



EQUINE LAW PATHFINDER

by Victoria Williamson
March 2003

I. Introduction & Scope

Equine law deals with issues involving all types of horses, horse activities, horse riders and owners and the horse industry. Equine law practice includes contracts and litigation, business transactions, tax and insurance issues, livestock and land use laws, animal health laws, cruelty cases and horse-related business disputes. Attorneys practicing in equine law represent the interests of individual horse owners, professional horse riders, trainers, riding instructors, horse breeders, horse race track owners and operators, horse associations and businesses.

The purpose of this pathfinder is to assist law students, lawyers and other researchers in locating resource materials on horse-related legal issues. This is an attempt to provide them with a list of relevant statutes, regulations, cases, law review articles, and a bibliography of printed and Internet sources. The statutes, regulations and cases included in this pathfinder are limited to California and Federal. This pathfinder is not intended to be a comprehensive source of equine law-related materials.

II. Codes and Regulations

As in any specialized area of law, the first step of legal research is to consult the primary sources of law namely, the codes, regulations, and court decisions. In California, there is *Deering's California Codes Annotated* [KFC 30.4 U5X] and *West's Annotated California Codes* [KF 30.3 C5] where the laws are published in a multi-volume set alphabetically arranged by subject. Each set includes a general index to aid users in locating what the law provides in specific subject areas, as well as case annotations, historical notes and bibliographic references. The regulations issued by California State Government agencies are published in the *California Code of Regulations (CCR)*. The following are relevant sections of the California Codes and the California Code of Regulations:

A. California

California Agricultural Protection Act – Civil Code §3482.5 – 3484

Equine Protection Act of 1991 – Food & Agricultural Code §24101- 24134

Cruelty to Animals:

Civil Code §3505 –3506, 3508

Code of Civil Procedure §1208.5

Corporations Code §14500 – 14503

Food & Agricultural Code §19348.5

Penal Code §597, 597a, 597f, 597g, 597k, 597o thru 597t, 597.1 – 597.2, 599b

Equine Infectious Anemia:

Food & Agricultural Code §9641.5 – 9641.7

Cal. Code of Regulations §796

Liens for Care of Horses:

Civil Code §3080 – 3080.11, 3080.15 – 3080.22

Liens for Services to Horses:

Civil Code §3062 – 3064.1, 3080 – 3080.11, 3080.15 – 3080.22

Livestocks:

Food & Agricultural Code §16902 – 16904, 17001 – 17004, 17041 – 17045,
17061- 17069, 17091 – 17096, 17121, 17127, 17150 – 17153

Recreational Use:

Civil Code §846

Riding on Public Roads:

Streets & Highways Code §951

Vehicle Code §21759

Quarantine and Health:

Food & Agricultural Code §9501 – 9502, 9531 – 9532, 9561 – 9567

9569 – 9571, 9573 – 9574, 9591 – 9595, 9621, 9641.5 – 9641.7, 9691 – 9702

- ❖ Equine related statutes for other states can be found at:

<http://www.law.utexas.edu/dawson/statutes.htm>. This site, hosted by the Tarlton Law Library of the University of Texas School of Law, contains a comprehensive listing of equine related statutes for the 50 states.

Like the California Codes, the United States Codes are published in a multi-volume set alphabetically arranged by subject. The *United States Codes (U.S.C.)* is the official publication. There are two other sources commercially published, namely, *United States Code Annotated (U.S.C.A)* [KF62.A3] and *United States Code Service (U.S.C.S.)* [KF62.A35]. Both include general indexes, case annotations, historical notes and bibliographic references. The regulations issued by U.S. Government agencies are published in the *Code of Federal Regulations (CFR)*. The following are relevant sections of the United States Code and the Code of Federal Regulations:

B. Federal

Interstate Horseracing Act of 1978 – 15 U.S.C. §3001 et. seq.

Horse Protection Act – 15 U.S.C. §1821 et. seq.

