

SECOND REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1937
97TH GENERAL ASSEMBLY

6129H.04P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 537.325, 537.345, 537.348, 578.018, and 578.030, RSMo, and to enact in lieu thereof five new sections relating to the liability of property owners, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 537.325, 537.345, 537.348, 578.018, and 578.030, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 537.325, 537.345,
3 537.348, 578.018, and 578.030, to read as follows:

537.325. 1. As used in this section, unless the context otherwise requires, the following
2 words and phrases shall mean:

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

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

9 (3) "Equine activity":

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 16 (c) Boarding equines;
- 17 (d) Riding, inspecting or evaluating an equine belonging to another, whether or not the
18 owner has received some monetary consideration or other thing of value for the use of the equine
19 or is permitting a prospective purchaser of the equine to ride, inspect or evaluate the equine;
- 20 (e) Rides, trips, hunts or other equine activities of any type however informal or
21 impromptu that are sponsored by an equine activity sponsor; and
- 22 (f) Placing or replacing horseshoes on an equine;
- 23 (4) "Equine activity sponsor", an individual, group, club, partnership or corporation,
24 whether or not operating for profit or nonprofit, or any employee thereof, which sponsors,
25 organizes or provides the facilities for, an equine activity, including but not limited to pony
26 clubs, 4-H clubs, hunt clubs, riding clubs, school- and college-sponsored classes, programs and
27 activities, therapeutic riding programs and operators, instructors and promoters of equine
28 facilities, including but not limited to stables, clubhouses, pony ride strings, fairs and arenas at
29 which the activity is held;
- 30 (5) "Equine professional", a person engaged for compensation, or an employee of such
31 a person engaged:
- 32 (a) In instructing a participant or renting to a participant an equine for the purpose of
33 riding, driving or being a passenger upon the equine; or
- 34 (b) In renting equipment or tack to a participant;
- 35 (6) "Inherent risks of equine activities", those dangers or conditions which are an integral
36 part of equine activities, including but not limited to:
- 37 (a) The propensity of any equine to behave in ways that may result in injury, harm or
38 death to persons on or around it;
- 39 (b) The unpredictability of any equine's reaction to such things as sounds, sudden
40 movement and unfamiliar objects, persons or other animals;
- 41 (c) Certain hazards such as surface and subsurface conditions;
- 42 (d) Collisions with other equines or objects;
- 43 (e) The potential of a participant to act in a negligent manner that may contribute to
44 injury to the participant or others, such as failing to maintain control over the animal or not
45 acting within his ability;
- 46 (7) **"Livestock", cattle, swine, sheep, ratite birds including, but not limited to,**
47 **ostrich and emu, aquatic products as defined in section 277.024, llamas, alpaca, buffalo,**
48 **elk documented as obtained from a legal source and not from the wild and raised in**
49 **confinement for human consumption or animal husbandry, goats, poultry, and exotic**
50 **animals;**
- 51 (8) **"Livestock activity":**

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

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

55 (c) **A livestock training or teaching activity;**

56 (d) **Boarding livestock;**

57 (e) **Inspecting or evaluating livestock;**

58 (9) **“Livestock facility”, a property or facility at which a livestock activity is held;**

59 (10) **“Livestock owner”, a person who owns livestock that is involved in a livestock**
60 **activity;**

61 (11) **“Livestock sponsor”, an individual or legal entity that sponsors, organizes, or**
62 **provides facilities for a livestock activity;**

63 [(7)] (12) "Participant", any person, whether amateur or professional, who engages in an
64 equine **or livestock** activity, whether or not a fee is paid to participate in the equine **or livestock**
65 activity.

66 2. Except as provided in subsection 4 of this section, an equine activity sponsor, an
67 equine professional, **a livestock sponsor, a livestock owner, a livestock facility, a livestock**
68 **auction market**, or any other person or corporation shall not be liable for an injury to or the
69 death of a participant resulting from the inherent risks of equine **or livestock** activities and,
70 except as provided in subsection 4 of this section, no participant or a participant's representative
71 shall make any claim against, maintain an action against, or recover from an equine activity
72 sponsor, an equine professional, **a livestock sponsor, a livestock owner, a livestock facility,**
73 **a livestock auction market**, or any other person from injury, loss, damage or death of the
74 participant resulting from any of the inherent risks of equine **or livestock** activities.

75 3. This section shall not apply to the horse racing industry as regulated in sections
76 313.050 to 313.720. This section shall not apply to any employer-employee relationship
77 governed by the provisions of, and for which liability is established pursuant to, chapter 287.

