

# Some Liability Responsibilities

Jerome E. Johnson

In general, a person cannot be held responsible for injuries or damages to others unless he has acted in a negligent or careless manner or has intentionally harmed another. Negligence involves a failure to act as a reasonably careful person would have acted in the same situation. A person is generally held liable for all damage or injury caused by his negligence.

A court action involving a jury or a judge determines whether a person is liable or not and the amount of damages. The negligent party must pay the damages awarded or serious consequences may follow. The consequences can include seizure of his property, which then can be sold to satisfy the court damages. The property of a negligent farmer which may be seized includes all of his real and personal farm property except his homestead, and can thus include his means of earning his living. A homestead in North Dakota is limited to 160 acres of land and a farm home.

## MAJOR AREAS

Liabilities of farmers can be grouped into several major areas. This article cannot discuss each of the areas in detail. Its purpose is to increase awareness of potential legal liabilities, so that a farmer is better able to use legal counsel. It cannot and does not substitute for competent legal advice.

Ownership, possession and use of land subjects the farmer to many types of potential liability. He has certain obligations to others and a failure to perform them may make him legally liable for any resulting damages or injuries. An insurance agent can help choose the proper insurance protection for a farming situation.

A farmer has an obligation to neighboring land owners to use his land in a reasonable manner to prevent injury or damage to them. Fences must be kept in good repair so livestock do not damage another's crops. In burning grass or stubble land he may be held liable if the fire spreads and damages his neighbor's property. Crop sprays may "drift" onto and damage neighbor's crops or property, for which the farmer may be held liable. Improper draining of surface water onto another's

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land can expose the farmer to serious legal liability.

## Group Responsibilities

The farmer has certain responsibilities to three groups of people, "invitees," licensees, and trespassors, who may come onto his land. His obligation to an invitee, a person whom the farmer asks onto his land for his financial benefit, such as an egg buyer or used machinery buyer, is to inspect his property regularly and keep it in reasonably safe condition. The farmer's duties to a licensee, who enters on the farm lawfully for his own gain or is invited for social rather than business reasons, is to keep his property in a safe condition. The farmer's duty to a trespassor, who is not rightfully on the land and has entered on it without the farm operator's consent, is not to injure him intentionally. But for children who trespass the rules are different, since a child's immaturity may mean that he does not appreciate potential dangers. The farmer must take precautionary measures so that children do not injure themselves.

Farmers who make their land available for recreational purposes, such as hunting, camping or fishing, have certain duties to those who come onto their property. A farmer is well advised to check his legal liabilities with his legal counsel, for the ramifications are many and involved.

## Extended Liabilities

Liabilities between landlords and tenants extend to each other and to third parties. The landlord is obligated to reveal any hazards to the tenant, while the tenant is obligated to inspect the rented property and could be liable for any injuries resulting from defects he should have discovered in his inspection. The landlord has the same obligation as the tenant where he retains control of a part of the property for his own use. He also may be held liable for certain actions of his tenants.

While usually parents are not responsible for damages or injuries caused by their children, there are important exceptions. A parent may be liable if he carelessly gives his minor child a dangerous instrument, or if he is aware that his child tends to be careless. He may be liable for injury arising from his child's negligence in operating a motor vehicle in his father's business, such as driving a grain truck.



### Liability For Animals

The farmer's liability for animals requires that he take all reasonable precautionary measures to prevent animals from straying off his property. He may be held liable for injuries and damages caused by his animals. The liability is based on more than either negligence or carelessness, but is rather an absolute liability. The potential liability can be very great if a motorist is seriously injured or killed in a collision with a stray animal. A farmer may be liable for injuries to employees or others who come on his land if he has reason to know an animal is dangerous, such as a vicious dog or temperamental bull.

Motor vehicles, such as automobiles, farm trucks, and tractors, have given rise to many potential liabilities for the farmer. He not only faces the same traffic hazards as his city neighbor, but also particular liabilities arising from the use of the farm truck and tractor on public highways. Being a member of a farm partnership can introduce other areas of potential liability.

### Employee Relationships

Employers not only have certain liabilities to employees but also may be liable for acts of employees. The employer can be held responsible for the negligence of employees when it occurs within the scope of their jobs. The farmer has certain duties to farm employees not covered by workmen's compensation, including (1) providing safe

tools and equipment, (2) a safe and suitable place of work, (3) reasonable care in selecting fellow employees, and (4) properly instructing them regarding dangers related with their work. However, in certain cases, employees may not be able to recover for their injuries even though the employer has been negligent or failed to perform one or more of the above duties. The employee may have been contributorily negligent, may have known of the risks involved and assumed the risks and thereby relieved the employer of all liability, or the injuries may have been caused solely by negligence of a fellow employee.

### SUMMARY

Farmers have several major areas of liability, and are generally held liable for damage or injury caused by negligence. A farmer has an obligation to neighboring landowners, and certain responsibilities to people who come onto his property. An obligation between landlords and tenants also exists in the area of liability. A farmer may also be held liable for injuries and damages caused by his animals. Employers have responsibilities to employees, and may be responsible for their acts. Because of the many and involved ramifications, a farmer is advised to check his legal liabilities with his legal counsel.

Selected areas of potential farm liability have been lightly explored in this article. They are covered in greater detail in Bulletin 471.

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