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An Agricultural Law Research Project

States' Recreational Use Statutes

State of Louisiana

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States' Recreational Use Statutes

STATE OF LOUISIANA

LSA-R.S. 9:2791 to 9:2795.4

Current through the 2009 Regular Session.

§ 2791. Liability of owner or occupant of property not used primarily for commercial recreational purposes

A. An owner, lessee, or occupant of premises owes no duty of care to keep such premises safe for entry or use by others for hunting, fishing, camping, hiking, sightseeing, or boating or to give warning of any hazardous conditions, use of, structure, or activities on such premises to persons entering for such purposes, whether the hazardous condition or instrumentality causing the harm is one normally encountered in the true outdoors or one created by the placement of structures or conduct of commercial activities on the premises. If such an owner, lessee, or occupant gives permission to another to enter the premises for such recreational purposes he does not thereby extend any assurance that the premises are safe for such purposes or constitute the person to whom permission is granted one to whom a duty of care is owed, or assume responsibility for or incur liability for any injury to persons or property caused by any act of person to whom permission is granted.

B. This Section does not exclude any liability which would otherwise exist for deliberate and willful or malicious injury to persons or property, nor does it create any liability where such liability does not now exist. Furthermore the provisions of this Section shall not apply when the premises are used principally for a commercial, recreational enterprise for profit; existing law governing such use is not changed by this Section.

C. The word "premises" as used in this Section includes lands, roads, waters, water courses, private ways and buildings, structures, machinery or equipment thereon.

D. The limitation of liability extended by this Section to the owner, lessee, or occupant of premises shall not be affected by the granting of a lease, right of use, or right of occupancy for any recreational purpose which may limit the use of the premises to persons other than the entire public or by the posting of the premises so as to limit the use of the premises to persons other than the entire public.

* REPEAL BY IMPLICATION: Provisions in subsec. B of this section, relating to commercial or non-commercial use of owner or lessee seeking immunity, were found to be in conflict with later-

enacted provisions of R.S. 9:2795(B), and therefore repealed by implication. *Richard v. Hall*, Sup.2004, 874 So.2d 131, 2003- 1488 (La. 4/23/04), rehearing denied.

§ 2795.1. Limitation of liability of farm animal activity sponsor or professional; exceptions; required warning

A. As used in this Section, the following terms shall have the following meanings, unless the context requires otherwise:

- (1) "Engages in a farm animal activity" means riding, training, providing, or assisting in providing medical treatment of, driving, or being a passenger upon a farm animal, whether mounted or unmounted, or any person assisting a participant or show management. The term "engages in a farm animal activity" does not include being a spectator at a farm animal activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the farm animal activity.
- (2) "Farm animal" means one or more of the following animals: horse, pony, mule, donkey, hinny, cow, bull, ox or other bovine, sheep, pig, hog, goat, ratite (ostrich, rhea, emu), and chicken or other fowl.
- (3) "Farm animal activity" includes any or all of the following:
 - (a) A farm animal show, fair, competition, performance, or parade that involves any or all farm animals, including but not limited to any dressage, hunter and jumper horse show, grand prix jumping, three-day event, combined training, rodeo, Courir de Mardi Gras, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding, and western game and hunting.
 - (b) Training or teaching activities, or both, involving farm animals.
 - (c) Boarding a farm animal, including daily care.
 - (d) 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.
 - (e) A ride, trip, hunt, or other farm animal activity of any type, however informal or impromptu, that is sponsored by a farm animal activity sponsor.
 - (f) Placing or replacing horseshoes or trimming the hooves on a farm animal.

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

(4) "Farm animal activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for a farm animal activity, including but not limited to: a pony club; 4-H club; Courir de Mardi Gras association; hunt club; riding club; school and college-sponsored class, program, and activity; therapeutic riding program; bull riding activity; and any operator, instructor, and promoter of a farm animal facility.

(5) "Farm animal facility" means any area used for any farm animal activity, including but not limited to a farm, ranch, riding arena, training stable, barn, pasture, riding trail, show ring, polo field, or other area or facility used or provided by a farm animal activity sponsor or where a participant engages in a farm animal activity.

