ENGROSSED HOUSE
BILL NO. 1823

By: Pope (Clay), Erwin, Glover, Pettigrew, Widener, Beutler, Pope (Tim) and Hilliard of the House

and

Williams (Don) of the Senate

An Act relating to torts; creating the Oklahoma Equine Activities Liability Limitation Act; providing for findings; defining terms; providing for liability; providing certain exceptions; providing specifications; requiring certain posting; providing specifications and contents; 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 50.1 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Oklahoma Equine Activities Liability Limitation Act".

B. The Oklahoma Legislature recognizes that persons who participate in equine activities may incur injuries as a result of the risks involved in equine activities. The Oklahoma Legislature also finds that the state and its citizens derive numerous economic

and personal benefits from equine activities. It is, therefore, the intent of the Oklahoma Legislature to encourage equine activities by limiting the civil liability of equine activities sponsors and equine professionals involved in such activities.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50.2 of Title 76, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Equine Activities Liability Limitation Act:

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. The term "engages in an equine activity" does not include being a spectator at an equine activity, except in cases where the spectator places himself 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 such training or teaching activities,

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, and

f. placing or replacing horseshoes on an equine;

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, barns, stables, clubhouses, ponyride strings, fairs and arenas at which the activity is held;

5. "Equine professional" means a person engaged for compensation in:

a. instructing a participant or renting to a participant an equine for the purpose of riding, driving or being a passenger upon the equine, or

b. 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.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50.3 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as provided in subsection B of this section, an equine activity sponsor or an equine professional shall not be liable for an injury to a participant engaged in equine activities resulting from the inherent risks of equine activities.

2. Except as provided in subsection B of this section, no participant or participant's representative shall make any claim against, maintain an action against, or recover from an equine activity sponsor or an equine professional for injury, loss or damage to the participant resulting from any of the inherent risks of equine activities.

B. 1. The provisions of the Oklahoma Equine Activities Liability Limitation Act shall not apply to the horse racing industry as regulated in Title 3A of the Oklahoma Statutes.

2. Nothing in subsection A of this section shall prevent or limit the liability of an equine activity sponsor, or an equine

professional, if the equine activity sponsor, or equine professional:

a. (1) 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, or

(2) 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 such participant's ability,

b. 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, or equine professional, and for which warning signs have not been conspicuously posted,

c. 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

d. intentionally injures the participant.

3. Nothing in subsection A of this section shall prevent or limit the liability of an equine activity sponsor or an equine professional:

a. under liability provisions as set forth in the products liability laws, or

b. for equine activities which result in the death of a participant from the inherent risks of equine activities.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 50.4 of Title 76, unless there is created a duplication in numbering, reads as follows:

A. Every equine professional and equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection B of this section. Such signs shall be placed in a clearly visible location on or near barns, stables, corrals or arenas where the equine professional or equine activity sponsor conducts equine activities if such barns, stables, corrals or arenas are owned, managed or controlled by the equine professional or equine activity sponsor. The warning notice specified in subsection B of this section 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 or equine activity sponsor 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 activities professional's business, shall contain in clearly readable print the warning notice specified in subsection B of this section.

B. The signs and contracts described in subsection A of this section shall contain the following warning notice:

WARNING

Under Oklahoma Law, an equine professional or equine activities sponsor is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to the Oklahoma Equine Activities Liability Limitation Act.

SECTION 5. This act shall become effective November 1, 1995.

Passed the House of Representatives the 13th day of March, 1995.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate