

FIRST REGULAR SESSION

HOUSE BILL NO. 565

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BOGGS.

0297H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 537.325, RSMo, and to enact in lieu thereof one new section relating to liability for equine activities.

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

Section A. Section 537.325, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.325, to read as follows:

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

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

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

(3) "Equine activity":

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

(b) Equine training or teaching activities or both;

(c) Boarding equines;

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.

17 (d) Riding, inspecting or evaluating an equine belonging to another, whether or not
18 the owner has received or currently receives monetary consideration or other thing of value
19 for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect
20 or evaluate the equine;

21 (e) Rides, trips, hunts or other equine activities however informal or impromptu that
22 are sponsored by an equine activity sponsor; and

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

24 (4) "Equine activity sponsor", an individual, group, club, partnership or corporation,
25 whether or not operating for profit or nonprofit, legal entity, or any employee thereof, which
26 sponsors, organizes or provides the facilities for, an equine activity, including but not limited
27 to pony clubs, 4-H clubs, hunt clubs, riding clubs, school- and college-sponsored classes,
28 programs and activities, therapeutic riding programs and operators, instructors and promoters
29 of equine facilities, including but not limited to stables, clubhouses, pony ride strings, fairs
30 and arenas at which the activity is held;

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

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

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

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

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

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

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

43 (d) Collisions with other equines, livestock, or objects;

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

47 (7) "Livestock", the same as used in section 277.020;

48 (8) "Livestock activity":

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

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

52 (c) A livestock training or teaching activity;

53 (d) Boarding livestock; and

54 (e) Inspecting or evaluating livestock;

55 (9) "Livestock activity sponsor", an individual, group, club, partnership, or
56 corporation, whether or not operating for profit or nonprofit, legal entity, or any employee
57 thereof, which sponsors, organizes, or provides the facilities for a livestock activity;

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

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

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

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

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

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

82 (1) Provided the equipment or tack and knew or should have known that the
83 equipment or tack was faulty and such equipment or tack was faulty to the extent that the
84 equipment or tack caused the injury; or

85 (2) Provided the equine or livestock and failed to make reasonable and prudent efforts
86 to determine the ability of the participant to engage safely in the equine activity or livestock
87 activity and determine the ability of the participant to safely manage the particular equine or
88 livestock based on the participant's age, obvious physical condition or the participant's
89 representations of his or her ability;

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

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

97 (5) Intentionally injures the participant[;

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

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

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

119

WARNING

120 Under Missouri law, an equine activity sponsor, an equine professional, a livestock
121 activity sponsor, a livestock owner, a livestock facility, a livestock auction market, or any
122 employee thereof is not liable for an injury to or the death of a participant in equine or
123 livestock activities resulting from the inherent risks of equine or livestock activities pursuant
124 to the Revised Statutes of Missouri.

✓