78 4. The provisions of subsection 2 of this section shall not prevent or limit the liability
79 of an equine activity sponsor, an equine professional, **a livestock sponsor, a livestock owner,**
80 **a livestock facility, a livestock auction market**, or any other person if the equine activity
81 sponsor, equine professional, **livestock sponsor, livestock owner, livestock facility, livestock**
82 **auction market**, or person:

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

86 (2) Provided the equine **or livestock** and failed to make reasonable and prudent efforts
87 to determine the ability of the participant to engage safely in the equine **or livestock** activity and

88 determine the ability of the participant to safely manage the particular equine **or livestock** based
89 on the participant's age, obvious physical condition or the participant's representations of his **or**
90 **her** ability;

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

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

98 (5) Intentionally injures the participant;

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

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

105 6. Every equine activity sponsor **and livestock activity sponsor** shall post and maintain
106 signs which contain the warning notice specified in this subsection. Such signs shall be placed
107 in a clearly visible location on or near stables, corrals or arenas where [the equine professional
108 conducts equine activities] **equine or livestock activities are conducted** if such stables, corrals
109 or arenas are owned, managed or controlled by the equine [professional] **or livestock activity**
110 **sponsor.** The warning notice specified in this subsection shall appear on the sign in black letters
111 on a white background with each letter to be a minimum of one inch in height. Every written
112 contract entered into by an equine professional [and] , equine activity sponsor, **a livestock**
113 **sponsor, a livestock owner, a livestock facility, or a livestock auction market** for the
114 providing of professional services, instruction or the rental of equipment or tack or an equine **or**
115 **livestock** to a participant, whether or not the contract involves equine **or livestock** activities on
116 or off the location or site of the equine professional's [or] **business,** equine activity sponsor's
117 business, **livestock sponsor's business, livestock owner's property, livestock facility, or**
118 **livestock auction market,** shall contain in clearly readable print the warning notice specified
119 in this subsection. The signs and contracts described in this subsection shall contain the
120 following warning notice: WARNING

121 Under Missouri law, an equine professional [is] , **a livestock sponsor, a livestock**
122 **owner, a livestock facility, and a livestock auction market** are not liable for an injury
123 to or the death of a participant in equine **or livestock** activities resulting from the

124 inherent risks of equine **or livestock** activities pursuant to the Revised Statutes of
125 Missouri.

537.345. As used in sections 537.345 to [537.347] **537.348**, and section 537.351, the
2 following terms mean:

3 (1) "Charge", the admission price or fee asked by an owner of land or an invitation or
4 permission without price or fee to use land for recreational purposes when such invitation or
5 permission is given for the purpose of sales promotion, advertising or public goodwill in
6 fostering business purposes;

7 (2) "Land", all real property, land and water, and all structures, fixtures, equipment and
8 machinery thereon;

9 (3) "Owner", any individual, legal entity or governmental agency that has any ownership
10 or security interest whatever or lease or right of possession in land;

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

17 (5) "Trespasser", any person who enters on the property of another without permission
18 and without an invitation, express or implied regardless of whether actual notice of trespass was
19 given or the land was posted in accordance with the provisions of sections 569.140 and 569.145.

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

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

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

9 (3) Injuries occurring on or in:

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

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

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

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

23 (4) A landowner who:

24 (a) Intentionally injures a participant;

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

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

578.018. 1. Any duly authorized [public health official or] law enforcement official may
2 seek a warrant from the appropriate **circuit** court to enable him **or her** to enter private property
3 in order to inspect, care for, or [impound] **confiscate** neglected or abused animals **as set forth**
4 **in said warrant**. All requests for such warrants shall be **signed, witnessed, and** accompanied
5 by an affidavit stating the probable cause to believe a violation of sections 578.005 to
6 [578.023] **578.025** has occurred. A person acting under the authority of a warrant shall:

7 (1) [Be given a] **Appear at a** disposition hearing before the court through which the
8 warrant was issued, within thirty days [of the filing of the request] **of confiscation** for the
9 purpose of granting immediate disposition of the animals [impounded] . **No animal shall be**
10 **sterilized prior to the completion of such disposition hearing unless necessary to save life**
11 **or relieve suffering;**

12 (2) Place [impounded] animals in the care or custody of a veterinarian, the appropriate
13 animal control authority, [or] an animal shelter, **or third party approved by the court**. If no
14 appropriate veterinarian, animal control authority, [or] animal shelter, **or third party** is
15 available, the animal shall not be [impounded] **confiscated** unless it is diseased or disabled
16 beyond recovery for any useful purpose;

17 (3) Humanely kill any animal [impounded] **confiscated** if it is determined by a licensed
18 veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose;

19 (4) Not be liable for any **reasonable and** necessary damage to property while acting
20 under such warrant.

21 2. (1) The owner of any animal that has been confiscated under this section shall
22 not be responsible for the animal's care and keeping prior to a disposition hearing if the
23 owner is acquitted or there is a final discharge without conviction.

