

SHORT TITLE: Torts; limiting the civil liability of certain persons for equine activities; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

SENATE BILL NO. 223

BY: Wilkerson

AS INTRODUCED

An Act relating to equine activities; stating intent to encourage equine activities by limiting civil liability; defining terms; limiting liability to certain persons for equine activities; providing exceptions; requiring the posting of warning notices; requiring warning notice on contracts; providing language for warning notice; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1610 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Legislature recognizes that persons who participate in equine activities may incur injuries as 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 limiting the civil liability of those involved in such activities.

B. As used in this section:

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 any person assisting a participant or show management in an equine show. The term

"engages in an equine activity" does not include being a spectator at an equine activity, except in cases where spectators place themselves in an unauthorized area and in immediate proximity to the equine activity;

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

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 and 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,
- f. placing or replacing horseshoes on an equine, and
- g. breeding of equines;

4. "Equine activity sponsor" means an individual, group, club, partnership, 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 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 the purpose of riding, driving, or being a passenger upon the equine, and
- 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 animal 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.

C. Except as provided in subsection D of this section, an equine activity sponsor, an equine professional, or any other person, including a corporation 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, except as provided in subsection D of this section, 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, including a corporation or partnership, for injury, loss, damage, or death of the participant resulting from any of the inherent risks of equine activities.

D. 1. This section shall not apply to the horse racing industry as regulated in the Oklahoma Horse Racing Act.

2. Nothing in subsection C of this section shall prevent or limit 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 knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury,
- 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 ability,
- c. owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon

which the participant sustained injuries because of a dangerous latent condition which was known to the equine activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted,

- d. commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury, or
- e. intentionally injures the participant.

3. Nothing in subsection C of this section shall prevent or limit the liability of an equine activity sponsor or an equine professional under liability provisions as set forth in the products liability laws.

E. 1. Every equine professional shall post and maintain signs which contain the warning notice specified in paragraph 2 of this subsection. Such 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, managed, or controlled by the equine professional. The warning notice specified in paragraph 2 of this subsection shall appear on the sign in black letters with each letter to be a minimum of one (1) inch in height. Every written contract entered into by an equine professional for the providing of professional services, instruction, or the 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 paragraph 2 of this subsection.

2. The signs and contracts described in paragraph 1 of this subsection shall contain the following warning notice:

WARNING

Under Oklahoma 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.

SECTION 2. This act shall become effective September 1, 1993.

44-1-0210

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