

Dealing with Legal Liability Issues: A How-to-Guide for Protecting Yourself and Your Farm

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Protecting yourself, your farm and your family from exposure to legal liability is something that every farmer must deal with. Having a good team behind you, including an attorney, financial advisor, and insurance agent, is the best way to protect your assets and way of life. Having a basic understanding of the law and how it applies to you and others can help you avoid the dreaded lawsuit and associated expenses that go along with it.

During times of financial uncertainty in farming, especially in the livestock sector, protecting your financial interests and taking advantage of the tools provided for you are of utmost importance. One way to protect your individual interests is by the filing of an agricultural lien in Iowa. An agricultural lien has priority over other types of liens if the state statute says so. In Iowa, we put a preference on agricultural liens. A lien is a security interest granted over a piece of property to ensure payment. The Iowa Contract Finisher's Lien (Iowa Code Ch. 579B) is devoted to protecting contract growers and parties to production contracts (includes beef cattle, dairy cattle, hogs, and sheep). The production contract must be currently in force and can be oral or in writing. This type of lien is on the livestock sold or slaughtered by the contractor or, if after slaughter or sale, on the cash proceeds thereof. The amount the lien protects is the amount owed to the contract producer under the terms of the production contract. The contract finisher's lien becomes effective when the livestock arrive on the property, however, the contract finisher must "perfect" this lien by filing a financing statement within 45 days after the livestock's arrival to the facility. Or, if the contract is for continuous arrival (meaning the grower gets loads monthly) then they may file every 180 days. A contract grower can perfect this lien with the Iowa Secretary of State, at www.sos.state.ia.us (UCC-1).

There are other types of agricultural liens that livestock producers may be able to take advantage of to protect their interests, such as the Ag Supply Dealer's Lien. For further information, visit our website at www.calt.iastate.edu. Most importantly, when entering into a production contract, seek legal counsel for review of the document, if possible.

Another area of legal concern for livestock producers has been farm liability. It is important to review your general farm liability policy often. Insurance policies are contracts, thus, they are negotiable. You should always read and understand the terms of your policy before signing. There are several cases of misinterpretation of insurance policy contract language in Iowa and we will discuss the effect that misinterpretation had on individual farmers.

And, finally, good fences make good neighbors... Many of us have heard that old adage, but being updated on the current state of property law in Iowa is important. We have seen, in the past few years, several cases from the Iowa Courts regarding fencing and boundary disputes. With less livestock grazing and more urban dwellers moving to the rural areas, we have seen an increase in real property disputes. We will who is liable for the creation and maintenance of a partition fence in Iowa, the importance of written agreements between landowners, the duties of township trustees and fence viewers, and resolution of fence disputes and boundary controversies. Livestock owners are often concerned about legal liability with respect to livestock that have escaped their enclosures or are capable of harming others. It is the duty of livestock owners to fence and control animals under their care. In fact, the Iowa legislature has even enacted a “Habitual Trespass” statute to curb animals escaping their enclosures and to encourage neighbors to work together to build better fences. A livestock owner has a “duty of ordinary care” to prevent injuries to others and they are liable to the extent that those injuries are “reasonably foreseeable.” Thus, even negligent maintenance of a partition fence may lead to legal liability.

Fence location is particularly important in Iowa. Once a fence has been utilized as the boundary for a period of 10 years, the fence can establish the boundary even though a later survey indicates that it is not on the surveyed line. This concept is known as “boundary by acquiescence.” This is a similar concept to another interest in property, termed the “prescriptive easement,” whereby an interest in property can arise when adjacent landowners know where the true boundary is, but continue to use the fence as the property line. Here, the possession of the land must be open and notorious, adverse, and continuous and exclusive for 10 years.

Thus, legal issues continue to play an important role in agricultural as we know it. Being prepared for these situations is the best way to avoid a legal dispute. Having a basic understanding of the law will help you deal with your neighbors, family, and those you contract with in your business.