Wild Free-Roaming Horses and Burros Act – 16 U.S.C. §1331-1340

Internal Revenue Act, Activities not engaged in for Project for Profit: 26 U.S. 183

Animal Rights Law: 43 CFR 4700 et.seq.

Horse Protection Regulations: 9 CFR 11

Rules of practice governing proceedings under the Horse Protection Act: 9 CFR 12

Taxes on wagering: 26 CFR 44

III. Cases

Cases on specific areas of law can be located by using annotated codes, case digests and the American Law Report series. If a cite to a specific code section is known, summaries of cases or notes of decisions dealing with that particular code section is generally found at the end of the code section. However, if there has been no cases decided on the specific section you're interested in, you will find references to case digests, legal encyclopedias, and other research finding aids.

The American Law Reports (ALR) series contain articles that evaluate state and federal cases relevant to any given issue or fact situation. All cases from all jurisdictions pertinent to particular subject areas of law practice and points of law are summarized and analyzed leading researchers directly to on-point case law. The following is a list of ALR articles on equine law related issues:

Administrative Law:

Davis, R. P., Annotation, *Validity and Construction of Statutes, Ordinances, or Regulations Concerning the Sale of Horse Meat for Human Consumption*, 19 A.L.R. 2d 1013 (1951).

Marchitelli, David, Annotation, *Disciplinary Proceedings Against Horse Trainer or Jockey*, 59 A.L.R. 5th 203 (1998).

Miller, Caroll J., Annotation, *Judicial Review of Administrative Ruling Affecting Conduct or Outcome of Publicly Regulated Horse, Dog, or Motor Vehicle Race*, 36 A.L.R.4th 1169 (1981).

Vento, Carol Schultz, Annotation, *Propriety of Exclusion of Persons From Horseracing Tracks for Reasons Other Than Color or Race*, 64 A.L.R. 5th 769 (1998).

Williams, Elizabeth, Annotation, *Construction and Application of Horse Protection Act of 1970*, 131 A.L.R. Fed. 363 (1996).

Contracts:

Barnett, A. G., Annotation, *Construction and Effect of Restrictive Covenant in Deed or Conveyance Specifically Prohibiting or Limiting the Keeping of Animals, Such as Livestock, Fowl, etc., on the Premises*, 89 A.L.R. 2d 990 (1963).

Draper, Jane Massey, Annotation, *Contracts for Breeding Horses*, 34 A.L.R. 5th 651 (1995).

Cruelty to Animals:

Annotation, *What Constitutes Offense of Cruelty to Animals – Modern Cases*, 6 A.L.R. 5th 733 (1992).

Insurance:

Bello, Christopher, Annotation, *Insured's Duties Respecting Care of Injured or Ill Animal Covered by Animal or Livestock Policy*, 22 A.L.R. 4th 1053 (1983).

Draper, Jane M., Annotation, *Livestock or Animal Insurance: Risks and Losses*, 47 A.L.R. 4th 772 (1986).

Land Use and Zoning:

Long, Steven B., Annotation, *Construction and Application of terms "Agricultural," "Farm," "Farming," or the Like, in Zoning Regulations*, 38 A.L.R. 5th 357 (1996)

Sales:

Annotation, *Elements and Measures of Damages for Breach of Warranty in Sale of Horse*, 91 A.L.R. 3d 419 (1980).

Crabb, J. H., Annotation, *Implied Warranty of Fitness on Sale of Livestock*, 53 A.L.R. 2d 892 (1957).

Russ, Lee R., Annotation, *Extent of Liability of Seller of Livestock Infected With Communicable Disease*, 14 A.L.R. 4th 1096 (1982).

Tax:

Annotation, *Situs of Tangible Personal Property for Purposes of Property Taxation*, 2 A.L.R. 4th 432 (1980).

