

## EQUINE ACTIVITY LIABILITY

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**House Bill 4175 as enacted**  
**Public Act 87 of 2015**  
**Sponsor: Rep. Joel Johnson**  
**Committee: Agriculture**  
**Complete to 7-21-15**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

The bill modifies the standards that determine when a person is liable for civil damages for property damage, injuries, or death under the Equine Activity Liability Act. It distinguishes between those who are equine activity sponsors and equine professionals and individuals who are not, and create separate standards for the two categories. The bill takes effect September 21, 2015 (which is 90 days after the bill was enacted).

Section 3 of the act 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.

#### ***Change to Section 5 Exemptions***

Section 5(d) of the act 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; that is does not qualify for the protection against lawsuits.

The bill amended this provision by creating two standards for liability. The "negligent act or omission" standard continues to apply to an individual who is not an equine activity sponsor or equine professional, and that language is added in a new section, Section 5(e). The liability standard for equine activity sponsors and equine professionals is "willful or wanton disregard for the safety of the participant" and is covered in Section 5(d).

This means Section 5(d) is rewritten as follows: [Liability exists] "If the person is an equine activity sponsor or equine professional, 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 to that section.)

The new Section 5(e) says: [Liability exists] "If the person is not an equine activity sponsor or equine professional [and] commits a negligent act or omission that constitutes a proximate cause of the injury, death, or damage."

As noted, Section 5 of the Equine Activity Liability Act lists circumstances when Section 3 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.

An equine professional is defined in the act as 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.
- Breeding of equines for resale or stock replenishment.

The following terms are presently defined in the act:

"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.

"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.
- Breeding of equines for resale or stock replenishment.

## **BACKGROUND INFORMATION:**

Section 5 includes other provisions that override the limitations on liability. It refers to 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 bill 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."

**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.

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