

[First Reprint]
SENATE, No. 282

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator EWING

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:

7

8 1. The Legislature finds and declares that equine ¹animal¹ activities
9 are practiced by a large number of citizens of this State; that equine
10 ¹animal¹ 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 ¹animal¹
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 ¹animal¹ 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.

22

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 ¹animal¹ activities.

30 "Equine ¹animal¹" means a horse, pony, mule or donkey.

31 "Equine ¹animal¹ activity" means any activity that involves the use

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSV committee amendments adopted May 30, 1996.

1 of an equine animal and shall include selling equipment and tack;
2 transportation, including the loading and off-loading [.] for travel to
3 or from a horse show or trail system; inspecting, or evaluating an
4 equine animal belonging to another person whether or not the person
5 has received compensation; placing or replacing shoes on an animal
6 equine; and veterinary treatment on an equine animal.

7 "Inherent risk or risks of an equine animal activity" means those
8 dangers which are an integral part of equine animal activity,
9 [including]which shall include but need not be limited to:

10 a. The propensity of an equine animal to behave in ways that
11 result in injury, harm, or death to nearby persons [.]

12 b. The unpredictability of an [equine's] equine animal's reaction
13 to such phenomena as sounds, sudden movement and unfamiliar
14 objects, persons or other animals [.]

15 c. Certain natural hazards, such as surface or subsurface ground
16 conditions [.]

17 d. Collisions with other [equines] equine animals or with objects
18 [.] and [:]

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

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

29 "Participant" means any person, whether an amateur or
30 professional, engaging in an equine animal activity, whether or not
31 a fee is paid to engage in the equine animal activity or, if a minor, the
32 natural guardian, or trainer of that person standing in loco parentis,
33 and shall include anyone accompanying the participant, or any person
34 coming onto the property of the provider of equine animal activities
35 or [equine] equestrian area whether or not an invitee or person pays
36 consideration.

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

40
41 3. A participant and spectator are deemed to assume the inherent
42 risks of equine animal activities created by [equines] equine animals
43 , weather conditions, conditions of trails, riding rings, training tracks,
44 equestrians, and all other inherent conditions. Each participant is
45 assumed to know the range of his ability and it shall be the duty of
46 each [equestrian] participant to conduct himself within the limits of

1 such ability to maintain control of his equine ¹animal¹ and to refrain
2 from acting in a manner which may cause or contribute to the injury
3 of himself or others, loss or damage to person or property, or death
4 which results from participation in an equine ¹animal¹ activity.

5
6 4. A participant or a spectator shall not engage in, attempt to
7 engage in, or interfere with, an equine ¹animal ¹activity if he is
8 knowingly under the influence of any alcoholic beverage as defined in
9 R.S.33:1-1 or under the influence of any prescription, legend drug or
10 controlled dangerous substance as is defined in P.L.1970, c.226
11 (C.24:21-1 et seq.), or any other substance that affects the individual's
12 ability to safely engage in the equine ¹animal¹ activity and abide by the
13 posted and stated instructions. The operator may prevent ¹[an
14 equestrian] a participant¹ or a spectator who is perceptibly or
15 apparently under the influence of drugs or alcohol, from engaging in,
16 or interfering with, an equine ¹animal¹ activity or being in an ¹[equine]
17 equestrian¹ area. An operator who prevents a participant or a
18 spectator from engaging in, or interfering with, an equine ¹animal¹
19 activity, or being in an ¹[equine] equestrian¹ area in accordance with
20 this section shall not be criminally or civilly liable in any manner or to
21 any extent whatsoever if the operator has a reasonable basis for
22 believing that the participant or spectator is under the influence of
23 drugs or alcohol.

24
25 5. The assumption of risk set forth in section 3 of this act shall be
26 a complete bar of suit and shall serve as a complete defense to a suit
27 against an operator by a participant for injuries resulting from the
28 assumed risks, notwithstanding the provisions of P.L.1973, c.146
29 (C.2A:15-5.1 et seq.) relating to comparative negligence. Failure of
30 a participant to conduct himself within the limits of his abilities as
31 provided in section 3 of this act shall bar suit against an operator to
32 compensate for injuries resulting from equine ¹animal¹ activities, where
33 such failure is found to be a contributory factor in the resulting injury.

