

OHIO EQUINE LAW OVERVIEW

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Ohio's Equine Activity Statute

- Ohio Revised Code Section 2305.321
- The statute provides that a person may not bring a lawsuit if the accident resulted from an inherent risk of equine activities
- Ohio requires notice in all contracts (such as waivers) but does not require the posting of signs.
- A person forfeits immunity for faulty equipment, mismatched equine and participant, dangerous concealed conditions, or willful, wanton or intentional acts or omissions.

Liability when your Horse gets Loose

- Whether you are liable for a horse you own or are caring for ends up on a highway and in a collision with a motor vehicle depends on how and why the horse got on the highway.
- Ohio Revised Code Section 951.02 provides that no person who is the owner or keeper of horses or mules shall permit them to run at large in the public road or highway.
- Violation of Ohio Revised Code Section 951.02 can result in civil or criminal misdemeanor damages.

Plan A Successful Boarding Business

- Issues to consider when starting a boarding business:
 - Consider zoning, business permits and lien laws.
 - Evaluate your facility.
 - Investigate liability insurance.
 - Research your market.
 - Crunch the numbers.
 - Draw up a legal boarding contract.
 - Establish a marketing plan.
- Liens for the Care of Horses
 - Liens are rights in property to secure the payment of a debt.
 - Ohio Revised Code Section 1311.48 Lien for Care of Animals.
 - Ohio Revised Code 1311.49 Sale of Animal to Satisfy Claim.

Are your Horse Expenses Tax Deductable?

- On your income tax returns, do you report your horse related receipts as business income, deduct expenses as business expenses, and deduct depreciation of business assets? Many that do this show a net loss from the horse activities for a tax year and deduct that loss from other income such as salary or investment income.
- If the horse activity is truly a business, there is no problem with deducting losses from unrelated income. However, when you incur a loss year after year, the IRS begins to question whether your horse activities are more a hobby than a business.
- If the IRS is successful in declaring a horse activity to be a hobby, it can re-compute your tax liability for at least the past three years. You can be required to pay the additional taxes for those years, plus interest, plus possible penalties for the underpayment. The result can be financially quite devastating.
- The ultimate question is not whether you turned a profit or incurred a loss, but whether your horse activities were engaged in for the purpose of turning a profit.
- When determining whether or not there is a profit objective for purposes of determining whether not losses are the result of a hobby, even if profit from an activity is objectively unreasonable, it is the taxpayer's genuine subjective intention to earn a profit that is relevant. The following are factors relevant to the determination of a taxpayer's genuine profit intentions:
 1. The manner in which the taxpayer carries on the activity;
 2. The expertise of the taxpayer or his advisors;
 3. The time and effort expended by the taxpayer in carrying on the activity;
 4. The expectation that assets used in the activity may appreciate in value;
 5. The success of the taxpayer in carrying on similar or dissimilar activities;
 6. The taxpayer's history of income or loss with respect to the activity;
 7. The amount of occasional profits, if any, from the activity;
 8. The financial status of the taxpayer;
 9. The elements of personal pleasure or recreation in the activity.

For more information on these principles, contact *Attorney Jacqueline Ferris MacLaren, at (614) 716-0500, jfm@olrblaw.com*. This information is designed to provide a general overview with regard to the subject matter covered and is not to be construed as legal advice.