

# STATE OF NEW JERSEY

P.L. 1997, c287(C5:15-1 et seq.)

AN ACT concerning the responsibilities and liabilities of individuals involved in equestrian activities and supplementing Title 5 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. The Legislature finds and declares that equine activities are practiced by a large number of citizens of this State; that equine activities attract large numbers of nonresidents to the State; that those activities significantly contribute to the economy of this State; and that horse farms are a major land use which preserves open space.

The Legislature further finds and declares that equine activities involve risks that are essentially impractical or impossible for the operator to eliminate; and that those risks must be born by those who engage in those activities.

The Legislature therefore determines that the allocation of the risks and costs of equine activities is an important matter of public policy and it is appropriate to state in law those risks that the participant voluntarily assumes for which there can be no recovery.

2. As used in this act:

"EQUESTRIAN AREA" means all of the real and personal property under the control of the operator or on the premises of the operator which are being occupied, by license, lease, fee simple or otherwise, including but not limited to designated trail areas, designated easements or rights of way for access to trails, and other areas utilized for equine activities.

"EQUINE" means a horse, pony, mule or donkey.

"EQUINE ACTIVITY" means any activity that involves the use of an equine and shall include selling equipment and tack; transportation, including the loading and off-loading, for travel to or from a horse show or trail system; inspecting, or evaluating an equine belonging to another person whether or not the person has received compensation; placing or replacing shoes on an equine; and veterinary treatment on

an equine.

"INHERENT RISK OR RISKS of an equine activity" means those dangers which are an integral part of equine activity, including but not limited to:

- a. The propensity of an equine animal to behave in ways that result in injury, harm, or death to nearby persons:
- b. The unpredictability of an equine animal's reaction to such phenomena as sounds, sudden movement, and unfamiliar objects, persons or other animals:
- c. Certain natural hazards, such as surface or subsurface ground conditions:
- d. Collisions with other equine animals or with objects and;
- e. The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including but not limited to failing to maintain control over the animal or not acting within the participant's ability.

"OPERATOR" means a person or entity who owns, manages, controls or directs the operation of an area where individuals engage in equine activities whether or not compensation is paid. "Operator" shall also include an agency of this State, political subdivisions thereof or instrumentality of said entities, or any individual or entity acting on behalf of an operator for all or part of such activities.

"PARTICIPANT" is any person whether an amateur or professional, engaging in an equine activity, whether or not a fee is paid to participate in the equine activity or, if a minor, the natural guardian, or trainer, of that person in loco parentis, and

shall include anyone accompanying the participant, or any person coming onto the property of the provider of equine activities or equine area whether or not an invitee or person pays consideration.

"SPECTATOR" means a person who is present in an equestrian area for the purpose of observing equine activities whether or not an invitee.

3. A participant and spectator are deemed to assume the inherent risks of equine activities created by equines, weather conditions, conditions of trails, riding rings, training tracks, equestrians, and all inherent conditions. Each participant is assumed to know the range of his ability and it shall be the duty of each equestrian to conduct himself within the limits of such ability to maintain control of his horse or pony, and to refrain from acting in a manner which may cause or contribute to the injury of himself or others, loss or damage to person or property, or death which results from participation in an equine activity.

4. A participant or a spectator shall not engage in, attempt to engage in, or interfere with, an equine activity if he is knowingly under the influence of any alcoholic beverage as defined in R.S. 33:1-1

or under the influence of any prescription, legend drug or controlled dangerous substance as this term is defined in P.L.1970, c.226 (C.24:21-1 et seq.), or any other substance that affects the individual's ability to safely engage in the equine activity and abide by the posted and stated instructions. The operator may prevent an equestrian or a spectator who is perceptibly or apparently under the influence of drugs or alcohol, from engaging in, or interfering with, an equine activity or in an equine area. An operator who prevents a participant or a spectator from engaging in, or interfering with, an equine activity, or equine area in accordance with this section shall not be criminally or civilly liable in any manner or to any extent whatsoever if the operator has a reasonable basis for believing that the participant or spectator is under the influence of drugs or alcohol.

5. The assumption of risk set forth in section 3 of this act shall be a complete bar of suit and shall serve as a complete defense to a suit against an operator by a participant for injuries resulting from the assumed risks, notwithstanding the provisions of P.L.1973, c.146(C.2a:15-5.1 et seq.) relating to comparative negligence. Failure of the participant to conduct himself within the limits of his abilities as provided in section 3 of this act shall bar suit against an operator to compensate for injuries resulting from equine activities, where such failure is found to be a contributory factor in the resulting injury.

