

New York is 48th State to Enact an Equine Liability Law

On October 23, 2017, New York Governor Andrew Cuomo signed into law that state's version of an equine activity liability law. [Here](#) is a link. The law took immediate effect.

Whom the Law Affects

New York's law applies to "operators" of "Agricultural Tourism" activities. It applies to "equine activities both outdoors and indoors" and includes a definition of "equine therapy" to include "equine activities for children or adults with physical or mental disabilities, post-traumatic stress disorder or other condition for which equine therapy is sought for therapeutic purposes or treatment."

Conditional Liability Limitations

This law makes immunities *conditional* upon compliance with responsibilities as the law describes for "operators" and "visitors." The liability limitation section states:

Owners and operators of agricultural tourism areas shall not be liable for an injury to or death of a visitor if the provisions of this subdivision are complied with.

Section 18-303(1)(F); emphasis added.

Responsibilities of "Operators"

Section 18-303(1) provides that "operators" of "agricultural tourism areas" "shall" have these responsibilities:

- "To post and maintain way finding signage to delineate the paths, areas and buildings that are open to the public" [Section 18-303(1)(A)] ;
- "To adequately train employees who are actively involved in agricultural tourism activities" [Section 18-303(1)(B)];
- "To post at every point of sale or distribution of tickets, whether on or off the premises of the agricultural tourism area, a conspicuous 'warning to visitors' relative to the inherent risks of participating in activities on working farms and to provide written information having such text and graphics as the commissioner of agriculture and markets shall specify, which shall conspicuously direct the attention of all

visitors to the required 'warning to visitors'" [Section 18-303(1)(C)];

- "To post at every point of sale or distribution of tickets at an agricultural tourism area a conspicuous notice to visitors that pursuant to this article such visitors have a responsibility to exercise reasonable care regarding the disclosed risks of the agricultural activity, and reasonably comply with posted way finding signs, reasonably remain in areas designated for the agricultural tourism activity, reasonably follow any and all written and conspicuously posted rules of conduct provided by such operator to visitors or verbal or other communication for persons with disabilities, and not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements, or other safety devices" [Section 18-303(1)(D)];
- "To take reasonable care to prevent reasonably foreseeable risks to visitors, consistent with the responsibility of a landowner to keep his or her premises reasonably safe for intended and reasonably foreseeable uses and users, and to post conspicuous notice to visitors of the right to a refund to the purchaser in the amount paid in the initial sale of any tickets returned to the operator of the agricultural tourism area, intact and unused, upon declaration by such purchaser that he or she believes that he or she is unprepared or that he or she is unwilling to participate in the agricultural tourism activity due to the risks inherent in the activities or the duties imposed upon him or her by this section" [Section 18-303(1)(E)].

Responsibilities of Visitors

Section (2) of the law states that visitors to "agricultural tourism areas" have certain responsibilities, which are:

- "To exercise reasonable care regarding the disclosed risks of the agricultural activity" [Section 18-303(2)];
- "To reasonably comply with posted way finding signs and reasonably remain in areas designated for the agricultural tourism activity" [Section 18-303(2)(A)];
- "To reasonably follow any and all written information or conspicuously posted rules of conduct provided by such operator to visitors, or verbal or other form of communication

of rules of conduct where needed for effective communication for people with disabilities” [Section 18-303(2)(B)]; and

- “Not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements or other safety devices” [Section 18-303(2)(C)].

More Information

New York’s law is very different from the 47 other state equine activity liability laws. It combines equine activities with numerous other activities (such as “U-pick” farms, farm tours, winery tours, and others) and, as enacted, offers little direction regarding compliance, and no required language for signs. For more information on how the law may impact you, discuss the law with a knowledgeable lawyer or contact the [New York State Horse Council](#), which supported the legislation.

This blog post does not constitute legal advice. When questions arise based on specific situations, direct them to a knowledgeable attorney.