

LEGISLATIVE BILL 153

Approved by the Governor March 26, 1997

Introduced by Jones, 43; Cudaback, 36; Dierks, 40; Elmer, 44; Hudkins, 21;
Schellpeper, 18; Schmitt, 41; Schrock, 38; Wickersham, 49

AN ACT relating to equine activities; to provide standards and procedures for civil liability.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature recognizes that persons who participate in equine activities may incur injuries as a result of the risks involved in such activities. The Legislature also finds that the state and its citizens derive numerous economic and personal benefits from such activities. It is, therefore, the intent of the Legislature to encourage equine activities by providing reasonable standards for those involved in such activities.

Sec. 2. For purposes of this act:

(1) Engages in an equine activity means riding, training, assisting in medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted, or being a passenger upon an equine-drawn vehicle, or any person assisting a participant or assisting show management. Engages in an equine activity does not include being a spectator at an equine activity except in cases when the spectator places himself or herself in an unauthorized area;

(2) Equine means a horse, pony, donkey, mule, hinny, or llama;

(3) Equine activity means:

(a) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter, and jumper horse shows, grand-prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding, western games, and hunting;

(b) Equine training or teaching activities or both;

(c) Boarding equines;

(d) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;

(e) Rides, trips, hunts, or other equine activities of any type however informal or impromptu that are sponsored by an equine activity sponsor; and

(f) Placing or replacing horseshoes on an equine;

(4) Equine activity sponsor means an individual, group, club, partnership, limited liability company, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs, and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including, but not limited to, stables, clubhouses, ponyride strings, fairs, and arenas at which the equine activity is held;

(5) Equine professional means a person engaged for compensation:

(a) In instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine; or

(b) In renting equipment or tack to a participant;

(6) Inherent risks of equine activities means those dangers or conditions which are an integral part of equine activities, including, but not limited to:

(a) The propensity of an equine to behave in ways that may result in injury, harm, or death to persons on or around them;

(b) The unpredictability of an equine's reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals;

(c) Certain hazards such as surface and subsurface conditions;

(d) Collisions with other equines or objects; and

(e) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the equine or not acting within his or her ability; and

(7) Participant means any person, whether amateur or professional, who engages in an equine activity whether or not a fee is paid to participate

in the equine activity.

Sec. 3. Except as provided in section 4 of this act, (1) an equine activity sponsor, an equine professional, or any other person, which includes a corporation, limited liability company, or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities and (2) no participant nor participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor, an equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities.

Sec. 4. (1) This act shall not apply to the horseracing industry as regulated in sections 2-1201 to 2-1229.

(2) Nothing in section 3 of this act prevents or limits the liability of an equine activity sponsor, an equine professional, or any other person if the equine activity sponsor, equine professional, or person:

(a) Provided the equipment or tack and the equipment or tack caused the injury because the equine activity sponsor or professional failed to reasonably and prudently inspect or maintain the equipment or tack;

(b) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and determine the ability of the participant to safely manage the particular equine based on the participant's representations of his or her ability;

(c) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries or death because of a dangerous latent condition which was known or should have been known to the equine activity sponsor, equine professional, or person and for which warning signs were not conspicuously posted;

(d) Commits an act or omission which a reasonable, prudent person would not have done or omitted under the same or similar circumstances or which constitutes willful or wanton disregard for the safety of the participant and that act or omission was a proximate cause of the injury; or

(e) Intentionally injures the participant.

(3) Nothing in section 3 of this act prevents or limits the liability of an equine activity sponsor or an equine professional under product liability laws.

Sec. 5. Every equine professional shall post and maintain signs which contain the warning notice specified in this section. The signs shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional conducts equine activities if such stables, corrals, or arenas are owned, leased, rented, managed, or controlled by the equine professional. The placement of warning signs shall be such that they may be readily seen by participants in equine activities. The warning notice specified in this section shall appear on the sign in black letters with each letter a minimum of three inches in height. Every written contract entered into by an equine professional for providing professional services, instruction, or rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's business, shall contain in clearly readable print the warning notice specified in this section. The signs and contracts shall contain the following warning notice:

WARNING

Under Nebraska Law, an equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to this act.