnity)**

If the statutes are the "shield," contracts are the "seatbelt." They do not stop every crash, but they can reduce damage and shift risk in predictable ways. The biggest mistake is relying on a form that was copied from another state or another industry and never tested against Texas law.

### **A. Releases and the Texas "fair notice" problem**

Texas courts require heightened clarity when a contract tries to release or indemnify a party for its own negligence. The doctrine is often called "fair notice," and it is built from two ideas: (1) express negligence (say it plainly) and (2) conspicuousness (make it stand out).[9][10]

- Express negligence doctrine: the parties' intent to cover the indemnitee's own negligence must be stated in specific terms within the contract.
- Conspicuousness: the clause must be presented so a reasonable person would notice it (think bold, capitals, headings, signature/initial lines, and no burying in fine print).
- Releases can be evaluated under similar "fair notice" concepts; do not assume a "release" avoids these rules just because it is not labeled "indemnity."

### **B. Drafting rules that actually survive litigation**

Here are practical drafting choices that tend to hold up better in Texas litigation (and are easier to defend to a judge):

- Front-load the risk story: start with an "inherent risk" paragraph before the release language.
- Use plain words, not legal poetry: "I understand horses can kick, bite, bolt, fall, and collide..."
- Make the release visually obvious: heading like "RELEASE OF LIABILITY / ASSUMPTION OF RISK," bold text, and a separate signature/initial line for the release paragraph.
- Separate minors: treat minor participation as a different problem. Texas courts have repeatedly been skeptical of pre-injury waivers signed on behalf of minors.

### **C. Minors: the recurring trap**

Farm businesses often serve families. If the injured person is a minor, plaintiff counsel will usually attack the waiver first. Texas appellate courts have rejected attempts to waive a minor's future personal injury claims through a parent/guardian signature in several contexts.[11][12] Plan for

that reality: use operational safety and insurance as your primary protections for minors, and draft agreements to strengthen assumption-of-risk narratives without overstating enforceability. If the case involves minors, focus early on supervision facts, helmet/safety policies, and comparative-responsibility evidence rather than assuming a release will be outcome-determinative.

#### **D. Gross negligence and public policy (don't overpromise)**

The Texas Supreme Court has thus far failed to take up the issue of whether gross negligence can be waived or indemnified. Therefore, Texas law on whether parties can waive or indemnify gross negligence is nuanced and, in places, split among courts. Know your jurisdiction on this issue. In some, the appellate courts have held it against public policy to include gross negligence in a release. [3] In some, the courts have upheld a bar to gross negligence claims if the release properly barred recovery on a claim of negligence under the reasoning that gross negligence is merely a degree of negligence and if the underlying negligence claim is barred from recovery, then the gross negligence claim does not survive. [4] Others treat it differently in varying ways. Best practice would be to expressly include gross negligence in the release and waivers, but you should draft and litigate as if gross-negligence exposure is the “hard ceiling” that contracts cannot reliably eliminate. This affects how you frame discovery (what did the business know and when?) and how you advise clients on training and documentation.

### **Third Line of Defense: Insurance (the defense budget and the indemnity check)**

Insurance is not just a safety net; it is the funding mechanism for the defense. A “great” waiver with “bad” coverage can still bankrupt a farm business. Conversely, solid coverage can make a weak waiver survivable.

#### **A. The core policy types you see in farm animal cases**

- Commercial General Liability (CGL): the baseline policy in most premises/injury claims; watch exclusions (animal-related, professional services, participant injury, event exclusions).
- Farm and Ranch policies: often blend property + liability; confirm it covers the specific operation (boarding, lessons, trail rides, events, agritourism).
- Professional liability / E&O: sometimes relevant for trainers, instructors, or “professional services” allegations.
- Commercial Auto: for hauling/transport incidents.
- Workers’ compensation / occupational injury: essential when employees are in the risk zone; also interacts with statutory defenses in worker cases.

