





Regulations You May Encounter **Horsing** Around Maryland

By Kathleen J.P. Tabor

Your client's activities involving horses will greatly define how many and which regulations (local, state, or federal) you will encounter as their legal counsel. Which regulation your client may violate and which regulatory agency will be addressing any transgression will be the determining factors as to how you will help them address the non-compliance. You may find yourself in an administrative proceeding before a local jurisdiction or state agency, or before a federal agency such as the United States Dept. of Agriculture (USDA).

Horses, in general, are regulated by their use. The federal government plays a limited role in day-to-day equine activities that take place exclusively in Maryland. The USDA's involvement will primarily involve the interstate movement of horses and disease control, as well as regulating horse show management through the Horse Protection Act. The Internal Revenue Service's primary concern is whether your client's deductions on their tax returns are bona fide business deductions or hobby losses.

In Maryland, horses are defined as livestock. MD. Code Ann., Agric. §3-301(b). This designation is significant as to how the law treats the horse with regard to its health, welfare and use. The State will have oversight on the transportation of horses, health and welfare, licensing of commercial and sanctuary/rescue purposes, breeding and racing of Thoroughbreds and Standardbreds, and intrastate transportation of horses. The counties are primarily involved with the ownership aspect of horses through zoning regulations. A few counties have additional licensing for boarding facilities.

Horses that are kept as "backyard companion animals" and which rarely leave their property, will primarily be regulated by that county's zoning codes. Each county determines where horses are permitted to be kept, how many animals per acreage, and set-back regulations for barns and fences. Counties may also regulate horse operations for commercial purposes (e.g. boarding). Determining what the county requires regarding licensure, agriculture buildings, type and number of livestock permitted, property conservation, and how the county defines "horse farm" and "commercial horse facilities," can be found by accessing the codes



through the Maryland State Law Library at <http://www.lawlib.state.md.us/researchtools/codescounty.html> (Accessed July 2017) or directly through each county's government website. A short summary of county zoning regulations for horses can also be found in The Maryland Horse Council's Guide to County Zoning and Horses (2012), <https://elcr.org/wp-content/uploads/2013/04/MHC-Guide-to-County-Zoning-Horses.pdf>, (Accessed July 2017).

The privately owned horse that may, on occasion, be hauled off site to a fairground for an exhibition or show will need to comply with the state Department of Agriculture's Animal Health Fair and Show Requirements as it applies to livestock. COMAR 15.11.14.06. This includes having an up-to-date Maryland Certificate of Veterinary Inspection or CVI. For horses being hauled over the state line for shows, exhibitions, or for any purpose whatsoever, a current Coggins certificate (testing for Equine

Infectious Anemia) is also required.

If your client is hauling horses for hire there are both state and federal regulations for motor vehicle operations and which may apply depends upon whether the horses are hauled within the state or over state lines. A great resource for knowing if your client needs to comply with commercial motor vehicle regulations is "Maryland Regulations on Transporting Horses," Publication #FS-964, September 2013 published by the University of Maryland Extension. Go to http://extension.umd.edu/sites/extension.umd.edu/files/_docs/programs/horses/FS-964%20HorseTransportationRegulations.pdf (Accessed July 2017).

A Nutrient Management Plan (NMP's) may be required depending on the number of horses on the property or the gross income generated from the use of the horses (e.g. sanctuary, rescue or boarding facilities). Horse farms with eight (8) or more animal units (1000 pounds = 1 animal

unit) or \$2,500 per year gross income must have an NMP. The Maryland Department of Agriculture can assist your client in developing their NMP and provide guidelines for compliance. Non-compliance may result in a penalty of \$250.00 per incident. MD. Code Ann., Agric. §8-801, *et seq.*