6. a. As a precondition to bringing any suit in connection with an participant injury against an operator, a participant shall submit a written report to the operator setting forth all details of any accident or incident as soon as possible, but in no event longer than 180 days from the time of the incident giving rise to the suit.

b. The report shall include at least the following: the participant's name, address, brief description of the accident or incident, location, of the accident or incident, the alleged cause of the accident or incident, the names of any other persons involved in the accident or incident and witnesses, if any. If it is not practicable to submit the report within 180 days because of severe physical disability resulting from an equestrian accident or incident, the report shall be given as soon as practicable. This section is not applicable with respect to an equestrian area unless the operator conspicuously posts notice to participants of the requirements of the section.

c. A participant who fails to give the report within 180 days from the time of the accident or incident may be permitted to submit the report at any time within one year after the accident or incident, if in the discretion of a judge of the Superior Court, if the operator is not substantially prejudiced thereby. Application to the court for permission to give a late report shall be made upon motion based on affidavits showing sufficient reasons for the participant's failure to give the report within 180 days from the time of the accident or incident.

7. Notwithstanding, any provision of this act, or any other law to the contrary, an action for injury or death against an operator, an equestrian area or its employees or owner, whether based upon tort or breach of contract or otherwise arising out of equestrian activities shall be commenced no later than two years after the occurrence of the incident or earliest of incidents giving rise to the cause of action.

8. If an participant accident or incident, or an action based upon an equine activity accident or incident, involves a minor, the time limits set forth in sections 5 and 6 of this act shall not begin to run against the minor until the minor reaches the age of majority; unless there was present to approve conditions and riding ability a person standing in loco parentis, who made these decisions for the minor in activities including but not limited to horse shows, trying a horse for sale, riding lessons, trail rides, and performances.

9. Notwithstanding any provisions of sections 3 and 4 of this act to the contrary, the following actions or lack thereof, on the part of operators shall be exceptions to the limitation on liability for operators.

- a. Knowingly providing equipment or tack that is faulty to the extent that it caused or contributes to injury:
- b. Failure to make reasonable and prudent efforts to determine the participant's ability to safely manage the particular equine, based on the participant's representation of his ability, or the representation of the guardian, or trainer that person in loco parentis, if a minor:
- c. A case in which the participant is injured or killed by a known dangerous latent condition on property owned or controlled by the equine activity operator and for which warning signs have not been posted.
- d. An act or omission on the part of the operator that constitutes negligent disregard for the participant's safety, which act or omission causes the injury; and
- e. Intentional injuries to the participant caused by the operator.

10. All operators shall post and maintain signs on all lands owned or leased thereby and used for equine activities, which signs shall be posted in a manner that makes them visible to all participants and which shall contain the following notice in large capitalized print:

"WARNING UNDER NEW JERSEY LAW, AN EQUINE OPERATOR 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 P.L. 1997, c287(C5:15-1 et seq.)

Individuals or entities providing equine activities on behalf of an operator, and not the operator, shall be required to post and maintain signs required by this section.

11. The provisions of this act are cumulative with the defenses available to a public entity or public employee under the "New Jersey Tort Claims Act", N.J.S.59:1-1 et seq..

12. This act does not apply to the horse racing industry.

13. This act shall take effect immediately.

## STATEMENT

The purpose of this bill is to establish by statute the responsibilities and liabilities of those individuals who engage in equine activities. Equine activities includes any activity that involves the use of horses and ponies such as riding lessons, trail riding, horse training, or engaging in horse shows. This bill would enable operators of equestrian areas, acting under a reasonable basis, to prevent participants, or spectators who are under the influence of drugs or alcohol from engaging in an equine activity without subjecting the operator to criminal or civil liability.

This bill provides that one who engages in equine activities assumes the risks involved in those activities. Under the provisions of this bill, notwithstanding the provisions of New Jersey's law with regard to comparative negligence, a participant would be completely barred from suing an operator for injuries to which the participant contributed by failing to conduct himself within the limits of his abilities.

The following actions or lack thereof on the part of operators shall be exceptions to the limitation on liability for operators.

- a. Knowingly providing equipment or tack that is faulty to the extent that it causes or contributes to injury.
- b. Failure to make reasonable and prudent efforts to determine the participant's representation of his ability, or the representation of the guardian, or trainer of that person standing in loco parentis, if a minor.
- c. A case in which the participant is injured or killed by a known dangerous latent condition on property owned or controlled by the equine activity operator and for which warning signs have not been posted.
- d. An act or omission on the part of the operator that constitutes negligent disregard for the participant's safety, which act or omission causes the injury, and
- e. Intentional injuries to the participant caused by the operator.

The bill also establishes certain preconditions which must be met prior to instituting an action against an operator. The participant must file a report with the operator, in writing, outlining the details of the injury. This report must be filed no later than 180 days after the time of the accident. If the participant fails to file the report, a Superior Court judge may allow him to file anytime within one year after the accident; provided that the operator is not substantially prejudiced by the late report.

In addition, this bill provides that when a participant accident involves a minor the time limits for the report and the statute of limitations would not begin to run until the minor reaches the age of majority unless the decisions have been knowingly been made by a guardian, trainer or person standing in loco parentis.

Finally, the bill would require operators to post and maintain signs that state that the operator is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities.

Establishes certain responsibilities of participants in equestrian activities and the rights of equestrian area operators.