#### **B. Claims-handling checklist (what you do on day 1)**

- Tender early and in writing. Send the incident facts, the petition (if any), contracts, and photos of warning signs.
- Ask for a coverage position letter. If the carrier is reserving rights, evaluate whether independent counsel issues arise.
- Preserve evidence: incident reports, photos, tack/equipment, video, veterinary records, employee schedules, training logs, and the exact form of any waiver signed.

- Coordinate statements. Farm cases often have employees, volunteers, and family members as witnesses. Lock down a consistent factual narrative.

## **Litigation toolkit: A defense-first intake and discovery roadmap**

### **A. Ten questions to ask at intake**

1. Exactly where did it happen (barn, arena, pasture, trailer, event site)? Get a map and photos.
2. What was the activity (lesson, boarding care, trail ride, ranch work, tour, livestock show)?
3. Was the claimant a participant, a spectator, an employee, a vendor, or a trespasser?
4. What warning signs were posted—where, when, and with what wording? Any updates since 2021?
5. Was there a signed agreement? Which version? How was it presented and stored?
6. What equipment was involved (tack, gates, panels, trailers)? Who owned/maintained it?
7. What was known about the animal’s behavior history? Any prior incidents?
8. Were minors involved? If yes, how was the minor admitted/registered and supervised?
9. What insurance exists (all policies, endorsements, and additional insured arrangements)?
10. What documents already exist (incident report, EMS report, photos, video, social media posts, witness texts)?

### **B. Document requests that actually matter**

The following categories show up repeatedly and often decide the statutory/waiver issues:

- Signage: photos, maintenance logs, purchase orders, versions of sign text used over time, and who was responsible for posting.
- Forms: all versions of waivers/boarding contracts/lesson agreements used in the last 5 years; electronic signature audit trails if applicable.
- Operations: safety rules, lesson policies, helmet rules, child supervision policies, employee training materials.
- Facility condition: inspection logs, repair invoices, photos of footing/arena/pasture conditions, fencing/gate maintenance.
- Animal records: training logs, veterinary records (as appropriate), incident history, and any representations made about suitability.
- Insurance and claims history: policies, endorsements, prior claims/incident logs, and communications with carriers.

### **C. How to “prove” a sign in court**

A warning sign is not magic; it is evidence. Treat it like evidence you must authenticate:

- Identify the custodian: who ordered it, posted it, and maintained it.
- Establish the timeline: when it was installed, whether it was ever replaced, and whether the wording matches the statute in effect at the time.
- Establish visibility: photos from normal approach paths; show it is readable and where a participant would naturally see it.

- Tie it to the activity location: “on or near the stable/corral/arena” (Chapter 87)[2] or “on or near any premises on which an agritourism activity is conducted” (Chapter 75A).[6]

## Practice examples: translating doctrine to facts

Example 1 (inherent risk): A rider’s horse spooks at a bird and bucks, unseating the rider. If the business has compliant Chapter 87 warning notice and the claim is framed as “horses are unpredictable,” Chapter 87 should be central.

Example 2 (non-inherent risk): The business knows a cinch strap is frayed, keeps using the saddle anyway, and the strap breaks. The plaintiff will argue defective equipment (and knowledge) takes the case outside “inherent risk.” Your defense then shifts to causation, comparative responsibility, and insurance—while still using the statutes where available.

Example 3 (agritourism overlap): A guest on a ranch tour trips on uneven ground while walking to a petting barn. Even if no animal contact is involved, Chapter 75A may be the better fit than Chapter 87.

## Conclusion

A farm business’s best liability protection is built in layers. Start with the statutes and treat warning notice as a compliance project, not an afterthought. Draft contracts that are designed to survive Texas “fair notice” scrutiny. Then confirm insurance coverage actually matches the business’s real activities. In litigation, build your file like a three-ring binder: statutes, contracts, and coverage—each with clean evidence.

