

Straight Talk About Equine Liability Insurance

Whether you own one horse or a horse business, this information will help you sort out your liability insurance needs.

What is Third Party Liability Insurance

Liability insurance protects you when you become legally obligated to pay sums as damages because of “bodily injury” or “property damage” occurring in relation to your insured business activities as stated in your liability insurance policy. In the event of such an occurrence, the insurer has the right and duty to defend any “suit” seeking those damages, whether groundless or substantial. And the insurer may at its discretion investigate any “occurrence” and settle any claim or “suit” that may result, up to the limits of and within the scope of your insurance policy. As third party coverage, this type of insurance **does not pay** the named insured or his or her family members for damages or injuries they may incur. This type of coverage also **does not pay** for the damages or injuries incurred by employees, contract laborers, exchange laborers, and volunteers working on your behalf. Worker Compensation and Employer’s Liability Insurance **are not** part of a general liability policy.

As a horse owner or horse business operator, you may need a combination of liability coverages and / or policies:

Personal Liability Insurance


Personal Liability Insurance is **non-commercial** liability insurance that every person or family should have. This coverage can sometimes be purchased as a separate policy.



*"Shows Promise"
by Dawn Weimer*

However, usually it is part of package policies commonly known as *Homeowner's*, *Tenants* (renter's), or *Farmowners Multi-Peril Insurance policies*. Such policies are designed to insure an individual's or family's dwelling, appurtenant structures (garages), and personal property (household contents) for loss or damage. In addition, the policy would provide personal liability insurance. When you are insured under such a policy, the personal liability section would protect you for financial damages caused to third parties in relation to your personal (non-commercial) activities. Examples of claims that are common to this type of insurance are: A visitor (third party) slips and falls on your house steps; A visitor is bitten by the family dog; or Your child throws a stone through a neighbor's window.

Most, but not all, personal liability insurers will cover two to four personal horses for third party damages arising out of the ownership of those horses, but such policies often carry restrictions concerning horses. Therefore, it is important to question your agent or insurer about, and to read your policy



for, horse-specific exclusions and restrictions. For example, the insurer may only cover your personal horses while they are on your premises, it may limit the number of horses you can own, or even exclude accidents happening during the riding of the horses. Some such policies exclude all horses and horse activities from coverage.

Personal liability insurance **will not cover** your horses if they are a business venture. Your horses are deemed to be a business venture if they involve a money-making motive (not just profit-making), or if you file an income tax return on your horses or horse activities. **Personal Liability Insurance** excludes insurance for commercial ventures unless the insurer agrees to endorse the specific exposure onto your policy.

If your horses are a business venture, you will need to consider purchasing Commercial General Liability Insurance. There are several kinds to consider depending upon the nature of your horse activities.

Farm Liability Insurance

If your horses are a commercial venture involving a money-making motive, and of a farming nature, you will need to consider **Farm Liability Insurance**. **Farm Liability Insurance** may be purchased as a separate policy, but is usually part of a Farmowners Multi-Peril Package Policy. Farm owner-operators often live on the farm premises, and this creates the unique circumstance of the farm owner having both a personal and a commercial exposure on the same property. The **Farmowners Multi-Peril Package Policy** is designed to address this situation by insuring an individual or family for:

Financial loss caused by damage to the insured's:

- Dwelling(s) and appurtenant structures (garages)
- Outbuildings, i.e., sheds, barns, stables, silos, etc
- Non-commercially used personal property (household contents)
- Commercially used farm machinery, equipment, and livestock

Financial loss caused to others (third parties):

- Personal (non-commercial) liability exposure
- Commercial farm liability relating to raising and caring for crops and farm animals or livestock

If you keep horses for personal use and raise horses to sell, the liability coverage under this policy may be adequate for your needs. However, again, the scope of insurance depends

upon restrictions and exclusions contained in your policy that relate to horses. Be sure to discuss the nature of your horse and farming activities with your agent, so the best available insurer and policy can be sought for your insurance needs.