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

(c) Examining or administering medical treatment to a farm animal as a veterinarian.

(d) Veterinarian or farrier services.

(7) "Inherent risks of farm animal activities" means those dangers or conditions which are an integral part of a farm animal activity, 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 on or around them.

(b) The unpredictability of a farm animal's reaction to such things as 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.

(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 the farm animal or not acting within his ability.

(8) "Participant" means any person, 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.

B. Except as provided in Subsection C of this Section, a farm animal activity sponsor, a farm animal professional, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of a farm animal activity and, except as provided in Subsection C of this Section, no participant or participant's representative 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.

C. Nothing in Subsection B 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 either:

(1) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury.

(2) 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 his ability.

(3) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facility 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.

(4) 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.

(5) Intentionally injures the participant.

D. Nothing in Subsection B 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 "Louisiana Products Liability Act", R.S. 9:2800.51 through 2800.59.

E. Every farm animal professional and every farm animal activity sponsor shall post and maintain a sign conspicuously located or provide a written warning which contains the warning notice specified in Subsection F of this Section. The sign shall be placed in a clearly visible location on or

near any stable, corral, registration area, staging area, or arena where the farm animal professional or the farm animal activity sponsor conducts a farm animal activity or the written warning shall be given to each participant prior to the commencement of the parade or activities. The warning notice specified in Subsection F of this Section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height or shall appear in the written warning in boldfaced capital letters no smaller than 12-point type. Every written contract entered into by a farm animal professional or by a farm animal activity sponsor for the provision of professional services, instruction, or the rental of equipment or tack or a farm animal to a participant, whether or not 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 F of this Section.

F. The signs, written warnings, and contracts described in Subsection E of this Section shall contain the following warning notice: "WARNING Under Louisiana law, a farm animal activity sponsor or farm animal professional is not liable for an injury to or the death of a participant in a farm animal activity resulting from the inherent risks of the farm animal activity, pursuant to R.S. 9:2795.1."

G. Failure to comply with the requirements concerning warning notices provided in this Section shall prevent a farm animal activity sponsor or farm animal professional from invoking the privilege of immunity provided by this Section.

§ 2795.4. Limitation of liability; motorized off-road vehicle activities; definitions; exceptions; required warning

A. As used in this Section, the following terms shall have the following meanings, unless the context requires otherwise:

(1) "Engages in motorized off-road vehicle activity" means rides or drives, or is a passenger upon a motorized off-road vehicle, or is a person assisting a participant or management. The term "engages in a motorized off-road vehicle activity" does not include being a spectator at a motorized off-road vehicle activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the motorized off-road vehicle activity.

(2) "Inherent risks of motorized off-road vehicle activities" means those dangers or conditions which are an integral part of a motorized off-road vehicle activity, including but not limited to:

- (a) The propensity of a motorized off-road vehicle to roll over in ways that may result in injury, harm, or death to persons on or around it.
- (b) Certain hazards such as surface and subsurface conditions.
- (c) Collisions with other motorized off-road vehicles or objects.
- (d) 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 the motorized off-road vehicle or not acting within his ability.

(3) "Motorized off-road vehicle" means any two- or four-wheeled vehicle powered by a combustible engine or electric motor and weighing eleven thousand five hundred pounds or less, whether or not such vehicle is required to be registered to operate upon the highways of this state.

(4) "Motorized off-road vehicle activity" includes any or all of the following:

(a) A motorized off-road vehicle show, race, competition, or performance that involves any or all motorized off-road vehicles, including but not limited to any dirt track, paved or unpaved race course, or jump.

(b) Training, teaching, or demonstrating activities involving motorized off-road vehicles.

(c) Driving, inspecting, or evaluating a motorized off-road vehicle belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the motorized off-road vehicle at a motorized off-road vehicle facility.

(d) A ride, trip, hunt, or other motorized off-road vehicle activity of any type, however informal or impromptu, that is sponsored by a motorized off-road vehicle activity sponsor.

