

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 303 Session of
2003

INTRODUCED BY MAITLAND, FEESE, SOLOBAY, EGOLF, FAIRCHILD,
FLEAGLE, FLICK, BAKER, BASTIAN, CAPPELLI, CREIGHTON, DeWEESE,
GODSHALL, HARHART, HARPER, HERSHEY, HORSEY, HUTCHINSON,
McCALL, McILHATTAN, R. MILLER, S. MILLER, NICKOL, READSHAW,
ROSS, SEMMEL, STERN, E. Z. TAYLOR, TRUE AND WALKO,
FEBRUARY 18, 2003

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 18, 2003

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, limiting civil liability
3 for injury or death incurred in connection with equine
4 activities.

5 The General Assembly finds that persons who participate in
6 equine activities may incur injuries as a result of the risks
7 involved in such activities. The General Assembly also finds
8 that the Commonwealth and its citizens derive numerous economic
9 and personal benefits from such activities. It is, therefore,
10 the intent of the General Assembly to encourage equine
11 activities by limiting the civil liability of those involved in
12 such activities.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Chapter 83 of Title 42 of the Pennsylvania
16 Consolidated Statutes is amended by adding a subchapter to read:

SUBCHAPTER I

EQUINE ACTIVITY

Sec.

8395. Short title of subchapter.

8396. Definitions.

8397. Liability standard.

8398. Exceptions.

8399. Posting, notification and protective headgear.

§ 8395. Short title of subchapter.

This subchapter shall be known and may be cited as the Equine Activity Liability Act.

§ 8396. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Engages in an equine activity." The term includes:

(1) (i) riding;

(ii) training;

(iii) boarding;

(iv) loading;

(v) breeding;

(vi) providing or assisting in veterinary treatment;

(vii) placing, removing or replacing horseshoes or trimming hooves; or

(viii) driving or being a passenger upon an equine, whether mounted or unmounted;

(2) visiting or touring or utilizing an equine facility;

(3) sponsoring an equine activity; or

(4) assisting a participant or show management at an equine activity.

The term does not include being a spectator at an equine

1 activity, except in cases where the spectator enters an
2 unauthorized area or an area in immediate proximity to the
3 equine activity.

4 "Equine." A horse, pony, mule, donkey or hinny.

5 "Equine activity." The term shall be broadly construed to
6 include:

7 (1) Equine shows, fairs, competitions, performances or
8 parades that involve any or all breeds of equines and any of
9 the equine disciplines, including, but not limited to,
10 dressage, hunter and jumper horse shows, Grand Prix jumping,
11 three-day events, combined training, rodeos, riding, driving,
12 pulling, cutting, reining, team penning, barrel racing, polo,
13 steeplechasing, English and western performance riding,
14 endurance and nonendurance trail riding, western games,
15 gymkhana games, hunting, packing and recreational riding.

16 (2) Equine or rider and driver training, or teaching,
17 instructing, testing, or evaluating activities, including,
18 but not limited to, clinics, seminars, symposiums and
19 demonstrations.

20 (3) Boarding equines, including their normal daily care.

21 (4) Breeding equines, including conducting or assisting
22 in procedures necessary to breed an equine by means of
23 artificial insemination, normal daily care and activities
24 associated with breeding equines.

25 (5) Riding, driving, inspecting or evaluating an equine
26 belonging to another by a purchaser or an agent, whether or
27 not the owner has received some monetary consideration or
28 other things of value for the use of the equine or is
29 permitting a prospective purchaser of the equine or an agent
30 to ride, drive, inspect or evaluate the equine.

1 (6) Rides, drives, trips, hunts, brandings, roundups,
2 cattle drives or other equine activities of any type, however
3 informal or impromptu, that are sponsored by an equine
4 activity sponsor.

5 (7) Placing, removing or replacing horseshoes or hoof
6 trimming on an equine.

7 (8) Providing or assisting in veterinary treatment or
8 maintenance care of an equine.

9 "Equine activity sponsor." An individual, group, club,
10 partnership or corporation, whether or not the sponsor is
11 operating for profit or not for profit, which sponsors,
12 organizes or provides the facilities for an equine activity,
13 including, but not limited to, pony clubs, 4-H clubs, hunt
14 clubs, riding clubs, driving clubs, school-sponsored and
15 college-sponsored classes, programs and activities, therapeutic
16 riding programs, stable and farm owners and operators,
17 instructors and promoters of equine facilities, including, but
18 not limited to, farms, stables, clubhouses, pony ride strings,
19 fairs, training facilities, show grounds and arenas at which the
20 activity is held.

21 "Equine professional." A person engaged for compensation in
22 any of the following:

23 (1) Training, teaching, instructing, testing or
24 evaluating a participant, or renting to a participant an
25 equine for the purpose of riding, driving or being a
26 passenger upon the equine.

27 (2) Renting equipment or tack to a participant.

28 (3) Providing daily care of horses boarded at an equine
29 facility.

30 (4) Training, testing or evaluating an equine.

1 "Harm." Injury, whether resulting in death or otherwise, or
2 death.

3 "Helmet." Properly fitting protective headgear with a
4 correctly adjusted safety harness that meets or exceeds the 1999
5 American Society for Testing and Materials standard (F1163-99)
6 for protective headgear used in horse sports and horseback
7 riding and displaying the Safety Equipment Institute (SEI) seal.