If your horse activities go beyond raising horses to sell, you will need to consider additional coverages and / or policies:

Commercial General Liability Insurance for Equine Business Operations and Non-Profit Concerns

Commercial General Liability Insurance is written on a coverage form that is used by the insurance industry to insure business ventures and non-profit concerns. Through endorsements and specific coverage declarations, the policy is "customized" to insure a specific type of business, such as a horse related business venture. If your horse activities involve a money-making motive or you file an income tax return on them, this is the type of liability policy you should consider to insure your commercial horse activities. Some insurers will only insure low-exposure operations, such as boarding, breeding, training, or standing stallions at public stud, that are known to experience few third party accidents. Other companies may go so far as insuring the previously stated activities in addition to higher exposure activities such as riding instruction, school horses, special events, racing, equine related therapeutic programs, and growth and development services. Few companies are willing to insure the higher exposure recreational activities of equestrian camps, hourly horse rentals, guides and outfitters, horse drawn vehicle rides, and pony rides. As the proven and perceived exposure (risk of injury or damages) for a horse activity goes up, so does the premium to insure it. Some exposures, such as unguided trail rides for example, are not insurable because of the high risk of injury or damages.

Care, Custody and Control Liability Insurance

Care, Custody and Control Liability Insurance may also be called **Full Legal Liability for Horses** by some insurers. The loss of, or injury to, a horse owned by another party while in your care, custody or control is excluded from the Commercial General Liability policy. Therefore, this is a liability insurance endorsement or policy that should be considered carefully by anyone that boards, trains, handles, or cares for horses owned by others (third parties).

Like all liability insurance, **Care, Custody and Control Liability Insurance** provides two types of protection:

1. Legal defense regardless of whether a claim is groundless or substantial.
2. Payment of claims, settlements or

judgements made against you when it is determined that you, or someone whose actions you are responsible for, are legally liable (negligent) for causing a non-owned horse to become sick or injured or if it dies while in your care, custody or control. Keep in mind that this coverage does not automatically pay for financial loss related to the death, illness, or injury of any horse that is in your care, but not owned by you. Negligence on the part of the horse's caretaker, i.e., the insured, must be a factor in the claim.

Also, keep in mind that because the horse owner has the financial interest in a horse, the owner is responsible for carrying insurance to cover his or her own financial interest in the horse. This is best done when the horse owner purchases a **Full Mortality Policy** with a **Major Medical Endorsement** on their horse. (*Fall in Value or Loss of Use Insurance* may also be available, depending upon the use and age of the horse.) Many operators require horse owners to insure all boarded horses in this way, in addition to carrying their own **Care, Custody and Control Liability Insurance on their business**.

- **Important Note:** **Care, Custody and Control Liability Insurance** does not pay for the financial loss relating to horses owned by you, the insured.

The following are examples of circumstances wherein **Care, Custody and Control Liability Insurance** may be of value:

- You, the insured, are away at a horse show for the weekend, and you hire a neighbor to care for the horses on your property. The neighbor forgets to close a gate. Three boarded horses escape their enclosure and run into the road and are hit by a car. You could be responsible for the loss of those horses and the injuries to the driver and passenger. In this case, the care custody and control insurance would respond on the horses, and the general liability would respond on the bodily injury to the driver.
- A boarded horse comes down with colic. You do not think it is serious and do not call the veterinarian right away. Later that day, the horse dies. The horse owner's livestock mortality insurer pays the claim and sues (subrogates against) you for the value of the horse, claiming that you were negligent in not calling a veterinarian immediately.
- A boarder left a water heater in a pail in the tack room overnight, causing a fire that destroyed some boarded horses. You had not addressed the safe use of pail heaters in your posted rules, and you failed to do a final inspection of the barn on the evening in question. As a result of these circumstances, your negligence in relation to the fire is

called into question, and you might be required to pay the horse owners for the loss of their horses.

If you have a care, custody and control exposure, be sure that you carefully complete an application for this insurance, and that your premium quotation for equine liability insurance includes this coverage in limits that are adequate for your needs. The limits you choose should be based upon the highest potential value of a single boarded horse that may be in your care, and the maximum potential value of a loss you could suffer in a multi-horse loss. **Care, Custody and Control Liability Insurance** may be written as a separate policy, although some insurers can endorse this coverage onto **Commercial General Liability** or **Farm Package Policies**.

- **Note:** **Care, Custody and Control Liability Insurance** is not usually available for commercial livestock haulers, veterinarians, or equine dentists.

Professional Liability Insurance

You may have a professional liability exposure if you hold a certificate, degree, diploma, accreditation, completed apprenticeship, have long-term experience in your field, or other qualification for the practice of specific equine or equestrian services that are viewed as "professional" exposures. Professional exposures may include those of Riding Instruction, Therapeutic Services for Equines, Accredited Farrier / Blacksmith Services, Horse Show Official, Horse Trainer, Horse Program Fee Consultant, or Provider of Equine Assisted Growth and Development Services. A professional incident generally relates to third party claims that involve bodily injury or property damage caused by errors or omissions in professional judgement.