Your client may also find that regulations for disposing of the horse's carcass will vary from county to county. Some folks believe that they have the absolute right to dig a hole in their back field and bury a horse. Several considerations, including the health of the animal at the time of death, regulate when, where and how a carcass can be disposed. Environmental conditions such as waterways or groundwater potentially becoming contaminated by the disposal, as well as the soil composition of the land, are the primary considerations dictating the client's right to dispose of the animal on the property. The Department of Agriculture requires the prompt disposal of an equine carcass. Carcasses may be disposed of by burial, cremation, incineration, rendering, public landfill (if permitted by local ordinance) or any acceptable agriculture method. MD. Code Ann., Agric. §§2-304 and 2-304.1. If an animal is not properly disposed on the property and a complaint arises (from a neighbor or other observer), the Maryland Health Department will become involved.

You may also get a call from a desperate horse owner who has discovered that a lien has been placed against their horse for non-payment of care. The Maryland Livestock Lien permits the caretaker of a horse to recover costs associated with the care of a horse if payment is more than thirty days in arrears. MD. Code Ann., Com. Law §16-401. The caretaker can comply by providing the owner with a

list of deficiencies, via a registered or certified letter, and through publication in a local newspaper twice before the auction date. The caretaker can then sell the horse at public auction to recoup their expenses for the care of the horse and the cost of placing the lien on the horse. This method does not require court action or intervention to effectuate the lien.

In cases of alleged neglect or abuse, your client may be facing both civil and criminal consequences. The relevant sections of the Maryland Criminal Law Code would be §10-604 as to horses, Abuse or neglect of animal; §10-606 Aggravated cruelty to animals; §10-612 Abandoning domestic animal; and §10-620 Interference with race horse. County animal control agencies are the primary enforcers of horse welfare.

Additionally, civil fines issued by the Maryland Horse Industry Board (MHIB) may ensue if the alleged abuser was operating as a lesson, boarding or rental stable, or as a sanctuary or rescue operation. MHIB inspects horse operations for the minimum standards of care of horses and basic maintenance of facilities and tack. MHIB provides a formal complaint procedure for concerns regarding the care of horses at licensed facilities. Of note, accusers may not submit anonymous complaints and such unsupported accusations will not be investigated by MHIB.

Failure to license with the MHIB as a facility that has advertised to the public and has one or more horses on the property to provide lessons, boarding or rental services to the general public, or operates as a rescue or sanctuary facility, will result in civil penalties. Licenses are issued annually and facilities are inspected by the MHIB. Noncompliance to license or to

pass an inspection may result in your client's explaining why they have failed to comply with the regulations and in the state collections office's garnishing the fees and fines. MD. Code Ann., Agric. §§2-707, 2-711, and 2-712. Exemptions to licensing with the MHIB include horses used strictly for agricultural purposes, such as working or cultivating the soil, herding, or cutting livestock, and Thoroughbred and Standardbred horse operations. COMAR 15.16.01.03

If your client is involved with Thoroughbred or Standardbred horses, Quarter Horse racing, or Steeplechase/hurdle racing, or holds a job with the tracks, you will find yourself dealing with the administrative authority of the Maryland Racing Commission (MRC) and Track Stewards. All individuals involved with the business operations of the race tracks or racing events are required to be licensed. Racing regulation infractions are primarily heard before administrative hearings with the MRC, but are appealable to the State's Courts. MD. Code Ann., Bus. Reg. § 11-101, *et seq.*

Most likely, you will be contacted when the client becomes aware of their non-compliance after being notified by the regulating agency that they are facing civil fines and penalties. If you are lucky, the client will come to you with their plans of being involved with horses and allow you the opportunity to provide sound legal counsel as to compliance with the various regulations and incorporating best practices for land management and business.

Ms. Tabor is a Solo Practitioner at the Law Office of Kathleen JP Tabor, LLC. A lifelong and avid horsewoman, she serves on the Maryland Horse Industry Board, the Executive Committee of the Maryland Horse Council, and the advisory board for Maryland Fund for Horses, Inc.