

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

Senate Bill 580

BY SENATOR MAYNARD

[Introduced February 03, 2022; referred
to the Committee on Agriculture and Rural
Development; and then to the Committee on the
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §19-36A-1, §19-36A-2, §19-36A-3, and §19-36A-4, all relating to limiting
3 liability for livestock and agritourism activities; declaring legislative intent; limiting
4 construction of this act; defining terms; establishing the scope and limits of liability for
5 livestock professionals and sponsors of livestock activity; and authorizing a waiver of
6 liability or extension of the limits of liability established in this act.

Be it enacted by the Legislature of West Virginia:

ARTICLE 36A. LIVESTOCK ACTIVITIES LIABILITY LIMITATION ACT.

§19-36A-1. Short title; legislative intent; Construction.

1 (a) This article shall be known and may be cited as the “Livestock Activities Liability
2 Limitation Act”.

3 (b)(1) The Legislature recognizes that persons who engage in livestock activities may
4 incur injuries as a result of the risks involved in such activities even in the absence of any fault or
5 negligence on the part of persons or entities who sponsor, participate or organize those activities.

6 (2) The Legislature finds that the state and its citizens derive numerous economic and
7 personal benefits from livestock activities.

8 (3) It is, therefore, the intent of the Legislature to encourage livestock activities by limiting
9 the civil liability of livestock activities sponsors, participants, and livestock professionals involved
10 in such activities.

11 (c) The provisions of the Livestock Activities Liability Limitation Act shall not be construed
12 to conflict or amend §19-36-1 et seq. of this code.

§19-36A-2. Definitions.

1 As used in this article:

2 “Agritourism activity” includes, but is not limited to, any activity carried out on a farm or
3 ranch that allows members of the general public, for recreational, entertainment, or educational
4 purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-

5 your-own activities, or natural activities and attractions. An activity is an agritourism activity
6 whether or not the participant pays to participate in the activity;

7 “Engages in a livestock activity” includes training, racing, showing, riding, or assisting in
8 medical treatment of, or driving livestock, or engaging in any agritourism activity involving
9 livestock or on a location where livestock are displayed or raised, and any person assisting a
10 participant, livestock activity sponsor or livestock professional. The term “engages in a livestock
11 activity” does not include being a spectator at a livestock activity, except in cases where the
12 spectator places himself or herself in immediate proximity to livestock activity;

13 “Livestock” means any cattle, bison, hog, sheep, goat, equine livestock, including, but not
14 limited to, animals of the families Bovidae, Cervidae, Camelidae, and Antilocapridae,
15 domesticated fowl, poultry, or birds of the ratite group;

16 “Livestock activity” includes but is not limited to:

17 (1) Livestock shows, fairs, livestock sales, competitions, performances, or parades that
18 involve any or all breeds of livestock and any of the livestock disciplines, including, but not limited
19 to, rodeos, auctions, driving, pulling, judging, cutting and showing,

20 (2) Livestock training or teaching activities or both such training and teaching activities,

21 (3) Boarding or pasturing livestock,

22 (4) Inspecting or evaluating livestock belonging to another, whether or not the owner has
23 received some monetary consideration or other thing of value for the use of the livestock or is
24 permitting a prospective purchaser of the livestock to inspect or evaluate the livestock,

25 (5) Drives, rides, trips, hunts or other livestock activities of any type however informal or
26 impromptu that are sponsored by a livestock activity sponsor,

27 (6) Placing or replacing horseshoes on an equine, or otherwise preparing livestock for
28 show, and

29 (7) Agritourism activities involving the viewing of, handling of, riding of, showing of, or other
30 interactive activities with livestock;

31 “Livestock activity sponsor” means an individual, group, club, partnership or corporation,
32 whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or
33 provides the facilities for, a livestock activity, including but not limited to: livestock clubs, 4-H clubs,
34 FFA chapters, school and college-sponsored classes, programs and activities, therapeutic riding
35 programs, and operators, instructors, and promoters of livestock facilities, including, but not
36 limited to, barns, stables, clubhouses, pony ride strings, fairs and arenas at which the activity is
37 held;