Annotation, *State Taxation as Affected by Federal Constitutional or Statutory Provisions Relating to Imports, Exports, or Interstate Commerce*, 130 A.L.R. 969 (1941).

Wolff, Paula, Annotation, *What Constitutes Trade or Business Under Internal Revenue Code (U.S.C.A Title 26)*, 161 A.L.R. Fed. 245 (2000).

Tort Liability:

Chapus, David P., Annotation, *Horseback Riding or Operation of Horse-Drawn Vehicle as Within Drunk Driving Statute*, 71 A.L.R. 4th 1129 (1989).

Gross, Douglas Hale, Annotation, *Liability of Oil and Gas Lessee or Operator for Injuries to or Death of Livestock*, 51 A.L.R. 3d 304 (1973).

Hirschberg, H.G., Annotation, *Liability of Owner of Horse To Person Injured or Killed When Kicked, Bitten, Knocked Down, and the Like*, 85 A.L.R. 2d 1161 (1962).

Nadel, Andrea G., Annotation, *Liability for Injury or Death of Participant in Automobile or Horse Race at Public Track*, 13 A.L.R. 4th 623 (1982).

Rigelhaupt, James L. Jr., Annotation, *Liability for Damage to Motor Vehicle or Injury to Person Riding Therein From Collision With Runaway Horse or Horse Left Unattended or Untied in Street*, 49 A.L.R. 4th 653 (1986).

Rigelhaupt, James L. Jr., Annotation, *Liability for Personal Injury or Death Caused by Trespassing or Intruding Livestock*, 49 A.L.R. 4th 710 (1986).

Trenkner, Thomas R., Annotation, *Liability of Owner or Bailor of Horse For Injury By Horse to Hirer or Bailee Thereof*, 6 A.L.R. 4th 358 (1981).

Zitter, Jay M., Annotation, *Liability for Injury Inflicted By Horse, Dog or Other Domestic Animal Exhibited at Show*, 68 A.L.R. 5th 599 (1999).

Schwartz, A.L., Annotation, *Keeping Horses as Nuisance*, 27 A.L.R. 3d 627 (1969).

Webster, O.H., Annotation, *Measure and Elements of Damages, in Action Other Than One Against a Carrier, for Conversion, Injury, or Destruction of Livestock*, 79 A.L.R. 2d 677 (1961).

IV. Legal Periodical Articles

State bar journal and law review articles are good sources for any specialized legal subject. This is especially true for equine law where there are not many practitioner's guides and treatises available on the subject. Every once in a while, a law review would publish a special issue on a chosen topic. For example, you will find Equine Law Symposium in vol. 74 no. 4 (1985-86) and vol. 78 no. 3 (1989-90) issues of the Kentucky Law Journal.

The *Index to Legal Periodicals* and the *Current Law Index* [K33.C87] are the two indexes that are available in print. Equine law related articles can be located by using either one of the print indexes or by searching Westlaw's *Legal Text & Periodicals* database, Lexis' *Law Rev* database, Hein-Online, and LegalTrac. The following is a list of law review articles on equine-related issues:

Bishop, M. Shannon, Notes, *And They're Off: The Legality of Interstate Pari-Mutuel Wagering and Its Impact on the Thoroughbred Horse Industry*, 89 Ky. L.J. 711 (2000-2001).

Blum, Karen A., Comment, *Saying "Neigh" to North Carolina's Equine Activity Liability Act*, 24 N.C. Cent. L.J. 156 (2001).

Bohanan, Holly J., Review of Selected 2001 California Legislation, *Horse Racing in the Dark? Legislation to Compensate Horse Racing Associations for Decreased Number of Wager-Accepted Races Due to Power Crisis*, 33 McGeorge L. Rev. 369 (Wtr. 2002).

Carmel, Krystyna M., *The Equine Activity Liability Acts: A Discussion of Those in Existence and Suggestions for a Model Act*, 83 Ky. L.J. 157 (1995).

