

ASSEMBLY, No. 2267

STATE OF NEW JERSEY

INTRODUCED JULY 18, 1996

By Assemblymen BATEMAN and ARNONE

1 AN ACT concerning the responsibilities and liabilities of individuals  
2 involved in equestrian activities and supplementing Title 5 of the  
3 Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

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8 1. The Legislature finds and declares that equine animal activities  
9 are practiced by a large number of citizens of this State; that equine  
10 animal activities attract large numbers of nonresidents to the State;  
11 that those activities significantly contribute to the economy of this  
12 State; and that horse farms are a major land use which preserves open  
13 space.

14 The Legislature further finds and declares that equine animal  
15 activities involve risks that are essentially impractical or impossible for  
16 the operator to eliminate; and that those risks must be borne by those  
17 who engage in those activities.

18 The Legislature therefore determines that the allocation of the risks  
19 and costs of equine animal activities is an important matter of public  
20 policy and it is appropriate to state in law those risks that the  
21 participant voluntarily assumes for which there can be no recovery.

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23 2. As used in this act:

24 "Equestrian area" means all of the real and personal property under  
25 the control of the operator or on the premises of the operator which  
26 are being occupied, by license, lease, fee simple or otherwise,  
27 including but not limited to designated trail areas, designated  
28 easements or rights-of-way for access to trails, and other areas utilized  
29 for equine animal activities.

30 "Equine animal" means a horse, pony, mule or donkey.

31 "Equine animal activity" means any activity that involves the use of  
32 an equine animal and shall include selling equipment and tack;  
33 transportation, including the loading and off-loading for travel to or  
34 from a horse show or trail system; inspecting, or evaluating an equine  
35 animal belonging to another person whether or not the person has  
36 received compensation; placing or replacing shoes on an animal  
37 equine; and veterinary treatment on an equine animal.

1 "Inherent risk or risks of an equine animal activity" means those  
2 dangers which are an integral part of equine animal activity, which  
3 shall include but need not be limited to:

4 a. The propensity of an equine animal to behave in ways that result  
5 in injury, harm, or death to nearby persons;

6 b. The unpredictability of an equine animal's reaction to such  
7 phenomena as sounds, sudden movement and unfamiliar objects,  
8 persons or other animals;

9 c. Certain natural hazards, such as surface or subsurface ground  
10 conditions;

11 d. Collisions with other equine animals or with objects; and

12 e. The potential of a participant to act in a negligent manner that  
13 may contribute to injury to the participant or others, including but not  
14 limited to failing to maintain control over the equine animal or not  
15 acting within the participant's ability.

16 "Operator" means a person or entity who owns, manages, controls  
17 or directs the operation of an area where individuals engage in equine  
18 animal activities whether or not compensation is paid. "Operator"  
19 shall also include an agency of this State, political subdivisions thereof  
20 or instrumentality of said entities, or any individual or entity acting on  
21 behalf of an operator for all or part of such activities.

22 "Participant" means any person, whether an amateur or  
23 professional, engaging in an equine animal activity, whether or not a  
24 fee is paid to engage in the equine animal activity or, if a minor, the  
25 natural guardian, or trainer of that person standing in loco parentis,  
26 and shall include anyone accompanying the participant, or any person  
27 coming onto the property of the provider of equine animal activities or  
28 equestrian area whether or not an invitee or person pays consideration.

29 "Spectator" means a person who is present in an equestrian area for  
30 the purpose of observing animal equine activities whether or not an  
31 invitee.

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33 3. A participant and spectator are deemed to assume the inherent  
34 risks of equine animal activities created by equine animals, weather  
35 conditions, conditions of trails, riding rings, training tracks,  
36 equestrians, and all other inherent conditions. Each participant is  
37 assumed to know the range of his ability and it shall be the duty of  
38 each participant to conduct himself within the limits of such ability to  
39 maintain control of his equine animal and to refrain from acting in a  
40 manner which may cause or contribute to the injury of himself or  
41 others, loss or damage to person or property, or death which results  
42 from participation in an equine animal activity.

