



MANAGING LEGAL LIABILITY SERIES: Insurance Factsheet

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Everything you do in life has liability exposures from driving to the store to inviting friends to your home for a cookout. The level of exposure represents your vulnerability to legal action. For automobile liability protection you purchase auto insurance and homeowners insurance is obtained for homeowner liability protection. Agricultural entrepreneurs may purchase commercial liability or farmowners insurance to protect them from the exposure to the legal risks they face in operating their agricultural business. Therefore, it is critical to think about, talk about, and purchase the correct liability insurance protection.

Homeowners Insurance.

Standard homeowners insurance policies typically do not provide coverage for any farming activities including the sale of produce, cottage food operations or agritourism activities.

Sample Exclusion: Liability coverage does not apply “to bodily injury or property damage because of or arising out of a business owned or financially controlled by an insured or by a partnership or joint venture of which an insured is a partner or member.”

Persons operating businesses from their homes may also lose coverage on the structure and contents resulting from a business related loss.

Farmowner Policy Definition

A farmowner policy includes several key definitions. You should review your farmowner policy for the definitions that apply to your specific contract. They **may** read as follows:

- "Farming" means the ownership, maintenance, or use of premises for the production of crops or the raising or care of livestock, including all necessary operations.
 - Crops and livestock are the key words. When you engage in activities that are outside of these parameters, your farm will need another type of insurance.
- "Farming" also includes the operations of roadside stands and farm markets maintained principally for the sale of the "insured's" own farm products but it typically does not include other retail activities.

- On your farm policy, you **may** have a statement that allows your farm stand to be included on your farmowner policy. Again, it is important to review your policy to determine how “farming” is defined.
- "Business" means a trade, a profession, or an occupation, all whether full or part time. (*Basically anything you're doing other than farming.*)
- "Business" includes services regularly provided by an "insured" ... for which an "insured" is compensated. (*A mutual exchange of like services is not considered compensation.*)

Liability Insuring Agreement

All liability insurance policies have an Insuring Agreement. You should read your own liability policy for its specific Insuring Agreement wording. It **may** read, in part, as follows:

"We" (*your insurance company*) will defend a suit seeking damages if the suit resulted from "bodily injury" or "property damage" not excluded under this coverage.

It is the insurance company's duty to defend you against liability claims or complaints resulting from activities or events that are covered by your policy.

Farmowner Policy Coverage

A typical farmowner policy provides certain base property and liability coverages. You should review your policy declarations page and meet with your agent on a regular basis to review and understand your coverage. The policy declarations page will usually contain the following liability information:

- **Premises & Operations Liability Coverage** – provides coverage for bodily injury or property damage caused by you as it relates to the ownership, maintenance and use of your farming operation (i.e. a neighbor injured while visiting the farm)
- **Products Liability Coverage** - provides coverage for bodily injury or property damage caused by defective products. The base farmowner policy covers “raw” products only.
 - If the raw product is altered by you (a value-added product), there is no products coverage under the base farmowner policy. For example,
 - The base farmowner policy will cover the production of apples. But the policy will not cover the production of apple cider/juice or any other product made from the apples.
 - When a farmer combines multiple types of lettuce into a salad mix, it is considered a value added product and would not be covered under the base farmowner policy.
 - Coverage can be obtained by adding an endorsement to the farmowner policy or by obtaining a separate liability policy.

Farmowner Liability Exclusions

All liability insurance policies have exclusions. You should review your policy for specific wording. Typical exclusions are as follows:

- "Bodily injury" or "property damage" which results from activities related to the "business" of an "insured."
 - On a standard farmowner policy, business is considered anything other than farming (i.e. agritourism activities).
 - Sometimes "incidental" business pursuits, within a certain receipts limit, are covered (or can be endorsed) to the policy - such as roadside stands or custom farming activities.
 - *Availability will depend on the wording of the policy and your insurance carrier's endorsements*

Activities/Exposures and Insurance Solution Possibilities

Farm activities should be discussed with your insurance agent and include a tour of the property allowing the agent to actually see what and how the activity is being done.

Activity/Exposure	Insurance Solution
Farming –crop production or the raising or care of livestock	Farmowner policy or a General Liability policy. <i>Note: Depending on the scope and extent of the farming activity, some insurance carriers may provide coverage under a Homeowner policy with an incidental farm endorsement.</i>
Agribusiness or agritourism – ordinarily conducted on your premises or on another premises by you other than crop or livestock farming.	Farmowner policy, General Liability policy or a Specialty Liability policy
Special event - such as a fair, carnival, exhibition, fundraising activity, Halloween maze or other event of <i>short duration</i> .	Farmowner policy with an endorsement/rider or a Special Event policy
You have a website and sell produce from your farm over the web. You take on-line orders and accept credit card payments over the internet through a third party payment service (i.e. PayPal®).	Cyber Liability policy or endorsement on General Liability or Farmowner policy if available Common causes for lawsuits are copyright infringement, invasion of privacy or other types of issues that arise when operating on the web. Particularly if you have others responsible for the content on your site, you are open to some of these claims. ¹ <i>**Includes Websites, Facebook, Twitter, Email, Text messages, etc.</i> Excerpt from http://liabilityinsurancefacts.com/ar/cyber-liability-insurance.php
You have farm employees and/or use H2A Guest workers.	Workers' Compensation policy or Employers' Liability endorsement on the Farmowner policy (if available)

Sample Checkpoint Review

As you plan a review of your insurance coverage, the following table may help you in preparing to discuss your insurance needs with your insurance company or agent. For each activity, a separate policy or an endorsement to your current policy may be needed.

The candid discussion you have with your insurance agent along with the available endorsements or programs of the insurance company will guide your decision.

Farm Activity List	Insurance Policy List
You have 400 acres, 6 pleasure horses, corn and wheat crops and various farm animals	Farmowner policy
You have the above plus have decided to stock and sell horse feed and horse care products. (You do not re-package or re-label the products.)	Farmowner policy with an endorsement or a General Liability policy
You have the above and are now boarding 10 horses for others and giving horseback riding lessons.	Equine Liability policy
You have the above plus have a Halloween corn maze the last two weeks of October.	Farmowner policy with an endorsement, a General Liability policy or a Special Event policy
You have the above and now have your own website. You advertise your farm, your horse products, horse boarding, horseback riding lessons and the corn maze on it. You also advertise on your Facebook® page.	Cyber Liability policy
You believe additional liability protection is needed	Farm or Commercial Umbrella policy

Insurance Resources

- liabilityinsurancefacts.com provides liability information.
- www.vwc.state.va.us offers guidelines on Workers' Compensation insurance.
- http://www.naic.org/consumer_glossary.htm lists insurance terminology