Case, Clark, Notes, *No Rule of Thumb: The Conflict of Digital Palpation Under the Horse Protection Act*, 90 Ky. L. J. 661 (2001-2002).

Centner, Terence J., *Modifying Negligence Law for Equine Activities in Arkansas: A New Good Samaritan Paradigm for Equine Activity Sponsors*, 50 Ark. L. Rev. 637 (1998).

Centner, Terence J., *The New Equine Liability Statutes*, 62 Tenn. L. Rev. 997 (Sum. 1995).

Cooper, John H., *Win, Place or Show Through Multiple Ownership of Thoroughbreds in Alabama*, 15 Cumb L. Rev. 251 (1985).

Darling, Lafcadio H., Article, *Legal Protection for Horses: Care and Stewardship or Hipocrisy and Neglect?*, 6 Animal L. 105 (2000).

Easterbrook, Frank H., *Cyberspace and the Law of the Horse*, 1996 U. Chi. Legal F. 207 (1996).

Estate and Gift Tax Decisions, *Estate Tax Valuation of Thoroughbred Horses, Estate of Margaret D. Love, T.C. memo. 1989-470*, 107 Banking L.J. 190 (Mar.-Apr. 1990).

Glover, Kristen H., Recent Development, *Managing Wild Horses on Public Lands: Congressional Action and Agency Response*, 79 N.C. L. Rev. 1108 (May 2001).

Heyd, J. Jeffrey, *Horse Sense and the UCC: The Purchase of Racehorses*, 1 Marq. Sports L.J. 171 (Spr. 1991).

Horse Racing/RICO, *Vet Loses RICO Suit Against Horse Racing Agency, Chovanes v. Thoroughbred Racing Association*, 5 No. 11 Andrews Gaming Indus. Litig. Rep. 6 (Mar. 2001).

Horse's Death Not Covered Where Cause Not Known, 11 No. 13 Legal Notes Ins. 2 (Mar. 2003).

Hunkele, Wendy, Symposium Consumer Protection and The Texas Deceptive Trade Practices Act, *Consumer Protection – Deceptive Trade Practices – Avoiding the Issue of Whether Implied Warranties Extend to Professional Services By Defining Horse Training as a Modification of an Existing Tangible Good. Archibald v. Act III Arabians*, 755 S.W. 2084 (Tex. 1988), 20 St. Mary's L.J. 771 (1989).

Hunter, Lesley A., Comment, *The Legal Prevention of Equine Insurance Fraud—How We Can Stop the Killing Game*, 22 Ohio N.U. L. Rev. 845 (1996).

Iovine, Luke P., *Horse Drugging—The New Jersey Trainer Absolute Insurer Rule: Burning the Down the House to Roast The Pig*, 1 Seton Hall J. Sport L. 61 (1991).

Jordan, Tina C., Recent Development, *Tort Law Allison V. Johnson: Ohio Interprets Its Equine Activity Liability Act*, 25 Am. J. Trial Advoc. 435 (Fall 2001).

Lubet, Steven, *Notes on the Bedouin Horse Trade or “Why Won’t the Market Clear, Daddy.”* 74 Tex. L. Rev. 1039 (1996).

McEvoy, Dr. Sharlene A., *The Rise of Equine Activity Liability Acts*, 3 Animal L. 201 (1997).

McMahon, Martin J., *Taxation of Equine Sales and Exchanges*, 75 Ky. L.J. 205 (1986/1987).

Novak, Christopher A., Articles, *Agriculture’s New Environmental Battleground: The Preemption of County Livestock Regulations*, 5 Drake J. Agric. L. 429 (Wtr. 200).

Paris, Deborah M. and Schenkel, Kent D., *Equine Endeavors: Hobby vs. Business*, 63 Mar. Florida B.J. 33 (March 1989).

Patrick, Tandy C., *Business Versus Hobby: Determining Whether a Horse Activity is Engaged in for Profit*, 70 Ky. L.J. 971 (1981-82).