8 "Inherent risks of equine activities." Those dangers or
9 conditions which are an integral part of equine activities,
10 including, but not limited to:

11 (1) The propensity of equines to behave in ways,
12 including bolting, bucking, biting, kicking, shying,
13 stumbling, rearing, running, falling or stepping on persons,
14 that may result in harm to persons on or around them.

15 (2) The unpredictability of an equine's reaction to such
16 things as sounds, sudden movements and unfamiliar objects,
17 persons or other animals.

18 (3) Certain hazards such as surface and subsurface
19 conditions.

20 (4) Collisions with other equines or objects.

21 (5) The potential of a participant to act in a negligent
22 manner that may contribute to harm to the participant and
23 others, such as failing to maintain control over the animal
24 or not acting within the participant's ability.

25 "Participant." Any person, whether amateur or professional,
26 who engages in an equine activity, if such person is either 15
27 years of age or older or is under 15 years of age with
28 permission from a parent or guardian to engage in an equine
29 activity, whether or not a fee is paid to participate in the
30 equine activity. A person under 15 years of age attending an

1 equine activity as a spectator who enters an unauthorized area
2 or an area in immediate proximity to the equine activity shall
3 meet the definition of participant whether or not his parents
4 permitted him to engage in an equine activity.

5 § 8397. Liability standard.

6 Except as provided in section 8398 (relating to exceptions),
7 an equine activity sponsor, equine activity participant, equine
8 professional or any other person, including a corporation or
9 partnership, shall not be liable for an injury or loss to or the
10 death of a participant resulting from the inherent risks of
11 equine activities and, except as provided in section 8398, no
12 participant or participant's representative shall make any claim
13 against, maintain an action against or recover from an equine
14 activity sponsor, equine activity participant, equine
15 professional or any other person for harm to a participant
16 resulting from any of the inherent risks of equine activities.

17 § 8398. Exceptions.

18 (a) General rule.--Nothing in section 8397 (relating to
19 liability standard) shall prevent or limit the liability of an
20 equine activity sponsor, equine professional or any other person
21 if the equine activity sponsor, equine professional or person:

22 (1) (i) provided the equipment or tack and knew or
23 should have known that the equipment or tack was faulty,
24 and such equipment or tack was faulty to the extent that
25 it did cause the injury; or

26 (ii) provided the equine and failed to make
27 reasonable and prudent efforts to determine the ability
28 of the participant to engage safely in the equine
29 activity and determine the ability of the participant to
30 safely manage the particular equine based on

1 representations of the participant's ability by the
2 participant or an adult accompanying the participant.

3 (2) Owns, leases, rents, has authorized use of or is
4 otherwise in lawful possession and control of the land or
5 facilities upon which the participant sustained injuries
6 because of a dangerous latent condition which was known to
7 the equine activity sponsor, equine professional or person
8 and for which warning signs have not been conspicuously
9 posted.

10 (3) Commits an act or omission that constitutes willful
11 or wanton disregard for the safety of the participant and
12 that act or omission caused the injury.

13 (4) Intentionally injures the participant.

14 (b) Horse race meeting.--This section shall not apply to a
15 horse race meeting as described in the act of December 17, 1981
16 (P.L.435, No.135), known as the Race Horse Industry Reform Act.

17 (c) Assumption of risk; contributory fault.--Nothing in this
18 section shall be construed as affecting or modifying the
19 doctrine of assumption of risk or contributory fault on the part
20 of a participant or any person.

21 § 8399. Posting, notification and protective headgear.

22 (a) Posting requirements.--

23 (1) Every equine professional shall post and maintain
24 signs which contain the warning notice specified in
25 subsection (b). An equine professional who fails to post and
26 maintain signs as required by this section forfeits any of
27 the benefits of this subchapter. The signs shall be placed in
28 a clearly visible location in the proximity of the equine
29 activity. The warning notice specified in subsection (b)
30 shall appear on the sign in black letters, with each letter

1 to be a minimum of one inch in height.

2 (2) Every written contract entered into by an equine
3 professional for the providing of professional services,
4 instruction or the rental of equipment, tack or an equine to
5 a participant, whether or not the contract involves equine
6 activities on or off the location or site of the equine
7 professional's business, shall contain in clearly readable
8 print the warning notice specified in subsection (b). An
9 equine professional may not benefit from this subchapter's
10 heightened liability standard for activities covered by a
11 written contract which does not include the warning notice
12 specified in subsection (b).

13 (b) Content of notice.--The signs and contracts described in
14 subsection (a) shall contain the following warning notice:

15 WARNING: Under Pennsylvania law an equine
16 activity sponsor, participant or professional
17 or any other person is not liable for an injury
18 or loss to or the death of a participant in equine
19 activities resulting from the inherent risks of
20 equine activities under the Equine Activity Liability
21 Act.

22 (c) Protective headgear.--An equine activity sponsor or
23 equine professional shall offer helmets for use by any
24 participant while riding or driving an equine. The equine
25 activity sponsor or equine professional shall require any
26 participant under 15 years of age to wear a helmet while riding
27 or driving an equine. A participant riding in a cart, carriage
28 or other horse drawn conveyance driven by an equine professional
29 shall not be considered a participant riding or driving an
30 equine for the purposes of the protective headgear requirements

1 of this section. An activity sponsor or equine professional who
2 fails to comply with the protective headgear requirements of
3 this section concerning a participant forfeits any of the
4 benefits of this subchapter for injuries suffered by that
5 participant.

6 Section 2. This act shall take effect in 60 days.