

The Equine Esquire

Column editor Patrice Doyle, Attorney at Law, Board of Directors

Livestock on the Roadway: Who is Liable When an Accident Occurs?

In the Winter 2014 issue of the Sonoma County Horse Journal I discussed certain California laws related to riding horses on roadways. Specifically, California Vehicle Code section 21759 requires that drivers must slow down or stop when approaching horse drawn vehicles or people on horseback on the road to avoid frightening the horse. California Motor Vehicle Code section 21805 requires vehicles to yield to equestrians at equestrian crossings. Section 21050 mandates that every person riding or driving an animal on a highway has the same rights and duties of motor vehicle drivers. These laws apply to when a horse has been taken onto a highway intentionally. This article explains potential liability when a horse (or other livestock) enters a public roadway unintentionally, such as by escaping through a broken fence.

Negligent or not?

Just because a horse you own or are caring for ends up on a highway and in a collision with a motor vehicle does not mean that you are legally liable for the accident. Whether you are liable depends on how and why the horse got on the highway, and if the owner/caretaker was negligent or careless in any way that led to the escape of the horse or the resulting accident. The law in California makes clear that a horse owner is not always going to be held legally responsible when a horse escapes. Food and Agriculture Code Section 16904 dealing with "Animals at Large" states: "In any civil action which is brought by the owner, driver, or occupant of a motor vehicle, or by their personal representatives or assignees, or by the owner of livestock, for damages which are caused by collision between any motor vehicle and any domestic animal on a highway, there is no presumption or inference that the collision was due to negligence on behalf of the owner or the person in possession of the animal."

In other words, an owner or caretaker is not automatically going to be held civilly liable in accidents between a horse and a vehicle on a highway. For a lawsuit to be successful, the driver of the motor vehicle or family members of a driver killed in a crash would need to prove that the horse got onto the highway through the negligent acts of the owner or caretaker in order to hold him or her legally liable for the injuries.

Criminal liability?

In a famous 1994 case called Sea Horse Ranch v. Superior Court of San Mateo County (1994) 24 Cal.App.4th 446, the court said that enough evidence existed to bring the Ranch and its owner to trial on a charge of involuntary manslaughter. The facts were that at night eight horses belonging to the ranch escaped to a highway.

One collided with a car killing the seventy-six year-old passenger. There was no fence separating the Ranch from the highway. The horses had escaped from a corral that was in terrible condition. "The fence posts were old, weather-worn, bug-infested and rotting. Several cross boards had been knocked off the posts where the wood was rotten, leaving a hole in the corral fence. The nails which had attached the cross boards were not in good condition. The boards were broken out from the inside, with no sign of vandalism. The fence was so dilapidated that when the officer leaned on a cross board, it fell off. The cross boards were mounted improperly on the outside of the fence posts, making them more easily pushed out from animals on the inside. Contrary to common practice, there was no wire strung along the inside of the fence to keep horses away from the cross boards. Neither was there any electrical wire around the inside of the corral." In addition, there was evidence that horses had escaped from the Ranch and gotten on the highway several times in the past.

If facts such as this are proven at trial, involuntary manslaughter, which is a felony, could result in substantial imprisonment. It should be emphasized that criminal liability is a real risk only in extreme cases of negligence, such as may have existed in the Sea Horse Ranch case.

What to do?

Owners and caretakers of horses and livestock must exercise due care, meaning the care that a reasonable person in the same or similar circumstances would have exercised, in keeping these animals contained. The owner or possessor of land upon which horses and livestock roam has an obligation to fence the land in such a way as to prevent the animals from getting onto public roadways. What is required to make the fence adequate depends upon the animals confined behind it (including any known propensities to escape), the proximity of the paddock or pasture to the roadway, and the nature of the roadway. Once an adequate fence is installed, the land owner or possessor has the obligation to maintain it, which includes replacing broken or missing boards or wires. In addition, regular inspection of fences to determine whether they need repair is highly recommended. If the fence is electric, the charge and the integrity of the wires should be checked regularly. It is also always negligent to leave a gate open. An electrically-operated, automatically-closing gate at the entrance to the property is the best protection against a customer or visitor not securely closing a gate.

In sum, with installation of proper fencing given the type and propensities of the animals to be contained, regular inspections and maintenance of fencing, and daily diligence in closing gates, owners and caretakers of horses and other livestock will have taken substantial steps towards avoiding civil and criminal liability in the unfortunate circumstance of livestock accident on a roadway.

| | |
|--|--|
|  <p>KORNBLUM-COCHRAN ERICKSON-HARBISON</p> <p>Attorneys at Law Kornblum/Cochran/Erickson/Harbison, LLP A Partnership of Professional Corporations and an individual</p> <p>1388 Sutter Street, Suite 820 San Francisco CA 94109</p> <p>50 Old Courthouse Square, Suite 601 Santa Rosa CA 95404</p> | <p>Patrice A. Doyle Attorney at Law</p> <p>Email: patrice@cochranerickson.com</p> <p>Telephone: (707) 544-9006 Facsimile: (707) 544-8213 Web: www.cochranerickson.com</p> |
|--|--|



Patrice Doyle is an associate attorney at Kornblum Cochran Erickson Harbison, L.L.P., and has been an avid horsewoman since childhood. She can be of assistance in guiding you through equine-related legal issues. Contact her at (707) 544-9006 or www.kcehlaw.com.

The above article is not intended to be legal advice. Readers should seek legal counsel to determine how the law applies to their particular circumstances.