Pierre, Vivica, *What Do Farmers Impliedly Warrant When They Sell Their Livestock: A Comparison of the Uniform Commercial Code, The Louisiana Civil Code, and the Vienna Convention on Contracts for the International Sale of Goods*, 19 S.U. L. Rev. 357 (Fall 1992).

Pitt, Kenneth P., *The Wild Free-Roaming Horses and Burros Act: A Western Melodrama*, 15 Env’tl. L. 503 (Spr. 1985).

Regan, John S., Column, *Horses and Perfection Under the Uniform Commercial Code*, 73 Mich. B.J. 1322 (1994).

Reynolds, Bruce M., *Applying I.R.C. Section 1033 to Involuntary Conversions of Thoroughbred Horses*, 70 Ky. L.J. 987 (1981-82).

Sandberg, Sarah R., Comment, *Globalized Horse Trade: A Need for Heightened Sophistication in the Equine Industry*, 69 UMKC L. Rev. 613 (Spr. 2001).

Schmertz, John R., In Brief, *EU Controls Import of Horses Coming From U.S.*, 5 Int’l L. Update 156 (Nov. 1999).

Speziale, Loren, Comment, *Walking Through the New Jersey Equine Activity Statute: A Look at the Judicial Statutory Interpretation in Jurisdictions With Similar Limited Liability Laws*, 12 Seton Hall J. Sport L. 65 (2002).

Sweeney, Timothy N., *Kefals. v. Bonnie Brae Farms: A Practical Approach to Thoroughbred Breeding Syndications and Securities Laws*, 75 Ky. L.J. 419 (1987).

Turner, Michael J., Specialty Law Column, *Liability for Damages Caused by Escaped Livestock*, 24 Colo. L. Rev. 1581 (1995).

Wheeler, J. Patrick, Symposium: 1991 American Agricultural Law Association Annual Conference, *Livestock Odor and Nuisance Actions vs. "Right-to-Farm" Laws: Report by Defendant Farmer's Attorney*, 68 N.D. L. Rev. 459 (1992).

Wites, Marc A., Feature, *Back in the Saddle Again: An Analysis of Florida's Equine Immunity Act*, 71 Nov. Florida. B.J. 18 (1997).

V. Legal Encyclopedias

American Jurisprudence 2nd (Am. Jur. 2d) and Corpus Juris Secundum (C.J.S.) are the two legal encyclopedias that cover both State and Federal law. Both cover wide range of legal topics, topically arranged in alphabetical order and include general index volumes for quick access to the entire set. Encyclopedias are usually a good starting point for researching topics that are completely unfamiliar to the researcher because it gives an overview of a particular area of law and leads to additional sources.

The general index volumes are usually located at the end of the entire set of encyclopedias. Using *Am. Jur. 2nd* [KF154.A42] General Index, 2003 edition, volume E-I, you will find the following topical entries under the subject of Horses:

- Assumption of risk, **Negligence** §1323, 1367, 1504, 1382, 1392
- Breeders and Breeding
 - nuisances, **Animals** §76
 - zoning, **Zoning** § 402
- Contributory negligence, **Negligence** § 907
- Executions and enforcement of judgments, **Executions** § 254
- Governmental regulation and control
 - municipal power and regulations, **Animals** § 22
 - soring of horses, **Animals** § 34
- Highways, streets, and bridges, personal injuries from fright of horses, **Highways** § 602
- Injuries by horses
 - generally, **Animals** § 113
 - kicked, bitten, or trampled, injuries from being, **Animals** § 114
 - rider, injuries sustained by, **Animals** § 115
- Injuries sustained by rider of horse, **Animals** § 115
- Injuries to drivers of horse-drawn vehicles, **Autos** § 693
- Intentional, willful, or wanton acts, **Negligence** § 274
- Knowledge of habits, **Negligence** § 166
- Municipal power and regulations, **Animals** § 22
- Negligent entrustment of dangerous instrumentalities, **Negligence** § 337