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44 4. A participant or a spectator shall not engage in, attempt to  
45 engage in, or interfere with, an equine animal activity if he is  
46 knowingly under the influence of any alcoholic beverage as defined in

1 R.S.33:1-1 or under the influence of any prescription, legend drug or  
2 controlled dangerous substance as is defined in P.L.1970, c.226  
3 (C.24:21-1 et seq.), or any other substance that affects the individual's  
4 ability to safely engage in the equine animal activity and abide by the  
5 posted and stated instructions. The operator may prevent a participant  
6 or a spectator who is perceptibly or apparently under the influence of  
7 drugs or alcohol, from engaging in, or interfering with, an equine  
8 animal activity or being in an equestrian area. An operator who  
9 prevents a participant or a spectator from engaging in, or interfering  
10 with, an equine animal activity, or being in an equestrian area in  
11 accordance with this section shall not be criminally or civilly liable in  
12 any manner or to any extent whatsoever if the operator has a  
13 reasonable basis for believing that the participant or spectator is under  
14 the influence of drugs or alcohol.

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16 5. The assumption of risk set forth in section 3 of this act shall be  
17 a complete bar of suit and shall serve as a complete defense to a suit  
18 against an operator by a participant for injuries resulting from the  
19 assumed risks, notwithstanding the provisions of P.L.1973, c.146  
20 (C.2A:15-5.1 et seq.) relating to comparative negligence. Failure of  
21 a participant to conduct himself within the limits of his abilities as  
22 provided in section 3 of this act shall bar suit against an operator to  
23 compensate for injuries resulting from equine animal activities, where  
24 such failure is found to be a contributory factor in the resulting injury.

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26 6. a. As a precondition to bringing any suit in connection with a  
27 participant injury against an operator, a participant shall submit a  
28 written report to the operator setting forth all details of any accident  
29 or incident as soon as possible, but in no event longer than 180 days  
30 from the time of the accident or incident giving rise to the suit.

31 b. The report shall include at least the following: The participant's  
32 name and address, a brief description of the accident or incident, the  
33 location of the accident or incident, the alleged cause of the accident  
34 or incident, the names of any other persons involved in the accident or  
35 incident and witnesses, if any. If it is not practicable to submit the  
36 report within 180 days because of severe physical disability resulting  
37 from a participant accident or incident, the report shall be submitted  
38 as soon as practicable. This section is not applicable with respect to  
39 an equestrian area unless the operator conspicuously posts notice to  
40 participants of the requirements of the section.

41 c. A participant who fails to submit the report within 180 days  
42 from the time of the accident or incident may be permitted to submit  
43 the report at any time within one year after the accident or incident, if  
44 in the discretion of a judge of the Superior Court the operator is not  
45 substantially prejudiced thereby. Application to the court for  
46 permission to submit a late report shall be made upon motion based on

1 affidavits showing sufficient reasons for the participant's failure to give  
2 the report within 180 days from the time of the accident or incident  
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4 7. Notwithstanding any provision of this act, or any other law to  
5 the contrary, an action for injury or death against an operator, an  
6 equestrian area or its employees or owner, whether based upon tort or  
7 breach of contract or otherwise arising out of equine animal activities,  
8 shall be commenced no later than two years after the occurrence of the  
9 incident or earliest of incidents giving rise to the cause of action.  
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11 8. If a participant accident or incident, or an action based upon an  
12 equine animal activity or incident, involves a minor, the time limits set  
13 forth in sections 6 and 7 of this act shall not begin to run against the  
14 minor until the minor reaches the age of majority, unless there was  
15 present to approve conditions and riding ability a person standing in  
16 loco parentis, who made these decisions for the minor in activities  
17 including but not limited to horse shows, trying a horse for sale, riding  
18 lessons, trail rides, and demonstrations.  
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20 9. Notwithstanding any provisions of sections 3 and 4 of this act  
21 to the contrary, the following actions or lack thereof on the part of  
22 operators shall be exceptions to the limitation on liability for  
23 operators:

24 a. Knowingly providing equipment or tack that is faulty to the  
25 extent that it causes or contributes to injury.

26 b. Failure to make reasonable and prudent efforts to determine the  
27 participant's ability to safely manage the particular equine animal,  
28 based on the participant's representation of his ability, or the  
29 representation of the guardian, or trainer of that person standing in  
30 loco parentis, if a minor.

