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SENATE BILL NO. 220

Offered January 24, 1994

A BILL to amend the Code of Virginia by adding in Title 3.1 a chapter numbered 27.6, consisting of sections numbered 3.1-796.134, 3.1-796.135, and 3.1-796.136, creating the Ox Activity Liability Act.

Patrons—Houck and Robb; Delegate: Davies

Referred to the Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 3.1 a chapter numbered 27.6, consisting of sections numbered 3.1-796.134, 3.1-796.135, and 3.1-796.136 as follows:

CHAPTER 27.6.

OX ACTIVITY LIABILITY ACT.

§ 3.1-796.134. Definitions.

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

"Directly engages in an ox activity" means a person who rides, trains, drives, or is a passenger upon an ox, whether mounted or unmounted, but does not mean a spectator at an ox activity or a person who participates in the ox activity but does not ride, train, drive, or ride as a passenger upon an ox.

"Ox" means a bovine used for draft, recreational, educational, entertainment or display purposes and shall not include bovines raised primarily for food or fiber.

"Ox activity" means (i) ox shows, fairs, competitions, rodeos, pulling, driving, performances, or parades; (ii) ox training or teaching activities; (iii) boarding oxen; (iv) riding, inspecting, or evaluating an ox belonging to another whether or not the owner has received some monetary consideration or other thing of value for the use of the ox or is permitting a prospective purchaser of the ox to ride, inspect, or evaluate the ox; and (v) rides, trips or other ox activities of any type however informal or impromptu that are sponsored by an ox activity sponsor.

"Ox activity sponsor" means any person or his agent who, for profit or not for profit, sponsors, organizes, or provides the facilities for an ox activity, including but not limited to 4-H clubs, riding clubs, school- and college-sponsored classes and programs, therapeutic riding programs, and operators, instructors, and promoters of ox facilities, including but not limited to stables, fairs, and arenas at which the activity is held.

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

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

§ 3.1-796.135. Liability limited; liability actions prohibited.

A. Except as provided in § 3.1-796.136, an ox activity sponsor or an ox professional shall not be liable for an injury to or death of a participant engaged in an ox activity.

B. Except as provided in § 3.1-796.136, no participant or parent or guardian of a participant who has knowingly executed a waiver of his rights to sue or agrees to assume all risks specifically enumerated under this subsection may maintain an action against or recover from an ox activity sponsor or an ox professional for an injury to or the death of a participant engaged in an ox activity. The waiver shall give notice to the participant of the risks inherent in ox activities, including (i) the propensity of an ox to behave in dangerous ways which may result in injury to the participant; (ii) the inability to predict an ox's reaction to sound, movements, objects, persons, or animals; and (iii) hazards of surface or subsurface conditions. The waiver shall remain valid unless expressly revoked by the participant or parent or guardian of a minor. In the case of school- and college-sponsored classes and programs, waivers executed by a participant or parent or guardian of a participant shall apply to all ox activities in which the participant is involved in the next succeeding twelve-month period unless earlier expressly revoked in writing.

§ 3.1-796.136. Liability of ox activity sponsors, ox professionals.

No provision of this chapter shall prevent or limit the liability of an ox activity sponsor or ox professional who:

1. Intentionally injures the participant;

2. Commits an act or omission that constitutes negligence for the safety of the participant and such act or omission caused the injury, unless such participant, parent or guardian has expressly assumed the risk causing the injury in accordance with subsection B of § 3.1-796.135; or

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60 3. *Knowingly provides faulty equipment or tack and such equipment or tack causes the injury or*
61 *death of the participant.*