38 “Livestock professional” means a person engaged for compensation in:

39 (1) Instructing a participant or renting to a participant livestock for the purpose of engaging
40 in livestock activity, or

41 (2) Renting equipment or tack to a participant;

42 “Inherent risks of livestock activities” means those dangers or conditions which are an
43 integral part of livestock activities, including, but not limited to:

44 (1) The propensity of livestock to behave in ways that may result in injury to persons on
45 or around them,

46 (2) The unpredictability of livestock’s reaction to such things as sounds, sudden movement
47 and unfamiliar objects, persons or other animals,

48 (3) Hazards such as surface and subsurface conditions unknown to the livestock activity
49 sponsor,

50 (4) Collisions with other livestock or objects, and

51 (5) The potential of tack to become dislodged or move in ways that may result in injury to
52 persons on or around livestock activities; and

53 “Participant” means any person, whether amateur or professional, who engages in a
54 livestock activity, whether or not a fee is paid to participate in the livestock activity.

§19-36A-3. Scope of liability.

1 (a) Except as provided in subsection (b) of this section, a livestock activity sponsor, a

2 participant or a livestock professional acting in good faith and pursuant to the standards of the
3 livestock industry shall not be liable for injuries to any person engaged in livestock activities when
4 such injuries result from the inherent risks of livestock activities.

5 (b)(1) The provisions of the Livestock Activities Liability Limitation Act shall not apply to
6 employees of the sponsor or livestock professional in the performance of their duties who are
7 covered by or subject to the provisions of the workers' compensation laws of Title 85 of the
8 Oklahoma Statutes.

9 (2) Nothing in subsection (a) of this section shall prevent or limit the liability of a livestock
10 activity sponsor, a participant or a livestock professional, if the livestock activity sponsor, a
11 participant or livestock professional:

12 (A) Commits an act or omission that constitutes willful or wanton disregard for the safety
13 of any person engaged in livestock activities, and that act or omission caused the injury,

14 (B) Intentionally injures a person engaged in livestock activities,

15 (C) Provided the equipment or tack, which was faulty, and such equipment or tack was
16 faulty to the extent that it did cause the injury. The provisions of this paragraph shall not apply to
17 livestock activities sponsored by youth organizations when youth participants share equipment or
18 tack between themselves,

19 (D) Provided the livestock and failed to make a reasonable effort to determine the ability
20 of the participant to manage the particular livestock based upon the participant's representations
21 of such participant's ability: *Provided*, That a participant in a livestock show, livestock sale, or
22 rodeo shall be presumed to be competent in the handling of livestock if an entry form is required
23 for the activity and signed by the participant, or

24 (E) Owns, leases, rents or otherwise is in lawful possession and control of the land or
25 facilities upon which the participant sustained injuries because of a dangerous condition which
26 was known to the livestock activity sponsor, livestock professional or person and not made known
27 to the participant.

28 (3) Nothing in subsection (a) of this section shall prevent or limit the liability of a livestock
29 activity sponsor, a participant, or a livestock professional:

30 (A) Under liability provisions as set forth in the products liability laws, or

31 (B) For livestock activities which result in the death of any person engaged in livestock
32 activities from the inherent risks of livestock activities.

33 (c) A sponsor shall not be held vicariously liable for the acts or omission of a participant
34 or a livestock professional.

§19-36A-4. Waiver of liability.

1 Notwithstanding the provisions of this article, two or more persons may agree, in writing,
2 to waive potential liability or to extend the limits of liability established under this article for
3 livestock activities. Such waiver shall be valid and binding by its terms.

NOTE: The purpose of this bill is to limit the potential legal and financial liability of farmers, livestock professionals, and sponsors of livestock activities for potential hazards involved in livestock and agritourism activities.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.