24 (2) After completion of the disposition hearing, the owner or custodian or any person
25 claiming an interest in any animal that has been [impounded] **confiscated** because of neglect or
26 abuse may prevent disposition of the animal **after the disposition hearing and until final**
27 **judgment, settlement, or dismissal of the case** by posting **reasonable** bond or security **within**
28 **seventy-two hours of the disposition hearing** in an amount sufficient to provide for the
29 animal's care and keeping [for at least thirty days, inclusive of the date on which the animal was
30 taken into custody] **and consistent with the fair market cost of boarding such an animal in**
31 **an appropriate retail boarding facility**. Notwithstanding the fact that **reasonable** bond may
32 be posted pursuant to this [subsection] **subdivision**, the authority having custody of the animal
33 may humanely dispose of the animal at the end of the time for which **reasonable** expenses are
34 covered by the bond or security, unless there is a court order prohibiting such disposition. Such
35 order shall provide for a **reasonable** bond or other security in the amount necessary to protect
36 the authority having custody of the animal from any cost of the care, keeping or disposal of the
37 animal.

38 (3) The authority taking custody of an animal shall give notice of the provisions of this
39 section [by posting a copy of this section at the place where the animal was taken into custody
40 or] by delivering it to a person residing on the property.

41 3. The owner or custodian of any animal humanely killed pursuant to this section shall
42 not be entitled to recover any damages related to nor the actual value of the animal if the animal
43 was found by a licensed veterinarian to be diseased or disabled **beyond recovery for any useful**
44 **purpose**, or if the owner or custodian failed to post bond or security for the care, keeping and
45 disposition of the animal after being notified of [impoundment] **confiscation and after**
46 **completion of the disposition hearing**.

47 4. All animals confiscated under this section shall receive proper care as determined
48 by state law and regulations for each specific animal and facility or organization where the
49 animal is placed after such confiscation. Any such facility or organization shall be liable
50 to the owner for damages for any negligent acts or abuse of such animal which occurs while
51 the animal is in the care, custody, and control of such facility or organization.

52 5. If the owner posted a sufficient bond and is acquitted or there is a final discharge
53 without conviction, unless there is a settlement agreement, consent judgment, or a
54 suspended imposition of sentence, the owner may demand the return of the animal held in
55 custody. Any entity with care, custody, and control of such animal shall immediately
56 return such animal to the owner upon demand and proof of such acquittal or final

57 **discharge without conviction. Upon acquittal or final discharge without conviction, unless**
58 **there is a settlement agreement, consent judgment, or a suspended imposition of sentence,**
59 **the owner shall not be liable for any costs incurred relating to the placement or care of the**
60 **animal during the pendency of the charges.**

61 **6. Any person or entity that intentionally euthanizes, other than as permissible**
62 **under this section, or intentionally sterilizes an animal prior to a disposition hearing or**
63 **during any period for which reasonable bond was secured for the animal's care is guilty**
64 **of a class B misdemeanor and shall be liable to the owner of the animal for damages**
65 **including the actual value of the animal. Each individual animal for which a violation**
66 **occurs is a separate offense. Any second or subsequent violation is a class A misdemeanor**
67 **and any entity licensed under state law shall be subject to licensure sanction by its**
68 **governing body.**

578.030. 1. The provisions of section 43.200 notwithstanding, any member of the state
2 highway patrol or other law enforcement officer may apply for and serve a search warrant, and
3 shall have the power of search and seizure in order to enforce the provisions of sections 578.025
4 to 578.050. **All requests for such warrants shall be signed, witnessed, and accompanied by**
5 **an affidavit stating the probable cause to believe a violation of sections 578.025 to 578.050**
6 **has occurred.**

7 2. Any member of the state highway patrol or other law enforcement officer making an
8 arrest under section 578.025 shall lawfully take possession of all dogs or other animals **in**
9 **accordance with the provisions of section 578.018** and all paraphernalia, implements, or other
10 property or things used or employed, or about to be employed, in the violation of any of the
11 provisions of section 578.025. Such officer, after taking possession of such dogs, animals,
12 paraphernalia, implements or other property or things, shall file with the court before whom the
13 complaint is made against any person so arrested an affidavit stating therein the name of the
14 person charged in such complaint, a description of the property so taken and the time and place
15 of the taking thereof together with the name of the person from whom the same was taken and
16 the name of the person who claims to own such property, if known, and that the affiant has
17 reason to believe and does believe, stating the ground of such belief, that the property so taken
18 was used or employed, or was about to be used or employed, in such violation of section
19 578.025. He **or she** shall thereupon deliver the property so taken to the court, which shall, by
20 order in writing, place the same in the custody of an officer or other proper person named and
21 designated in such order, to be kept by him **or her** until the conviction or final discharge of such
22 person complained against, and shall send a copy of such order without delay to the prosecuting
23 attorney of the county. The officer or person so named and designated in such order shall
24 immediately thereupon assume the custody of such property and shall retain the same, subject

25 to the order of the court before which such person so complained against may be required to
26 appear for trial. **If the property includes animals, the placement of the animals shall be**
27 **handled in accordance with the provisions of section 578.018.** Upon the conviction of the
28 person so charged, all property so seized shall be adjudged by the court to be forfeited and shall
29 thereupon be destroyed or otherwise disposed of as the court may order. In the event of the
30 acquittal or final discharge without conviction of the person so charged, such court shall, on
31 demand, direct the delivery of such property so held in custody to the owner thereof.

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