

Legislative Analysis



EQUINE ACTIVITY LIABILITY ACT AMENDMENT

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House Bill 4126

Sponsor: Rep. Joel Johnson

Committee: Agriculture

Complete to 3-19-13

A REVISED SUMMARY OF HOUSE BILL 4126 AS INTRODUCED 1-29-13

Generally speaking, Section 3 of the Equine Activity Liability Act (MCL 691.1665) provides that an equine activity sponsor, professional, or another person is not liable for the injury to or the death of a participant resulting from an inherent risk of an equine activity.

(The term "equine" in the act means horse, pony, mule, and donkeys. The act applies to a wide range of activities involving horses and the other animals.)

The act lists specific circumstances in which immunity from liability would not apply.

House Bill 4126 would amend Section 5 of the act to provide that, among other things, an act or omission that constitutes a *willful or wanton disregard for the safety of the participant*, and that is a proximate cause of injury, death, or damage does not prevent or limit the liability of an equine activity sponsor, equine professional, or another person.

Under current law, liability is not prevented or limited if equine professionals, activity sponsors, and other people commit a *negligent* act that constitutes a proximate cause of the injury or death. The new "willful or wanton disregard" language would replace "negligent."

The act defines an "equine activity sponsor" as an individual, group, club, partnership, or corporation, whether or not operating for profit, that sponsors, organizes, or provides the facilities for an equine activity, including a pony club; 4-H club; hunt club; riding club; school- or college-sponsored class, program, or activity; therapeutic riding program; stable or farm owner; and operator, instructor, or promoter of an equine facility, including a stable, clubhouse, pony ride string, fair, or arena at which the equine activity is held.

An "equine professional" means a person engaged in any of the following for compensation: instructing a participant in an equine activity; renting an equine, equipment, or tack to a participant; providing daily care of horses boarded at an equine facility; training an equine; or breeding of equines for resale or stock replenishment.

FISCAL IMPACT:

The bill would have no significant fiscal impact on state or local government.

BACKGROUND INFORMATION:

Michigan's Equine Activity Liability Act, Public Act 351 of 1994, sought to place certain limits on the civil liability of equine professionals and sponsors of equine activities for injuries (including death) or property damage that resulted from a risk normally associated with (an inherent risk of) equine activities. As such, participants in equine activities and events are not able to make a claim for or recover civil damages from equine professional or activity sponsors for injuries to themselves or property that are a result of an inherent risk of an equine activity.

Definitions. The following are definitions from Black's Law Dictionary, 7th edition:

- **Negligence** - the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregarding of others' rights.
- **Willful** - voluntary and intentional, but not necessarily malicious.
- **Wanton** - unreasonably or maliciously risking harm while being utterly indifferent to the consequences.

Equine liability in other states. According to the Michigan State University College of Law's Animal Legal and Historical Center, 46 states (excluding California, Maryland, Nevada, and New York) have equine activity liability statutes. Of those, 27 states have the same provision in place that House Bill 4126 seeks to add. Only five states, including Michigan, do not limit liability in instances where an equine professional commits a negligent act or omission that is a proximate cause of injury or death. The remaining states have some combination of reckless disregard, negligence, gross negligence, and willful or wanton misconduct.

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