

Primary Citation: K. S. A. 60-4001 to 4004

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Date Adopted: 1994

Summary:

This Kansas statute provides that any participant in domestic animal activities assumes the inherent risks of when such participant engages in a domestic animal activity. This limitation of liability operates legally as an affirmative defense of assumption of risk pleaded by the domestic animal activity sponsor or domestic animal professional. The statute also requires the visible displaying of warning signs that alert participants to the limitation of liability by law and any written contract must provide explicit language outlined in the statute.

Statute Text

60-4001. Definitions.

As used in this act:

(a) "Engages in a domestic animal activity" means riding, training, boarding, loading, hauling, breeding, racing, providing or assisting in medical treatment of, driving, or being a passenger upon a domestic animal or in or on a vehicle pulled or pushed by a domestic animal, whether mounted or unmounted or any person assisting a participant or show management. The term "engages in an activity involving domestic animals" does not include being a spectator at an activity involving domestic animals, except in cases where the spectator places the spectator's self in an unauthorized area and in immediate proximity to the activity involving domestic animals.

(b) "Domestic animal" means a cow, swine, sheep, goat, domesticated deer, llama, poultry, rabbit, horse, pony, mule, jenny, donkey, hinny, bison, camels, giraffes or any creature of the ratite family, including but not limited to, an ostrich, emu or rhea.

(c) "Domestic animal activity" means, but is not limited to:

- (1) Shows, fairs, competitions, performances or parades that involve any or all breeds of domestic animals and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeple chasing, English and western performance riding, trail riding, endurance trail riding and western games, and hunting;
- (2) domestic animal training or teaching activities or both;
- (3) boarding domestic animals;
- (4) riding, inspecting or evaluating domestic animals belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the domestic animals or is permitting a prospective purchaser of the domestic animals to ride, inspect or evaluate the domestic animals;
- (5) rides, trips, hunts or other domestic animal activities of any type however informal or impromptu that are sponsored by a domestic animal activity sponsor; and
- (6) hoofcare and placing or replacing shoes on a domestic animal.

(d) "Domestic 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 domestic animal activity, including but not limited to: Pony clubs, 4-H clubs, hunt clubs, riding clubs, trail rides, racetrack, school and college-sponsored classes, programs and activities, therapeutic riding programs, breeding farms, training farms and operators, instructors, and promoters of domestic animal facilities, including, but not limited to, stables, clubhouses, pony ride strings, fairs and arenas at which the activity is held.

(e) "Domestic animal professional" means an individual, partnership or corporation and such individual or entities' employees engaged in a domestic animal activity for compensation:

- (1) In instructing a participant or renting to a participant a domestic animal for the purpose of riding, driving or being a passenger upon the domestic animal, or a passenger in or on a vehicle pulled or pushed by a domestic animal; or
- (2) in renting equipment or tack to a participant.

(f) "Inherent risks of domestic animal activities" means those dangers or conditions which are an integral part of domestic animal activities, including, but not limited to:

- (1) The propensity of a domestic animal to run, buck, bite, shy, stumble, rear, fall, step on or behave in ways that may result in injury, harm or death to persons on or around them;
- (2) the unpredictability of a domestic animal's reaction to such things as sounds, sudden movement and unfamiliar objects, persons or other animals;
- (3) certain hazards such as surface and subsurface conditions;
- (4) collisions with other domestic animals or objects; and
- (5) 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 animal or not acting within such participant's ability.

(g) "Participant" means any person who engages in a domestic animal activity.

Laws 1994, ch. 290, § 1; Laws 2001, ch. 60, § 1.

60-4002. Affirmative defense of assumption of risk.

Except as provided in K.S.A. 60-4003, any participant is assuming the inherent risks of domestic animal activities when such participant engages in a domestic animal activity. The domestic animal activity sponsor or domestic animal professional, pursuant to K.S.A. 60-208, and amendments thereto, shall plead an affirmative defense of assumption of risk by the participant.

Laws 1994, ch. 290, § 2.

60-4003. Same; limitations.

(a) Nothing in K.S.A. 60-4002 shall prevent or limit the liability of a domestic animal activity sponsor, a domestic animal professional or any other person if the domestic animal activity sponsor, domestic animal professional or person:

- (1) (A) Provided the equipment or tack, which was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; or
(B) provided the domestic animal and failed to make a reasonable effort to determine the ability of the participant to manage the particular domestic animal based on the participant's representations of such participant's ability;
- (2) owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous condition which was known to the domestic animal activity sponsor, domestic animal professional or person and not made known to the participant;
- (3) commits an act or omission that falls below the standard of care of a reasonable domestic animal activity sponsor, domestic animal professional or other person engaged in domestic animal activities in the same locality; or
- (4) injures the participant by willful, wanton or intentional conduct.

(b) Nothing in K.S.A. 60-4002 shall prevent or limit the liability of a domestic animal activity sponsor or a domestic animal professional under liability provisions set forth in the products liability laws or under liability provisions of article 4 of chapter 29 of the Kansas Statutes Annotated, and amendments thereto. Laws 1994, ch. 290, § 3.

60-4004. Posting warning notices, specifications; contract language requirements.

(a) Every domestic animal professional shall post and maintain signs which contain the warning notice specified in subsection (b). Such signs shall be placed in a clearly visible location on or near stables, corrals, boarding areas, or arenas where the professional conducts domestic animal activities if such stables, corrals, boarding areas or arenas are owned, managed or controlled by the equine professional. The warning notice specified in subsection (b) shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by a domestic animal professional for the providing of professional services, instruction or the rental of equipment or tack or a domestic animal to a participant, whether or not the contract involves domestic animal activities on or off the location or site of the domestic animal professional's business, shall contain in clearly readable print the warning notice and language specified in subsections (b) and (c).

(b) The signs and contracts described in subsection (a) shall contain the following warning notice:

WARNING

Under Kansas law, there is no liability for an injury to or the death of a participant in domestic animal activities resulting from the inherent risks of domestic animal activities, pursuant to K.S.A. 60-4001 through 60-4004. You are assuming the risk of participating in this domestic animal activity.

(c) The contracts described in subsection (a) shall contain the following language:

Inherent risks of domestic animal activities include, but shall not be limited to:

(1) The propensity of a domestic animal to behave in ways i.e., running, bucking, biting, kicking, shying, stumbling, rearing, falling or stepping on, that may result in an injury, harm or death to persons on or around them;

(2) the unpredictability of a domestic animal's reaction to such things as sounds, sudden movement and unfamiliar objects, persons or other animals;

(3) certain hazards such as surface and subsurface conditions;

(4) collisions with other domestic animals or objects; and

(5) 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 domestic animal or not acting within such participant's ability.

Laws 1994, ch. 290, § 4.