34
35 6. a. As a precondition to bringing any suit in connection with a
36 participant injury against an operator, a participant shall submit a
37 written report to the operator setting forth all details of any accident
38 or incident as soon as possible, but in no event longer than 180 days
39 from the time of the accident or incident giving rise to the suit.

40 b. The report shall include at least the following: The participant's
41 name and address, a brief description of the accident or incident, the
42 location of the accident or incident, the alleged cause of the accident
43 or incident, the names of any other persons involved in the accident or
44 incident and witnesses, if any. If it is not practicable to submit the
45 report within 180 days because of severe physical disability resulting
46 from ¹[an equestrian] a participant¹ accident or incident, the report

1 shall be submitted as soon as practicable. This section is not
2 applicable with respect to an equestrian area unless the operator
3 conspicuously posts notice to participants of the requirements of the
4 section.

5 c. A participant who fails to submit the report within 180 days
6 from the time of the accident or incident may be permitted to submit
7 the report at any time within one year after the accident or incident, if
8 in the discretion of a judge of the Superior Court the operator is not
9 substantially prejudiced thereby. Application to the court for
10 permission to submit a late report shall be made upon motion based on
11 affidavits showing sufficient reasons for the participant's failure to give
12 the report within 180 days from the time of the accident or incident
13

14 7. Notwithstanding any provision of this act, or any other law to
15 the contrary, an action for injury or death against an operator, an
16 equestrian area or its employees or owner, whether based upon tort or
17 breach of contract or otherwise arising out of ¹[equestrian] equine
18 animal¹ activities, shall be commenced no later than two years after the
19 occurrence of the incident or earliest of incidents giving rise to the
20 cause of action.

21
22 8. If a participant accident or incident, or an action based upon an
23 equine ¹animal¹ activity or incident, involves a minor, the time limits
24 set forth in sections 6 and 7 of this act shall not begin to run against
25 the minor until the minor reaches the age of majority, unless there was
26 present to approve conditions and riding ability a person standing in
27 loco parentis, who made these decisions for the minor in activities
28 including but not limited to horse shows, trying a horse for sale, riding
29 lessons, trail rides, and ¹[performances] demonstrations¹ .
30

31 9. Notwithstanding any provisions of sections 3 and 4 of this act
32 to the contrary, the following actions or lack thereof on the part of
33 operators shall be exceptions to the limitation on liability for
34 operators:

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

37 b. Failure to make reasonable and prudent efforts to determine the
38 participant's ability to safely manage the particular equine ¹animal¹,
39 based on the participant's representation of his ability, or the
40 representation of the guardian, or trainer of that person standing in
41 loco parentis, if a minor.

42 c. A case in which the participant is injured or killed by a known
43 dangerous latent condition on property owned or controlled by the
44 equine ¹animal¹ activity operator and for which warning signs have not
45 been posted.

46 d. An act or omission on the part of the operator that constitutes

1 negligent disregard for the participant's safety, which act or omission
2 causes the injury, and

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

5 10. All operators shall post and maintain signs on all lands owned
6 or leased thereby and used for equine activities, which signs shall be
7 posted in a manner that makes them visible to all participants and
8 which shall contain the following notice in large capitalized print:

9 "WARNING: UNDER NEW JERSEY LAW, AN ¹[EQUINE]
10 EQUESTRIAN AREA¹ OPERATOR IS NOT LIABLE FOR AN
11 INJURY TO OR THE DEATH OF A PARTICIPANT IN EQUINE
12 ¹ANIMAL¹ ACTIVITIES RESULTING FROM THE INHERENT
13 RISKS OF EQUINE ¹ANIMAL¹ ACTIVITIES, PURSUANT TO
14 P.L. ,c. (C.)(now before the Legislature as this bill)."

15 Individuals or entities providing equine ¹animal¹ activities on behalf of
16 an operator, and not the operator, shall be required to post and
17 maintain signs required by this section.
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19 11. The provisions of this act are cumulative with the defenses
20 available to a public entity or public employee under the "New Jersey
21 Tort Claims Act", N.J.S.59:1-1 et seq.
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23 12. This act shall not apply to the horse racing industry.
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25 13. This act shall take effect immediately.
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30 Establishes certain responsibilities of participants in equestrian
31 activities and the rights of equestrian area operators.