

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for House Bill No. 1743, Page 1, in the Title, Line 3, by
2 deleting all of said line and inserting in lieu thereof the words, "the liability of property owners.";
3 and
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5 Further amend said bill, Page 1, Section A, Line 2, by inserting immediately after all of said line the
6 following:
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8 "537.325. 1. As used in this section, unless the context otherwise requires, the following
9 words and phrases shall mean:

10 (1) "Engages in an equine activity", riding, training, assisting in medical treatment of,
11 driving or being a passenger upon an equine, whether mounted or unmounted, or any person
12 assisting a participant or any person involved in show management. The term "engages in an equine
13 activity" does not include being a spectator at an equine activity, except in cases where the spectator
14 places himself in an unauthorized area;

15 (2) "Equine", a horse, pony, mule, donkey or hinny;

16 (3) "Equine activity":

17 (a) Equine shows, fairs, competitions, performances or parades that involve any or all breeds
18 of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and
19 jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving,
20 pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding
21 and western games and hunting;

22 (b) Equine training or teaching activities or both;

23 (c) Boarding equines;

24 (d) Riding, inspecting or evaluating an equine belonging to another, whether or not the
25 owner has received some monetary consideration or other thing of value for the use of the equine or
26 is permitting a prospective purchaser of the equine to ride, inspect or evaluate the equine;

27 (e) Rides, trips, hunts or other equine activities of any type however informal or impromptu
28 that are sponsored by an equine activity sponsor; and

29 (f) Placing or replacing horseshoes on an equine;

30 (4) "Equine activity sponsor", an individual, group, club, partnership or corporation, whether
31 or not operating for profit or nonprofit, or any employee thereof, which sponsors, organizes or

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provides the facilities for, an equine activity, including but not limited to pony clubs, 4-H clubs, hunt clubs, riding clubs, school- and college-sponsored classes, programs and activities, therapeutic riding programs and operators, instructors and promoters of equine facilities, including but not limited to stables, clubhouses, pony ride strings, fairs and arenas at which the activity is held;

(5) "Equine professional", a person engaged for compensation, or an employee of such a person engaged:

(a) In instructing a participant or renting to a participant an equine for the purpose of riding, driving or being a passenger upon the equine; or

(b) In renting equipment or tack to a participant;

(6) "Inherent risks of equine activities", those dangers or conditions which are an integral part of equine activities, including but not limited to:

(a) The propensity of any equine to behave in ways that may result in injury, harm or death to persons on or around it;

(b) The unpredictability of any equine's reaction to such things as sounds, sudden movement and unfamiliar objects, persons or other animals;

(c) Certain hazards such as surface and subsurface conditions;

(d) Collisions with other equines or objects;

(e) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within his ability;

(7) "Livestock", cattle, swine, sheep, ratite birds including, but not limited to, ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo, elk documented as obtained from a legal source and not from the wild and raised in confinement for human consumption or animal husbandry, goats, poultry, and exotic animals;

(8) "Livestock activity":

(a) Grazing, herding, feeding, branding, milking, or other activity that involves the care or maintenance of livestock;

(b) A livestock show, fair, competition, or auction;

(c) A livestock training or teaching activity;

(d) Boarding livestock;

(e) Inspecting or evaluating livestock;

(9) "Livestock facility", a property or facility at which a livestock activity is held;

(10) "Livestock owner", a person who owns livestock that is involved in a livestock activity;

(11) "Livestock sponsor", an individual or legal entity that sponsors, organizes, or provides facilities for a livestock activity;

[(7)] (12) "Participant", any person, whether amateur or professional, who engages in an equine or livestock activity, whether or not a fee is paid to participate in the equine or livestock activity.

2. Except as provided in subsection 4 of this section, an equine activity sponsor, an equine professional, a livestock sponsor, a livestock owner, a livestock facility, a livestock auction market, or any other person or corporation shall not be liable for an injury to or the death of a participant

1 resulting from the inherent risks of equine or livestock activities and, except as provided in
 2 subsection 4 of this section, no participant or a participant's representative shall make any claim
 3 against, maintain an action against, or recover from an equine activity sponsor, an equine
 4 professional, a livestock sponsor, a livestock owner, a livestock facility, a livestock auction market,
 5 or any other person from injury, loss, damage or death of the participant resulting from any of the
 6 inherent risks of equine or livestock activities.

7 3. This section shall not apply to the horse racing industry as regulated in sections 313.050 to
 8 313.720. This section shall not apply to any employer-employee relationship governed by the
 9 provisions of, and for which liability is established pursuant to, chapter 287.

