

Legislative Analysis



EQUINE LIABILITY

Phone: (517) 373-8080
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House Bill 4175 (Reported from committee w/o amendment)

Sponsor: Rep. Joel Johnson

Committee: Agriculture

Analysis available at
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Complete to 3-26-15

BRIEF SUMMARY: House Bill 4175 would modify one of the standards that determines when a person is liable for civil damages for property damage, injuries, or death under the Equine Activity Liability Act. It would change the standard from "a negligent act or omission" to "an act or omission that constitutes a willful or wanton disregard" for the safety of a participant.

FISCAL IMPACT: The bill would not have a significant fiscal impact on state and local government. It would affect the ability to bring private lawsuits.

THE APPARENT PROBLEM:

According to testimony from the bill sponsor and other individuals, current law does not provide adequate legal protection to individuals who want to allow friends and neighbors to ride or interact with their horses and similar equine animals but are afraid of being sued if the rider is injured through an accident.

THE CONTENT OF THE BILL:

Section 3 of the Equine Activity Liability Act, generally speaking, says that an equine activity sponsor, an equine professional, or another person *is not liable for an injury to or the death of a participant or property damage resulting from an inherent risk of an equine activity*. It specifies that, with the exception of the instances stated in Section 5 of the act, a participant or participant's representative cannot make a claim for, or recover, civil damages from an equine activity sponsor, an equine professional, or another person for injury to, or the death of, the participant or property damage resulting from an inherent risk of an equine activity.

House Bill 4175 would amend Section 5 of the Equine Activity Liability Act. That section lists circumstances when Section 3 (described above) does not apply and when an equine activity sponsor, equine professional, or other person remains liable. (See Background Information.)

Equine activity sponsors include both for-profit and nonprofit organizations, 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, but not limited to, a stable, clubhouse, pony ride string, fair, or arena at which equine activity is held.

Section 5(d) currently states that an equine activity sponsor, equine professional, or other person who "commits a negligent act or omission that constitutes a proximate cause of the injury, death, or damage" is still liable under the act. The bill would reword Section 5(d) to the following:

"Commits an act or omission that constitutes a willful or wanton disregard for the safety of the participant, and that is a proximate cause of the injury, death, or damage." (The underlined language is the new language added by the bill.)

MCL 691.1665

BACKGROUND INFORMATION:

The term "equine" is used in the act to mean horse, pony, mule, donkey, or hinny. Equine activity includes such things as horseback riding rentals and training, horse shows, boarding and breeding equines, and hoof trimming and horseshoeing, among other activities.

Section 5 includes other provisions that override the limitations on liability. Liability remains for equine activity sponsors, equine professionals, and others who:

- Provide equipment or tack and knows or should have known the equipment or tack is faulty, and the equipment or tack is faulty to the extent that it is a proximate cause of the injury, death, or damage
- Provides an equine (e.g., a horse) and fails to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and to determine the ability of the participant to safely manage the particular equine. A person could not rely on a participant's representations of ability unless they were supported by reasonably sufficient detail.
- Owns, leases, rents, or has authorized use of, or otherwise is in lawful possession and control of land or facilities on which the participant has sustained injury because of a dangerous latent condition of the land or facilities that is known to the sponsor, professional, or other person and for which warning signs are not conspicuously posted.

The act does not apply to a horse race meeting regulated by the Racing Law of 1980. Also the act says, "Two persons may agree in writing to a waiver of liability beyond the provisions of this act and such waiver shall be valid and binding by its terms."

ARGUMENTS:

For:

Proponents of the bill argue that the current liability standard is too ambiguous and leaves open the possibility of a horse owner (or the owner of another equine) being sued if they allow someone to ride the animal and the rider is injured by an unforeseen circumstance.

By changing the standard from negligence to wanton and willfull disregard, the bill would reduce the fear of lawsuits in owners who let others ride their animals.

Against:

Opponents of the bill say that the current liability standard is sufficient, and point to the fact that supporters cannot cite a single lawsuit from Michigan which would have been avoided if the changes contained in the bill had been in effect. Changing the standard, they argue, would create a liability standard that would be very difficult to meet and exclude legitimate complaints from going to court.

POSITIONS:

Support:

Back County Horsemen (3-25-15)
Michigan Equine Partnership (3-25-15)
Michigan Farm Bureau (3-18-15)
MI Great Lakes Intl Draft Horse (3-18-15)
MI Harness Horsemen Association. (3-18-15)
Michigan Standardbred Breeders Association. (3-18-15)

Oppose:

Michigan Association for Justice (representing trial lawyers) (3-25-15)
State Bar of Michigan- Negligence Law Section (3-18-15)

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