- Nuisances
 - generally, **Animals** § 72; **Nuisances** § 201
 - breeding of animals, **Animals** § 76
- Prevention of cruelty to animals, soring of horses, **Animals** §34
- Privacy, **Privacy** § 30, 88
- Rescue attempt, **Negligence** § 703
- Sale of horses
 - consequential and incidental damages, **Sales** § 1371
- Superseding cause, **Negligence** § 686
- Trainers
 - wills, provision designating beneficiaries as servants or employees as including horse trainers, **Wills** § 1227
- Violation of statute or ordinance, **Negligence** § 793

Using *C.J.S.* [KF154.C62] 2003 General Index A to Z, you will find hardly any references to sections dealing specifically with the subject of horses. Instead, references to the general topics on Livery Stables, Motor Vehicles, Races and Racing, Saddles and Wild Free-Roaming Horse and Burros Act are provided. When using *C.J.S.*, a good place to start your research would be to go to Vol. 3A which contains the subject of Animals. This volume covers issues dealing with legal protection or regulation of animals; nature of property rights in animals; liabilities for injuries caused to or by the animals; regulations protecting animals from disease or ill treatment; contracts for the feeding, care, and use or hire of, animals and cruelty to animals. Other particular topics relating to animals are covered in *C.J.S.* titles on Sales, Chattel Mortgages, Bailment, Insurance, Negligence, etc.

VI. Bibliography of Equine Law Resources

A. Books

Dawson, Jan & Robert O. Dawson, *Cases and Materials on the Horse and the Law*, University of Texas School of Law Course Textbook (2002).

Fershtman, Julie I., *Equine Law and Horse Sense*, Neenah, WI: The Russell Meerdink Co., Inc. (1996).

Fershtman, Julie I., *More Equine Law and Horse Sense: The Ultimate Legal Guide for Horse Owners and Businesses*, Neenah, WI: The Russell Meerdink Co., Inc. (2000).

Gilligan, Brenda, *Practical Horse Law: A Guide for Owners and Riders*, Malden, MA: Blackwell Science, Inc. (2002).

Greene, Edward H., *Law and Your Horse*, North Hollywood, CA: Wilshire Book Co. (1983).

Horse Owners and Breeders Tax Handbook, Washington D.C.: American Horse Council (2002).

Katz, Gary, *Equine Legal Handbook*, Neenah, WI: The Russell Meerdink Co., Inc. (2001).

Marder, Sue Ellen, *Legal Forms, Contracts & Advice for Horse Owners*, Ossining, NY: Breakthrough Pub. (1997).

Newberry, James H., *Legal Aspects of Horse Farm Operations* (1995).

Toby, Milton C. & Karen L. Perch, *Understanding Equine Law*, Lexington, KY: Eclipse Press (1999).

Wood, Kenneth A., *Law for the Horse Breeder*, Linwood Enterprises, (1999).

Internal Revenue Service (Editor), *The Official IRS Tax Guide to Auditing Horse Activities*, Neenah, WI: Russell Merdink Co., (2002).

B. Web/Internet Sources

American Equestrian Alliance

<http://www.americanequestrian.com/toc.htm>

Ansci Equine Resources (Oklahoma State University Dept. of Animal Science)

<http://www.ansi.okstate.edu/library/equine.htm>

Equine Law and Horsemanship Safety - <http://www.law.utexas.edu/dawson/index.html>

Equine Law Practice Page – Miller, Griffin & Marks PSC -

http://www.kentuckylaw.com/html/mgm_equine.html

Heiros Gamos Equine Law

<http://www.hg.org/equine.html>

International Equine Legal Institute

<http://eqlaw.org>

Lex Equus (University of Kentucky College of Law Library)

<http://www.uky.edu/Law/guides/equine/lexeq.htm>