

[Passed Both Houses]

[First Reprint]

SENATE, No. 282

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator EWING, 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:

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

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 for equine animal activities.

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

3 "Equine animal activity" means any activity that involves the use
4 of an equine animal and shall include selling equipment and tack;
5 transportation, including the loading and off-loading [.] for travel to
6 or from a horse show or trail system; inspecting, or evaluating an
7 equine animal belonging to another person whether or not the person
8 has received compensation; placing or replacing shoes on an animal
9 equine; and veterinary treatment on an equine animal.

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

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

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

18 c. Certain natural hazards, such as surface or subsurface ground
19 conditions [.]

20 d. Collisions with other [equines] equine animals or with objects
21 [.] and [.]

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

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

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

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

43

44 3. A participant and spectator are deemed to assume the inherent
45 risks of equine animal activities created by [equines] equine animals
46 , weather conditions, conditions of trails, riding rings, training tracks,

1 equestrians, and all other inherent conditions. Each participant is
2 assumed to know the range of his ability and it shall be the duty of
3 each ¹[equestrian] participant¹ to conduct himself within the limits of
4 such ability to maintain control of his equine ¹animal¹ and to refrain
5 from acting in a manner which may cause or contribute to the injury
6 of himself or others, loss or damage to person or property, or death
7 which results from participation in an equine ¹animal¹ activity.

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

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

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

43 b. The report shall include at least the following: The participant's
44 name and address, a brief description of the accident or incident, the
45 location of the accident or incident, the alleged cause of the accident
46 or incident, the names of any other persons involved in the accident or

1 incident and witnesses, if any. If it is not practicable to submit the
2 report within 180 days because of severe physical disability resulting
3 from ¹[an equestrian] a participant¹ accident or incident, the report
4 shall be submitted as soon as practicable. This section is not
5 applicable with respect to an equestrian area unless the operator
6 conspicuously posts notice to participants of the requirements of the
7 section.

8 c. A participant who fails to submit the report within 180 days
9 from the time of the accident or incident may be permitted to submit
10 the report at any time within one year after the accident or incident, if
11 in the discretion of a judge of the Superior Court the operator is not
12 substantially prejudiced thereby. Application to the court for
13 permission to submit a late report shall be made upon motion based on
14 affidavits showing sufficient reasons for the participant's failure to give
15 the report within 180 days from the time of the accident or incident
16

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

24
25 8. If a participant accident or incident, or an action based upon an
26 equine ¹animal¹ activity or incident, involves a minor, the time limits
27 set forth in sections 6 and 7 of this act shall not begin to run against
28 the minor until the minor reaches the age of majority, unless there was
29 present to approve conditions and riding ability a person standing in
30 loco parentis, who made these decisions for the minor in activities
31 including but not limited to horse shows, trying a horse for sale, riding
32 lessons, trail rides, and ¹[performances] demonstrations¹ .
33

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

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

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

45 c. A case in which the participant is injured or killed by a known
46 dangerous latent condition on property owned or controlled by the

1 equine animal¹ activity operator and for which warning signs have not
2 been posted.

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

6 e. Intentional injuries to the participant caused by the operator.
7

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

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

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

- 1 activities and the rights of equestrian area operators.