(5) "Motorized off-road vehicle activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for a motorized off-road vehicle activity, including but not limited to a hunting club; riding club; school or college-sponsored class, program, or activity; therapeutic riding program; or any operator, instructor, or promoter of a motorized off-road vehicle facility.

(6) "Motorized off-road vehicle facility" means any area used for any motorized off-road vehicle activity, including but not limited to a farm, ranch, riding arena, barn, pasture, riding trail, paved or unpaved race course, or other area or facility used or provided by a motorized off-road vehicle activity sponsor or where a participant engages in a motorized off-road vehicle activity.

(7) "Motorized off-road vehicle professional" means a person engaged for compensation in any of the following:

(a) Instructing a participant or renting to a participant a motorized off-road vehicle for the purpose of riding, driving, or being a passenger upon the motorized off-road vehicle.

(b) Renting equipment to a participant in a motorized off-road vehicle activity.

(8) "Participant" means any person, whether amateur or professional, who engages in a motorized off-road vehicle activity, whether or not a fee is paid to participate in the motorized off-road vehicle activity.

B. Except as provided in Subsection C of this Section, a motorized off-road vehicle activity sponsor, a motorized off-road vehicle professional, or any other person, which shall include individuals and all forms of business entities, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of a motorized off-road vehicle activity and, except as provided in Subsection C of this Section, no participant or participant's representative shall make any claim against, maintain an action against, or recover from, a motorized off-road vehicle activity sponsor, a motorized off-road vehicle professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of motorized off-road vehicle activities.

C. Nothing in Subsection B of this Section shall prevent or limit the liability of a motorized off-road vehicle activity sponsor, a motorized off-road vehicle professional, or any other person if the motorized off-road vehicle activity sponsor, motorized off-road vehicle professional, or other person either:

(1) Provided the equipment, and knew or should have known that the equipment was faulty, and such equipment was faulty to the extent that it did cause the injury.

(2) Failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the motorized off-road vehicle activity.

(3) Owned, leased, rented, or otherwise was in lawful possession and control of the land or facility upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the motorized off-road vehicle activity sponsor, motorized off-road vehicle professional, or other person and for which warning signs have not been conspicuously posted.

(4) Committed an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury.

(5) Intentionally injured the participant.

D. Nothing in Subsection B of this Section shall prevent or limit the liability of a motorized off-road vehicle activity sponsor or a motorized off-road vehicle professional or other person under liability provisions as set forth in the Louisiana Products Liability Act, R.S. 9:2800.51 through 2800.59.

E. Every motorized off-road vehicle professional and every motorized off-road vehicle activity sponsor shall post and maintain a sign conspicuously located or provide a written warning which

contains the warning notice specified in Subsection F of this Section. The sign shall be placed in a clearly visible location on or near any registration area, staging area, or arena where the motorized off-road vehicle professional or the motorized off-road vehicle activity sponsor conducts a motorized off-road vehicle activity, or the written warning shall be given to each participant prior to the commencement of the activities. The warning notice specified in Subsection F of this Section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height or shall appear in the written warning in boldfaced capital letters no smaller than twelve-point type. Every written contract entered into by a motorized off-road vehicle professional or by a motorized off-road vehicle activity sponsor for the provision of professional services, instruction, or the rental of equipment or a motorized off-road vehicle to a participant, whether or not the contract involves motorized off-road vehicle activities on or off the location or site of the motorized off-road vehicle professional's or the motorized off-road vehicle activity sponsor's business, shall contain in clearly readable print the warning notice specified in Subsection F of this Section.

F. The signs, written warnings, and contracts described in Subsection E of this Section shall contain the following warning notice: "WARNING Under Louisiana law, a motorized off-road vehicle activity sponsor or motorized off-road vehicle professional is not liable for an injury to or the death of a participant in a motorized off-road vehicle activity resulting from the inherent risks of the motorized off-road vehicle activity, pursuant to R.S. 9:2795.4."

G. Failure to comply with the requirements concerning warning notices provided in this Section shall prevent a motorized off-road vehicle activity sponsor or motorized off-road vehicle professional from invoking the privilege of immunity provided by this Section.