Professional Liability Insurance does not take the place of **Commercial General Liability Insurance**, which provides important premises and operations coverage. **Professional Liability Insurance** is best endorsed onto a **Commercial General Liability Policy** that already insures correlating exposures. Each professional desiring to be insured must prove their qualifications and be listed by name in the policy.

QUESTIONS MOST OFTEN ASKED ABOUT LIABILITY INSURANCE

- Q. I own two horses and board two horses on my premises. Doesn't my **HOMEOWNERS POLICY** give me the protection I need?
- A. No. While it would probably cover your two personal horses, a **Homeowners Policy** provides only personal liability insurance that carries a standard exclusion to commercial ventures. You can ask your insurer if your

policy can be endorsed to cover your small boarding operation and your two horses, but it is likely that the insurer will not do so. In addition, you will need to consider *Care, Custody and Control Liability Insurance*, and this is a coverage offered by equine specialty insurers. If you own one to three horses for family use, you have no moneymaking motive, do not file an income tax return on your horses, and you either board the horses out or keep them at home, your personal liability coverage may cover damages the horses cause. Keep in mind, however, that some *Homeowners* insurers have insurance limitations on the number and usage of personal horses, and the distance from home that the horses are insured. Some insurers view raising a foal and selling it, or boarding a neighbor's horse, as having a commercial horse venture on the premises, and therefore will not cover a claim relating to the horses.

Q. Would I then be adequately protected by a **FARM PACKAGE INSURANCE POLICY**?

A. Maybe. The *Farm Package Insurance Policy* usually includes *Personal Liability Insurance* if you live on the insured premises, as well as *Farm Premises and Operations Liability Insurance* to insure farming operations. Your insurer may construe farming operations to include raising or breeding of horses and the farm's off-premises promotional activities, such as exhibiting the horses in parades, horse shows, and fairs. Be sure to disclose the size, scope, and distance of your horse activities from home to your insurance agent. You should not assume that your horse activities are insured under your farm policy unless your policy is endorsed to include all your horse activities. You should carefully review your policy exclusions to be sure that your off-premises activities are insured.

Q. Am I protected from liability if my state has enacted an Equine Liability Immunities Law?

A. Equine Activities Immunities Acts are often helpful in determining liability and in reducing settlement values. However, the fact that such a law exists in your state does not do away with your need for liability insurance. These laws are limited in the immunity they provide according to how each law is written and specific conditions the operator must abide by to trigger immunity. Every claim is unique. Circumstances surrounding a specific claim or incident involve variable factors with mixed and unknown legal ramifications. Keep in mind that anyone can be sued for almost anything. The fact that such a law exists in your state may not deter someone from suing you. Too often, the

effectiveness of the immunity law will be determined through expensive court proceedings. Legal defense costs for one lawsuit can range from \$5,000 to \$100,000 or more.

Q. Can I forego buying liability insurance if I have my riding students, boarders, and horse-training customers sign a liability release agreement?

A. No. A well-written, properly signed release and warning agreement can often make a positive difference in deterring someone from pursuing a claim. It may stop a legal action sooner, and will often help reduce the value of a settlement. Yet, a release of liability form will not stop someone from filing a law suit against you if they choose to do so. Remember that legal defense costs for one lawsuit can range from \$5,000 to \$100,000 or more, without factoring in the cost of a settlement.

Q. How much liability insurance is enough?

A. Choosing liability limits is something only you can decide. It is suggested that you seek legal counsel to help you determine what adequate limits are for you and your horse operation. Some factors can help you make this decision: 1) The amount of your net worth. 2) Knowing the largest judgement ever awarded in your county for a civil suit. 3) Understanding how your state laws protect you. For example, is there a cap on judgements in your state?

**For Insurance Questions,
Contact Your Insurance Agent or
Underwriters at North American
Horsemen's Association.**



**North American
HORSEMEN'S
ASSOCIATION**

ARK AGENCY

P.O. Box 223 • Paynesville, MN 56362

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**For Legal Questions,
Consult With Your Attorney.**

General information only. It is suggested that you seek legal counsel to help you assess your liability exposures and how to mitigate them.