## Key Texas authorities and primary links

1. Texas Civil Practice & Remedies Code, Chapter 87 (Liability Arising From Farm Animals) (Texas Legislature Online): <https://statutes.capitol.texas.gov/Docs/CP/htm/CP.87.htm>
2. Texas Civil Practice & Remedies Code § 87.005 (Warning Notice) (Texas Legislature Online): <https://statutes.capitol.texas.gov/Docs/CP/htm/CP.87.htm#87.005>
3. Sydlik v. REEIII, Inc., 195 S.W.3d 329, 336 (Tex. App.—Houston [14th Dist.] 2006, no pet.) <https://caselaw.findlaw.com/court/tx-court-of-appeals/1244734.html>
- Smith v. Golden Triangle Raceway, 708 S.W.2d 574, 576 (Tex. App.—Beaumont 1986, no writ) <https://www.casemine.com/judgement/us/59148d67add7b049345424eb>
4. Newman v. Tropical Visions, Inc., 891 S.W.2d 713, 722 (Tex. App.—San Antonio 1994, writ denied); <https://www.casemine.com/judgement/us/5914bda3add7b049347a3a02>
- Tesoro Petroleum Corp. v. Nabors Drilling U.S., 106 S.W.3d 118, 127 (Tex. App.—Houston [1st Dist.] 2002, pet. denied) <https://www.casemine.com/judgement/us/5914793fadd7b049343f426d>
5. Texas Civil Practice & Remedies Code, Chapter 75A (Agritourism Limited Liability) (Texas Legislature Online): <https://statutes.capitol.texas.gov/Docs/CP/htm/CP.75A.htm>
6. Texas Civil Practice & Remedies Code § 75A.004 (Agreement and Warning) (Texas Legislature Online): <https://statutes.capitol.texas.gov/Docs/CP/htm/CP.75A.htm#75A.004>
7. Texas Civil Practice & Remedies Code § 75A.004 (Agreement and Warning) (text reproduction): <https://law.justia.com/codes/texas/civil-practice-and-remedies-code/title-4/chapter-75a/section-75a-004/>
8. Texas Civil Practice & Remedies Code § 87.005 (Warning Notice) (text reproduction): <https://law.justia.com/codes/texas/civil-practice-and-remedies-code/title-4/chapter-87/section-87-005/>

9. Ethyl Corp. v. Daniel Constr. Co., 725 S.W.2d 705 (Tex. 1987)  
(overview): <https://law.justia.com/cases/texas/supreme-court/1987/c-5621-0.html>
10. Dresser Indus., Inc. v. Page Petroleum, Inc., 853 S.W.2d 505 (Tex. 1993) (case discussion):  
<https://www.casemine.com/judgement/us/5914be82add7b049347a8a8f>
11. Munoz v. II Jaz, Inc., 863 S.W.2d 207 (Tex. App.—Houston [14th Dist.] 1993, no writ) (case discussion):  
<https://www.casemine.com/judgement/us/591485ecadd7b049344cdc3d>
12. Quiroz v. Jumpstreet8, Inc., No. 05-17-00948-CV (Tex. App.—Dallas July 9, 2018) (case page):  
<https://law.justia.com/cases/texas/fifth-court-of-appeals/2018/05-17-00948-cv.html>
13. Tiffany Dowell Lashmet, Texas A&M AgriLife, “New provisions of Texas Farm Animal Liability Act go into effect Sept. 1” (Aug. 23, 2021): <https://agrilifetoday.tamu.edu/2021/08/23/new-provisions-of-texas-farm-animal-liability-act-go-into-effect-sept-1/>
14. Texas A&M AgriLife Extension, “Texas Farm Animal Liability Act Update” (PDF):  
<https://agrilife.org/texasaglaw/files/2022/06/Texas-Farm-Animal-Liability-Act-Update.pdf>
15. Texas Civil Practice & Remedies Code § 75A.003 (Posted Warning) (text reproduction):  
<https://law.justia.com/codes/texas/civil-practice-and-remedies-code/title-4/chapter-75a/section-75a-003/>