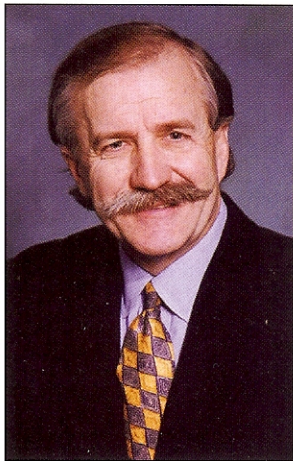


equine product liability



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MANUFACTURERS, DISTRIBUTORS AND RETAILERS OF EQUINE PRODUCTS ARE all potentially liable for damages caused by defective consumer products they place into the stream of commerce. For example, a manufacturer of horse worming medicine may be liable to a horse owner if it is shown that the wormer was tainted and caused injury to the horse. Likewise, the distributor of the medicine may be held liable. Finally, the tack shop that sold the wormer to the horseman may be liable. Virtually all consumer products sold to horsemen are potentially covered by the product liability laws of a state. This would include items as ordinary as saddles, bridles and other tack. Or, as in the above example, medicines and drugs intended for equine use. The laws can even be applied to trainers, horseshoers and boarding stables if they provide a defective product along with their services.

Since there is no federal products liability law, claims are based on state law. While many states have enacted comprehensive products liability statutes, others rely on the common law. Common law is developed through courts rather than statutory enactments. In either event, product liability claims can be based on negligence, strict liability or breach of warranty, depending on the jurisdiction. However, in any jurisdiction, it must be proven that the product was defective. There are generally three different types of product defects that can establish liability. They are: design defects, manufacturing defects and warning defects.

Design defects are pretty much what they sound like. The product is inherently defective due to a design defect. In other words, the product is defective even before it is actually manufactured. Even though the product may serve its purpose, it may be unreasonably dangerous to use because of a design flaw. For example, a living quarters horse trailer may have been designed with inadequate smoke detectors, or brakes, or gooseneck hitch.

On the other hand, manufacturing defects typically occur during the construction or production of the item. The defect may be limited to one item out of thousands that were produced, or it may be a whole line of goods defectively manufactured because of a flaw in the manufacturing process. For example, a feed company may have allowed its horse feed to become contaminated with some poisonous or toxic substance, sickening or causing the death of numerous horses. Or, a saddlemaker may have used a cheap cinch strap in constructing a saddle, causing a wreck when it breaks during a training session.

Warning defects involve improper, inadequate or failure to warn of latent defects in the product. As an example, anyone who has used Regu-Mate® to control estrus in their mares will have seen numerous warnings on the package label. Even the bottle and package itself will have warnings to avoid skin contact, especially by pregnant women. From a legal standpoint, these warnings are meant to shield the manufacturer from liability. However, if it is determined that the warnings were inadequate, liability may still attach.

Since product liability is generally premised on strict liability, it is not necessary to prove negligence by the manufacturer, distributor or retailer. All that is necessary is to prove the product defective. If it is shown that a product is defective and caused harm the defendant will be held liable.

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