

033215432

SENATE BILL NO. 1048

Senate Amendments in [] — January 15, 2003

A BILL to amend and reenact §§ 3.1-796.130, 3.1-796.132, and 3.1-796.133 of the Code of Virginia, relating to equine liability.

Patrons Prior to Engrossment—Senator Hanger; Delegate: Landes

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-796.130, 3.1-796.132, and 3.1-796.133 of the Code of Virginia are amended and reenacted as follows:

§ 3.1-796.130. Definitions.

As used in this chapter, unless the context requires a different meaning:

"~~Directly engages~~Engages in an equine activity" means a (i) any person, whether mounted or unmounted, who rides, handles, trains, drives, assists in providing medical or therapeutic treatment of, or is a passenger upon an equine, ~~whether mounted or unmounted, but does not mean a spectator at an equine activity or a~~; (ii) any person who participates in the an equine activity but does not necessarily ride, handle, train, drive, or ride as a passenger upon an equine; (iii) any person visiting, touring or utilizing an equine facility as part of an event or activity; or (iv) any person who assists a participant or equine activity sponsor or management in an equine activity. 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 an equine or equine activity.

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

"Equine activity" means (i) 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~~3-day events, combined training, rodeos, driving, pulling, cutting, polo, steeple chasing, endurance trail riding and western games, and hunting; (ii) equine training or teaching activities; (iii) boarding equines; (iv) 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; ~~and~~ (v) rides, trips, hunts, or other equine activities of any type however informal or impromptu that are sponsored by an equine activity sponsor; (vi) conducting general hoofcare, including but not limited to placing or replacing horseshoes or hoof trimming of an equine; and (vii) providing or assisting in breeding or therapeutic veterinary treatment.

"Equine activity sponsor" means any person or his agent who, for profit or not for profit 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 and programs, 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.

"Equine professional" means a person or his agent engaged for compensation in (i) instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon an equine or (ii) renting equipment or tack to a participant.

" [~~Inherent~~ Intrinsic] risks of equine activities" means those dangers or conditions that are an integral part of equine activities, including but not limited to, (i) the propensity of equines to behave in ways that may result in injury, harm, or death to persons on or around them; (ii) the unpredictability of an equine's reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals; (iii) certain hazards such as surface and subsurface conditions; (iv) collisions with other animals or objects; and (v) the potential of a participant acting in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the equine or not acting within the participant's ability.

"Participant" means any person, whether amateur or professional, who ~~directly~~ engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

§ 3.1-796.132. Liability limited; liability actions prohibited.

A. Except as provided in § 3.1-796.133, an equine activity sponsor ~~or~~, an equine professional, or any other person, which shall include a corporation, partnership, or limited liability company, shall not be liable for an injury to or death of a participant engaged in an equine activity resulting from the [~~inherent~~ intrinsic] risks of equine activities and, except as provided in § 3.1-796.133, no participant nor any participant's parent, guardian, or representative shall have or make any claim against or

ENGROSSED

SB1048E

59 *recover from any equine activity sponsor, equine professional, or any other person for injury, loss,*
60 *damage, or death of the participant resulting from any of the [~~inherent~~ intrinsic] risks of equine*
61 *activities.*

62 B. Except as provided in § 3.1-796.133, no participant or parent or guardian of a participant who has
63 knowingly executed a waiver of his rights to sue or agrees to assume all risks specifically enumerated
64 under this subsection may maintain an action against or recover from an equine activity sponsor or an
65 equine professional for an injury to or the death of a participant engaged in an equine activity. The
66 waiver shall give notice to the participant of the [~~inherent~~ intrinsic] risks ~~inherent in~~ of equine
67 activities; including (i) the propensity of an equine to behave in dangerous ways which may result in
68 injury to the participant; (ii) the inability to predict an equine's reaction to sound, movements, objects,
69 persons, or animals; and (iii) hazards of surface or subsurface conditions. The waiver shall remain valid
70 unless expressly revoked *in writing* by the participant or parent or guardian of a minor. ~~In the case of~~
71 ~~school and college sponsored classes and programs, waivers executed by a participant or parent or~~
72 ~~guardian of a participant shall apply to all equine activities in which the participant is involved in the~~
73 ~~next succeeding twelve month period unless earlier expressly revoked in writing.~~

74 § 3.1-796.133. Liability of equine activity sponsors, equine professionals.

75 No provision of this chapter shall prevent or limit the liability of an equine activity sponsor or
76 equine professional *or any other person* who:

77 1. Intentionally injures the participant;

78 2. Commits an act or omission that constitutes negligence for the safety of the participant and such
79 act or omission caused the injury, unless such participant, parent or guardian has expressly assumed the
80 risk causing the injury in accordance with subsection B of § 3.1-796.132; or

81 3. Knowingly provides faulty equipment or tack and such equipment or tack ~~causes~~*was faulty to the*
82 *extent that it did cause* the injury or death of the participant.