



Managing Legal Risk for Livestock and Dairy Producers in Ohio

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Project Support

- This project is provided with support from the North Central Risk Management Education Center, whose mission is *to empower the strengths and skills of individuals in the North Central region who are involved in the management of agricultural production, marketing, financial, legal, and human resource risks.*
- Visit the website at www.NCRME.org



Workshop Overview

Addressing legal risks in emerging risk areas:

- Animal identification
- Ohio Livestock Care Standards
- GIPSA
- Farm security issues

Understanding, assessing and adopting risk management strategies.

Workshop Overview

We will . . .

1. Explain the laws and legal issues.
2. Discuss strategies for managing risk.
3. Follow up.
4. Make resources available on website.

You will . . .

5. Assess your operation.
6. Identify risk management practices.
7. Adopt risk management practices.
8. Evaluate the program and participate in follow up surveys.

Workshop Overview

- **Important components:**
 - Exercises
 - Evaluations
 - Action
 - Follow up



Farm Security Issues

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Farm Security Issues

- **Livestock containment**
 - Liability for animals running at large.
- **Allegations of mistreatment**
 - “Undercover” employees or visitors on the farm.
 - Reports/allegations of cruel management practices.

Animals Running at Large Law

- **Ohio Revised Code 951:**
 - Recently revised - changes effective September 20, 2011.
 - Prohibits an owner or keeper of livestock from *permitting* the animals to run at large on the public road or upon unenclosed land.
 - ✦ Applies to cattle, hogs, sheep, goats, horses, mules or geese.
 - ✦ Revisions added llamas, alpacas, bison.

Animals Running at Large Law

- **Ohio Revised Code 951:**
 - Creates civil and criminal liability for violations.
 - Allows a finder to confine, advertise and receive compensation for caring for animals.

Animals Running at Large Revisions

- **Revised law - civil liability:**
 - A person may recover damages for harm caused by livestock if the operator's "negligence" caused the animals to be at large.
 - ✦ "Negligence" is a failure to use due care.
 - An animal being at large creates an initial presumption that the operator is negligent.
 - The operator must then rebut the presumption by proving that he or she exercised due care.

Animals Running at Large Revisions

- **When is an operator “negligent” in keeping animals from running at large?**
 - Fails to check fences and gates regularly.
 - Fails to check fences and gates often.
 - Fails to maintain fences, gates, etc.
 - Fails to respond to an event such as a storm.
 - Fails to train employees adequately.

Animals Running at Large

- **For criminal liability:**
 - A livestock operator who “recklessly” allows animals to run at large can be subject to criminal prosecution.
 - ✦ A person behaves recklessly when he or she disregards a known risk of his or her conduct, with heedless indifference to consequences.
 - Prosecutor must prove that the operator was reckless.

Allegations of Mistreatment

- **How might allegations of mistreatment occur?**
 - Complaint through livestock care standards
 - Complaint through animal cruelty law
 - Public reveal of an undercover investigation

Allegations of Mistreatment

- **What laws apply?**
 - ?
- **No Ohio law directly prohibits videotaping or photographing without permission.**
- **No law addresses employee issue.**


Allegations of Mistreatment

- **Other state laws:**
 - Iowa's Agricultural Production Facility Fraud law, recently enacted.
 - Farm "terrorism" laws.
 - ✦ Prohibit tampering or destruction of facility, crops, animals.
 - ✦ A few include videotaping and photographing prohibitions.
 - ✦ Ohio "agri-terrorism" law – Ohio Revised Code 901.511.

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Risk Management Strategies

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Managing Legal Risk

- **Generally:**
 - Knowledge
 - ✦ Of laws and regulations that apply.
 - ✦ Of best management practices.
 - Compliance, compliance, compliance
 - Insurance
 - ✦ That coordinates with your operation's activities.

Managing Legal Risk

- **Ohio Livestock Care Standards**
 - Training employees and family members on livestock care standards.
 - Recordkeeping:
 - ✦ Established policies
 - ✦ Management practices
 - ✦ Animal health records
 - ✦ Mortality
 - ✦ Employees

Managing Legal Risk

- **Ohio Livestock Care Standards**
 - Inspection mentality
 - ✦ Inside and outside of the barn.
 - ODA collaboration
 - ✦ Investigation.
 - ✦ Corrective measures.
 - Farm security maintenance

Managing Legal Risk

- **Farm security maintenance**
 - **Visibility and access**
 - ✦ **Do you need to limit the public's view?**
 - Of animals, manure, feedlot.
 - ✦ **Limit tours, groups, etc.?**
 - ✦ **Physically secure access points**
 - Especially into barns.

Managing Legal Risk

- **Farm security**
 - **Animal containment: fences, gates, enclosures**
 - ✦ Use best management practices in construction.
 - ✦ Conduct routine inspection and maintenance.
 - Follow a written policy.
 - ✦ Maintain records.
 - ✦ Use locks?
 - ✦ Use cameras?
 - ✦ Address responsibility for leasing situation.
 - Is owner or tenant responsible for containment infrastructure?

Managing Legal Risk

- **Farm security**
 - Relationship with local law enforcement
 - ✦ Develop relationship with local patrol.
 - ✦ Report suspicious behavior in your area.
 - ✦ Help cultivate an understanding of your operation and other livestock operators in the community.
 - Educational meeting?
 - ✦ Ensure understanding of Animals at Large revisions.
 - County prosecutor involvement

Managing Legal Risk

- **Farm security**
 - Employee hiring practices
 - ✦ Require documentation of identity.
 - Photo identification, driver's license, social security card.
 - Use I-9 form.
 - ✦ Require and check references.
 - ✦ Require and conduct background checks.
 - With permission of applicant.

Managing Legal Risk

- **Farm security**
 - **Employee management practices**
 - ✦ **Provide training on care standards.**
 - Requirement acknowledgement by employee.
 - ✦ **Written care standards policy.**
 - Requiring adherence to care standards and duty to report violations.
 - Signed by employees.

Managing Legal Risk

- **Farm security**
 - **Employee management practices**
 - ✦ **Written policy prohibiting cameras, taping.**
 - Signed by employees.
 - ✦ **Employee probationary period.**
 - Include oversight duties for other employees.
 - ✦ **Monitor employee actions.**
 - Vulnerable employees.
 - Volunteering to work late.
 - Physical locations.

Managing Legal Risk

- **Farm security**
 - **Employee management practices**
 - ✦ **Use cameras?**
 - ✦ **Conduct searches?**
 - Risky
 - Constitutional rights!
 - Off limits: lockers, cars, purses
 - ✦ **Provide a work uniform.**
 - No camera pocket!