31 c. A case in which the participant is injured or killed by a known  
32 dangerous latent condition on property owned or controlled by the  
33 equine animal activity operator and for which warning signs have not  
34 been posted.

35 d. An act or omission on the part of the operator that constitutes  
36 negligent disregard for the participant's safety, which act or omission  
37 causes the injury, and

38 e. Intentional injuries to the participant caused by the operator.  
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40 10. All operators shall post and maintain signs on all lands owned  
41 or leased thereby and used for equine activities, which signs shall be  
42 posted in a manner that makes them visible to all participants and  
43 which shall contain the following notice in large capitalized print:

44 "WARNING: UNDER NEW JERSEY LAW, AN EQUESTRIAN  
45 AREA OPERATOR IS NOT LIABLE FOR AN INJURY TO OR THE  
46 DEATH OF A PARTICIPANT IN EQUINE ANIMAL ACTIVITIES

1 RESULTING FROM THE INHERENT RISKS OF EQUINE  
2 ANIMAL ACTIVITIES, PURSUANT TO P.L. ,c. (C. )(now  
3 before the Legislature as this bill)."

4 Individuals or entities providing equine animal activities on behalf of  
5 an operator, and not the operator, shall be required to post and  
6 maintain signs required by this section.

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8 11. The provisions of this act are cumulative with the defenses  
9 available to a public entity or public employee under the "New Jersey  
10 Tort Claims Act", N.J.S.59:1-1 et seq.

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12 12. This act shall not apply to the horse racing industry.

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14 13. This act shall take effect immediately.

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#### STATEMENT

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19 The purpose of this bill is to establish by statute the responsibilities  
20 and liabilities of those individuals who engage in equine animal  
21 activities. Equine animal activities includes any activity that involves  
22 the use of horses and ponies such as riding lessons, trail riding, horse  
23 training, or engaging in horse shows. This bill would enable operators  
24 of equestrian areas, acting under a reasonable basis, to prevent  
25 participants or spectators who are under the influence of drugs or  
26 alcohol from engaging in an equine animal activity without subjecting  
27 the operator to criminal or civil liability.

28 This bill provides that one who engages in equine activities assumes  
29 the risks involved in those activities. Under the provisions of this bill,  
30 notwithstanding the provisions of New Jersey's law with regard to  
31 comparative negligence, a participant would be completely barred  
32 from suing an operator for injuries to which the participant contributed  
33 by failing to conduct himself within the limits of his abilities.

34 The following actions or lack thereof on the part of operators shall  
35 be exceptions to the limitation on liability for operators:

36 a. Knowingly providing equipment or tack that is faulty to the  
37 extent that it causes or contributes to injury.

38 b. Failure to make reasonable and prudent efforts to determine the  
39 participant's ability to safely manage the particular equine animal,  
40 based on the participant's representation of his ability, or the  
41 representation of the guardian, or trainer of that person standing in  
42 loco parentis, if a minor.

43 c. A case in which the participant is injured or killed by a known  
44 dangerous latent condition on property owned or controlled by the  
45 equine animal activity operator and for which warning signs have not  
46 been posted.

1 d. An act or omission on the part of the operator that constitutes  
2 negligent disregard for the participant's safety, which act or omission  
3 causes the injury, and

4 e. Intentional injuries to the participant caused by the operator.

5 The bill also establishes certain preconditions which must be met  
6 prior to instituting an action against an operator. The participant must  
7 file a report with the operator, in writing, outlining the details of the  
8 injury. This report must be filed no later than 180 days after the time  
9 of the accident. If the participant fails to file the report, a Superior  
10 Court judge may allow him to file anytime within one year after the  
11 accident; provided that the operator is not substantially prejudiced by  
12 the late report.

13 In addition, this bill provides that when a participant accident  
14 involves a minor the time limits for the report and the statute of  
15 limitations would not begin to run until the minor reaches the age of  
16 majority unless the decisions have knowingly been made by a guardian,  
17 trainer or person standing in loco parentis.

18 Finally, the bill would require operators to post and maintain signs  
19 that state that the operator is not liable for an injury to or the death of  
20 a participant in equine animal activities resulting from the inherent  
21 risks of equine animal activities.

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26 Establishes certain responsibilities of participants in equestrian  
27 activities and the rights of equestrian area operators.