

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 61
Committee Substitute Favorable 3/15/95

Short Title: Immunity From Liability.

(Public)

Sponsors:

Referred to:

January 30, 1995

A BILL TO BE ENTITLED
AN ACT TO PROVIDE IMMUNITY FROM LIABILITY FOR EQUINE ACTIVITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 67.

"EQUINE ACTIVITY LIABILITY IMMUNITY.

"§ 106-801. Purpose; findings.

The General Assembly finds that persons who participate in equine activities may incur injuries as a result of the risks involved in such activities. The General Assembly also finds that the State and its citizens derive numerous economic and personal benefits from such activities. The General Assembly further finds, determines, and declares that this Article is necessary for the immediate preservation of the public peace, health, and safety. It is, therefore, the intent of the General Assembly to encourage equine activities by limiting the civil liability of those involved in such activities.

"§ 106-802. Definitions.

As used in this Article, the term:

- (1) 'Engage in an equine activity' means participate in an equine activity, assist a participant in an equine activity, or assist an equine activity

1 sponsor or equine professional. The term 'engage in an equine activity'
2 does not include being a spectator at an equine activity, except in cases
3 in which the spectator places himself in an unauthorized area and in
4 immediate proximity to the equine activity.

5 (2) 'Equine' means a horse, pony, mule, donkey, or hinny.

6 (3) 'Equine activity' means:

7 a. Riding an equine;

8 b. Participating in riding classes, therapeutic riding programs, or
9 other classes in horsemanship;

10 c. Driving an equine;

11 d. Being a passenger on an equine or a passenger in a cart or other
12 vehicle pulled by an equine;

13 e. Training an equine;

14 f. Boarding an equine;

15 g. Riding, inspecting, or evaluating an equine by a prospective
16 purchaser or his agent;

17 h. Participating in equine shows, fairs, competitions, performances,
18 or parades that involve any breed of equine and any of the equine
19 disciplines, including, dressage, hunter and jumper horse shows,
20 grand prix jumping, three-day events, combined training, rodeos,
21 driving, pulling, cutting, polo, steeplechasing, English and
22 western performance riding, endurance trail riding and western
23 games, and hunting;

24 i. Participating in informal or impromptu equine activities
25 including rides, trips, hunts, or other equine activities;

26 j. Hooftrimming or placing or replacing horseshoes on an equine;

27 k. Examining or administering medical treatment to an equine, or
28 assisting with the examination or administration of medical
29 treatment to an equine; and

30 l. Hauling, plowing, and other agricultural activities using equines.

31 (4) 'Equine activity sponsor' means an individual, group, club, partnership,
32 or corporation, whether the sponsor is operating for profit or nonprofit,
33 which sponsors, organizes, or provides the facilities for an equine
34 activity, including pony clubs; 4-H clubs; hunt clubs; riding clubs;
35 school- and college-sponsored classes, programs, and activities;
36 therapeutic riding programs. The term includes operators and promoters
37 of equine facilities, including stables, clubhouses, ponyride strings,
38 fairs, and arenas at which the activity is held.

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

40 a. Instructing a participant;

41 b. Renting an equine to a participant for the purpose of riding,
42 driving, or being a passenger upon the equine;

43 c. Renting equipment or tack to a participant;

- 1 d. Examining or administering medical treatment to an equine; or
2 e. Hooftrimming or placing or replacing horseshoes on an equine.
3 (6) 'Inherent risks of equine activities' means those dangers or conditions
4 which are an integral part of equine activities, including:
5 a. The propensity of an equine to behave in ways that may result in
6 injury, harm, or death to persons on or around them;
7 b. The unpredictability of an equine's reaction to such things as
8 sounds, sudden movement, unfamiliar objects, persons, or other
9 animals;
10 c. Certain hazards such as surface and subsurface conditions;
11 d. Collisions with other equines or 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, such as
14 failing to maintain control over the animal or not acting within
15 his or her ability.
16 (7) 'Participant' means any person, whether amateur or professional, who
17 engages in an equine activity, whether or not a fee is paid to participate
18 in the equine activity.

19 **"§ 106-803. Immunity from liability.**

20 (a) Except as provided in subsection (b) of this section, an equine activity sponsor,
21 an equine professional, or any other person, including a corporation or partnership, shall
22 not be liable for an injury to or the death of a participant resulting from the inherent risks
23 of equine activities and, except as provided in subsection (b) of this section, no
24 participant or participant's representative shall maintain an action against or recover from
25 an equine activity sponsor, an equine professional, or any other person for injury, loss,
26 damage, or death of the participant resulting from any of the inherent risks of equine
27 activities.

28 (b) Nothing in subsection (a) of this section shall prevent or limit the liability of an
29 equine activity sponsor, an equine professional, or any other person if the equine activity
30 sponsor, equine professional, or person:

- 31 (1) Provided the equipment or tack, and knew or should have known that
32 the equipment or tack was faulty, and such equipment or tack was faulty
33 to the extent that it did cause the injury;
34 (2) Provided the equine and failed to make reasonable and prudent efforts to
35 determine the ability of the participant to engage safely in the equine
36 activity and to safely manage the particular equine based on the
37 participant's representations of his ability;
38 (3) Owns, leases, rents, or otherwise is in lawful possession and control of
39 the land or facilities upon which the participant sustained injuries
40 because of a dangerous latent condition which was known or should
41 have been known to the equine activity sponsor, equine professional, or
42 person and for which warning signs have not been conspicuously
43 posted;

1 (4) Commits an act or omission that constitutes willful or wanton disregard
2 for the safety of the participant, and that act or omission caused the
3 injury; or

4 (5) Intentionally injures the participant.

5 (c) Nothing in subsection (a) of this section shall prevent or limit the liability of an
6 equine activity sponsor or an equine professional under liability provisions as set forth in
7 the products liability laws.

8 "**§ 106-804. Warning required.**

9 (a) Every equine professional and every equine activity sponsor shall post and
10 maintain signs which contain the warning notice specified in subsection (c) of this
11 section. The signs required by this section shall be placed in a clearly visible location on
12 or near stables, corrals, or arenas where the equine professional or the equine activity
13 sponsor conducts equine activities. The warning notice specified in subsection (c) of this
14 Code section shall be designed by the Department of Agriculture and shall consist of a
15 sign in black letters, with each letter to be a minimum of one inch in height. Every
16 written contract entered into by an equine professional or by an equine activity sponsor
17 for the providing of professional services, instruction, or the rental of equipment or tack
18 or an equine to a participant, whether or not the contract involves equine activities on or
19 off the location or site of the equine professional's or the equine activity sponsor's
20 business, shall contain in clearly readable print the warning notice specified in subsection
21 (c) of this section.

22 (b) The Department may prepare and make available for sale the warning sign
23 specified in subsection (a) of this section. The Department shall charge a fee, not to
24 exceed fifteen dollars (\$15.00), for each warning sign.

25 (c) The signs and contracts described in subsection (a) of this section shall contain
26 the following warning notice:

27 **'WARNING**

28 Under North Carolina law, an equine activity sponsor or equine professional is not
29 liable for an injury to or the death of a participant in equine activities resulting from the
30 inherent risks of equine activities. Article 67, Chapter 106 of the North Carolina General
31 Statutes.'

32 (d) Failure to comply with the requirements concerning warning signs and notices
33 provided in this Article shall prevent an equine activity sponsor or equine professional
34 from invoking the privileges of immunity provided by this Article."

35 Sec. 2. This act becomes effective January 1, 1996, and applies to causes of
36 action arising on or after that date.