10 4. The provisions of subsection 2 of this section shall not prevent or limit the liability of an
 11 equine activity sponsor, an equine professional, a livestock sponsor, a livestock owner, a livestock
 12 facility, a livestock auction market, or any other person if the equine activity sponsor, equine
 13 professional, livestock sponsor, livestock owner, livestock facility, livestock auction market, or
 14 person:

15 (1) Provided the equipment or tack and knew or should have known that the equipment or
 16 tack was faulty and such equipment or tack was faulty to the extent that it did cause the injury; or

17 (2) Provided the equine or livestock and failed to make reasonable and prudent efforts to
 18 determine the ability of the participant to engage safely in the equine or livestock activity and
 19 determine the ability of the participant to safely manage the particular equine or livestock based on
 20 the participant's age, obvious physical condition or the participant's representations of his or her
 21 ability;

22 (3) Owns, leases, rents or otherwise is in lawful possession and control of the land or
 23 facilities upon which the participant sustained injuries because of a dangerous latent condition which
 24 was known to the equine activity sponsor, equine professional, livestock sponsor, livestock owner,
 25 livestock facility, livestock auction market, or person and for which warning signs have not been
 26 conspicuously posted;

27 (4) Commits an act or omission that constitutes willful or wanton disregard for the safety of
 28 the participant and that act or omission caused the injury;

29 (5) Intentionally injures the participant;

30 (6) Fails to use that degree of care that an ordinarily careful and prudent person would use
 31 under the same or similar circumstances.

32 5. The provisions of subsection 2 of this section shall not prevent or limit the liability of an
 33 equine activity sponsor, a livestock sponsor, a livestock owner, a livestock facility, a livestock
 34 auction market, or an equine professional under liability provisions as set forth in any other section
 35 of law.

36 6. Every equine activity sponsor and livestock activity sponsor shall post and maintain signs
 37 which contain the warning notice specified in this subsection. Such signs shall be placed in a clearly
 38 visible location on or near stables, corrals or arenas where [the equine professional conducts equine
 39 activities] equine or livestock activities are conducted if such stables, corrals or arenas are owned,
 40 managed or controlled by the equine [professional] or livestock activity sponsor. The warning notice
 41 specified in this subsection shall appear on the sign in black letters on a white background with each

letter to be a minimum of one inch in height. Every written contract entered into by an equine professional [and] , equine activity sponsor, a livestock sponsor, a livestock owner, a livestock facility, or a livestock auction market for the providing of professional services, instruction or the rental of equipment or tack or an equine or livestock to a participant, whether or not the contract involves equine or livestock activities on or off the location or site of the equine professional's [or] business, equine activity sponsor's business, livestock sponsor's business, livestock owner's property, livestock facility, or livestock auction market, shall contain in clearly readable print the warning notice specified in this subsection. The signs and contracts described in this subsection shall contain the following warning notice: WARNING

Under Missouri law, an equine professional [is] , a livestock sponsor, a livestock owner, a livestock facility, and a livestock auction market are not liable for an injury to or the death of a participant in equine or livestock activities resulting from the inherent risks of equine or livestock activities pursuant to the Revised Statutes of Missouri."; and

Further amend said bill and page, Section 537.345, Line 1, by deleting all of said line and inserting in lieu thereof the following:

"537.345. As used in sections 537.345 to [537.347] 537.348, and section 537.351, the following"; and

Further amend said bill, page, and section, Lines 11 through 14, by deleting all of said lines and inserting in lieu thereof the following:

"(4) "Recreational use", hunting, fishing, camping, picnicking, biking, aviation activities for personal or private use and not for a commercial event or gathering, nature study, winter sports, viewing or enjoying archaeological or scenic sites, trapping, paddle sports as defined in section 537.327, swimming except for such activity as defined in section 537.348, or other similar activities undertaken for recreation, exercise, education, relaxation, or pleasure on land owned by another;"; and

Further amend said bill, page and section, Line 17, by inserting immediately after all of said line the following:

"537.348. Nothing in this act shall be construed to create liability, but it does not limit liability that otherwise would be incurred by those who use the land of others, or by owners of land for:

(1) Malicious or grossly negligent failure to guard or warn against a dangerous condition, structure, personal property which the owner knew or should have known to be dangerous, or negligent failure to guard or warn against an ultrahazardous condition which the owner knew or should have known to be dangerous;

(2) Injury suffered by a person who has paid a charge for entry to the land; [or]

1 (3) Injuries occurring on or in:

2 (a) Any land within the corporate boundaries of any city, municipality, town, or village in
3 this state;

4 (b) Any swimming pool. "Swimming pool" means a pool or tank, especially an artificial
5 pool or tank, intended and adapted for swimming and held out as a swimming pool;

6 (c) Any residential area. "Residential area" as used herein means a tract of land of one acre
7 or less predominately used for residential purposes, or a tract of land of any size used for multifamily
8 residential services; or

9 (d) Any noncovered land. "Noncovered land" as used herein means any portion of any land,
10 the surface of which portion is actually used primarily for commercial, industrial, mining or
11 manufacturing purposes; provided, however, that use of any portion of any land primarily for
12 agricultural, grazing, forestry, conservation, natural area, owner's recreation or similar or related uses
13 or purposes shall not under any circumstances be deemed to be use of such portion for commercial,
14 industrial, mining or manufacturing purposes; or

15 (4) A landowner who:

16 (a) Intentionally injures a participant;

17 (b) Provides unsafe equipment or devices who knew or should have known that the
18 equipment or device was unsafe to the extent that it did cause the injury; or

19 (c) Fails to use that degree of care that an ordinarily careful and prudent person would use
20 under the same or similar circumstances."; and

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22 Further amend said bill by amending the title, enacting clause, and intersectional references
23 accordingly.
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