

# Legal Liability Issues for Farms and Ranches

Ag law expert shares three areas of particular concern for farm, ranch liability.

by Joann Pipkin

In a day and time when you can sue most anyone for anything, farmers and ranchers should be proactive before a problem occurs.

Brent Haden, a lawyer with the firm Haden and Haden, Columbia, Mo., said producers should perform a thorough walk-through evaluation of potential dangers on their property and take steps to either remedy them or prevent access.

In an Angus University session Nov. 6 at the 2016 Angus Convention in Indianapolis, Ind., Haden said a yearly walk to check fences and other conditions is also necessary.

When it comes to liability — in the farm or ranch context — three primary ways exist for ranchers to get sued, with premises liability the most common.

In general, to establish the liability of the possessor, the invitee must show one of three instances:

1. A dangerous condition existed on the premises, which involved an unreasonable risk of harm;
2. The possessor of the premises knew or, through the use of ordinary care, should have known the condition; and
3. The possessor failed to use ordinary care to remove, remedy or warn of the danger.

“A landowner owes no duty of care to a trespasser except to refrain from harming the trespasser by an intentional, willful or wanton act,” Haden said.

Animals and trucking, which is becoming a bigger part of the farm and ranch environment, are two additional instances where producers are liable.

Animal liability is unique in the law, Haden said, and many states have a strict liability standard for injuries caused directly by livestock.

“This means if your animal injures someone at a show or while loose, you are on the hook even if you took reasonable measures to control your animal,” he said.

States that do not impose a strict liability standard are governed by a mere negligence standard, although Haden said this is barely an improvement.

The bottom line is constant supervision of animals and adequate insurance is a must.

“You really need to be insured to some amount of damages,” Haden said. “Get enough insurance to cover what you think you might lose.”

In a negligence standard state, Haden

said liability hinges on whether or not your actions and precautions were reasonable or unreasonable, as well as the actions of the injured.

While the United States has historically moved from “fence out” to “fence in” when it comes to landowner obligations, Haden said state laws generally get better for livestock owners moving from east to west.

Still, liability for injuries caused by escaped animals is a mixed bag nationwide.

“Some states have a strict liability standard,” Haden explained. “This means you are on the hook for damages to motorists or crops regardless of your actions or the cause of the escape.”

More livestock-friendly states have



## Tips for Talking to Your Banker

Have a plan and financial records when you request credit for your operation.

Story & photo by Troy Smith, field editor

What are your business plans for 2017? How will you present them to your lender?

Those were questions asked of cattle producers attending an Angus University Workshop conducted during the 2016 Angus Convention hosted Nov. 5-7 in Indianapolis, Ind. Louis McIntire, credit officer with Farm Credit Mid-America, offered information about preparing to talk with a banker.

McIntire said that despite the trend toward lower farm and ranch income, credit is available. However, when considering applications for operating loans, most lenders are focusing on the applicant’s management capabilities and the quality of their financial

data. Lenders will consider liquidity, fixed costs, quality of collateral and the ability of cash flow to service debt obligations. If an operation is financially stressed, a lender will want to know what corrective measures are under way.

“With cattle prices lower, it may be necessary to make changes. Make a written plan and provide a copy to the bank,” said McIntire, suggesting that producers talk with cattle buyers, an accountant and business friends for assistance in developing a plan for production and marketing.

Regarding ways to increase income from cattle sales, McIntire cited the opinions of Jim Akers, whose Bluegrass Stockyards auction



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maintained a negligence standard, he said. Under this test, liability hinges on whether or not your actions and precautions were reasonable or unreasonable, as well as the

actions of the injured.

“In open range areas,” Haden said, “liability generally runs to the motorist for accidents with livestock.”

A major blind spot for many farms and ranches lies in trucking, Haden said. It’s also a major source of liability.

“Unlike premises liability, farms and ranches generally don’t have any special protections for trucking accidents,” he said.

Incorporating the farm might be an option to help shield personal assets from liability incurred on the farm and vice versa, Haden said. “Incorporation separates your business and personal assets.”

Still, the bottom line with farm liability is to be properly insured for potential risks, securing enough to cover whatever amount you would not want to lose.

Haden’s presentation was one of the Angus University Workshops sponsored by Merck Animal Health Nov. 6 at the 2016 Angus Convention. For comprehensive coverage of the Angus Convention, including speaker summaries, links to the full presentations, photos, videos and more, visit [www.angus.media/news/Angus-Convention](http://www.angus.media/news/Angus-Convention).



**Editor’s Note:** JoAnn Pipkin is a freelancer and cattlemoan from Republic, Mo.

facilities market roughly half of all Kentucky cattle, posting annual sales of \$600 million. While it can be difficult to sort out value attributes, Bluegrass Stockyards routinely sees 5% to 10% higher prices for Angus-sired calves. Premium prices also may be attributed to calves being already weaned, castrated and preconditioned. Adding “natural” to the value claim also can increase premiums.

McIntire said Akers views the current marketplace, where cattle supplies are higher, as a prime environment for making sure calves represent added value. Premiums can be realized for cattle that meet buyer expectations.

“Have a plan and go to your banker early to visit about renewing a line of credit. Take along an updated balance sheet and tax statement, and provide projections and capital expenditures for the coming year,” added McIntire. “Ask your banker to visit your operation and meet your family. It does make a difference.”

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2016 Angus Convention. To listen to his presentation or access his PowerPoint, visit <http://bit.ly/AC16-McIntire>. For comprehensive coverage of the Angus Convention, including speaker summaries, links to the full presentations, photos, videos

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**Editor’s Note:** Field Editor Troy Smith is a freelance writer and cattlemoan from Sargent, Neb.



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