GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1 SENATE BILL 170 Short Title: Equine Activity Liability. (Public) Sponsors: Senators Carpenter, Martin of Pitt; Albertson, Allran, and Ledbetter. Referred to: Judiciary. February 18, 1997 A BILL TO BE ENTITLED AN ACT TO PROVIDE IMMUNITY FROM LIABILITY FOR EQUINE ACTIVITIES. The General Assembly of North Carolina enacts: Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read: "ARTICLE 67. "EQUINE ACTIVITY LIABILITY IMMUNITY. "§ 106-801. Purpose; findings. The General Assembly finds that persons who participate in equine activities may incur injuries as a result of the risks involved in such activities. The General Assembly also finds that the State and its citizens derive numerous economic and personal benefits from such activities. The General Assembly further finds that this Article is necessary for the immediate preservation of the public peace, health, and safety. It is the intent of the General Assembly to encourage equine activities by limiting the civil liability of those involved in such activities. "§ 106-802. Definitions. As used in this Article, the term: 'Engage in an equine activity' means participate in an equine activity, (1) assist a participant in an equine activity, or assist an equine activity sponsor or equine professional. 'Engage in an equine activity' does not

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1		include being a spectator at an equine activity, except in cases in which
2		the spectator places himself or herself in an unauthorized area and in
3		immediate proximity to the equine activity.
4	<u>(2)</u>	'Equine' means a horse, pony, mule, donkey, or hinny.
5	<u>(3)</u>	'Equine activity' means:
6		a. Riding an equine;
7		b. Participating in riding classes, therapeutic riding programs, or
8		other classes in horsemanship;
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10		 <u>c.</u> Driving an equine; <u>d.</u> Being a passenger on an equine or a passenger in a cart or other
11		vehicle pulled by an equine;
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13		<u>a. Training an equine;</u><u>b. Boarding an equine;</u>
14		g. Riding, inspecting, or evaluating an equine by a prospective
15		purchaser or his or her agent;
16		h. Participating in equine shows, fairs, competitions, performances,
17		or parades that involve any breed of equine and any of the equine
18		disciplines, including, dressage, hunter and jumper horse shows,
19		grand prix jumping, three-day events, combined training, rodeos,
20		driving, pulling, cutting, polo, steeplechasing, English and
21		western performance riding, endurance trail riding and western
22		games, and hunting;
23		i. Participating in informal or impromptu equine activities,
24		including rides, trips, hunts, or other equine activities;
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26		 j. Hoof trimming or placing or replacing horseshoes on an equine; k. Examining or administering medical treatment to an equine, or
27		assisting with the examination or administration of medical
28		treatment to an equine; and
29		1. Hauling, plowing, and other agricultural activities using equines.
30	<u>(4)</u>	'Equine activity sponsor' means an individual, group, club, partnership,
31		or corporation, whether the sponsor is operating for profit or nonprofit,
32		that sponsors, organizes, or provides the facilities for an equine activity,
33		including pony clubs; 4-H clubs; hunt clubs; riding clubs; school- and
34		college-sponsored classes, programs, and activities; and therapeutic
35		riding programs. 'Equine activity sponsor' includes operators and
36		promoters of equine facilities, including stables, clubhouses, pony-ride
37		strings, fairs, and arenas at which the activity is held.
38	<u>(5)</u>	'Equine professional' means a person engaged for compensation in:
39		a. Instructing a participant;
40		b. Renting an equine to a participant for the purpose of riding,
41		driving, or being a passenger upon the equine;
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43		 <u>c.</u> Renting equipment or tack to a participant; <u>d.</u> Examining or administering medical treatment to an equine; or

1		e. Hoof trimming or placing or replacing horseshoes on an equine.
2	<u>(6)</u>	'Inherent risks of equine activities' means those dangers or conditions
3		that are an integral part of equine activities, including:
4		a. The propensity of an equine to behave in ways that may result in
5		injury, harm, or death to persons on or around them;
6		b. The unpredictability of an equine's reaction to such things as
7		sounds, sudden movement, unfamiliar objects, persons, or other
8		<u>animals;</u>
9		<u>c.</u> <u>Certain hazards such as surface and subsurface conditions;</u>
10		<u>d.</u> <u>Collisions with other equines or objects; and</u>
11		e. The potential of a participant to act in a negligent manner that
12		may contribute to injury to the participant or others, such as
13		failing to maintain control over the animal or not acting within
14		his or her ability.
15	<u>(7)</u>	'Participant' means any person, whether amateur or professional, who
16		engages in an equine activity, whether or not a fee is paid to participate
17		in the equine activity.
18	"§ 106-803. Im	munity from liability.
19	(a) Excep	ot as provided in subsection (b) of this section, an equine activity sponsor,
20	` ′	ssional, or any other person, including a corporation or partnership, shall
21		an injury to or the death of a participant resulting from the inherent risks
22		vities and, except as provided in subsection (b) of this section, no
23	_	articipant's representative shall maintain an action against or recover from
24		ity sponsor, an equine professional, or any other person for injury, loss,
25	-	th of the participant resulting from any of the inherent risks of equine
26	activities.	* * *
27		ng in subsection (a) of this section shall prevent or limit the liability of an
28		sponsor, an equine professional, or any other person if the equine activity
29		professional, or person:
30	(1)	Provided the equipment or tack, and knew or should have known that
31	\	the equipment or tack was faulty, and such equipment or tack was faulty
32		to the extent that it did cause the injury;
33	<u>(2)</u>	Provided the equine and failed to make reasonable and prudent efforts to
34	(=)	determine the ability of the participant to engage safely in the equine
35		activity and to safely manage the particular equine based on the
36		participant's representations of his or her ability;
37	<u>(3)</u>	Owns, leases, rents, or otherwise is in lawful possession and control of
38	<u>(5)</u>	the land or facilities upon which the participant sustained injuries
39		because of a dangerous latent condition that was known or should have
40		been known to the equine activity sponsor, equine professional, or
41		person and for which warning signs have not been conspicuously
42		posted;
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- Commits an act or omission that constitutes willful or wanton disregard 1 (4) 2 for the safety of the participant, and that act or omission caused the 3 injury; or 4
 - Intentionally injures the participant. (5)
 - Nothing in subsection (a) of this section shall prevent or limit the liability of an (c) equine activity sponsor or an equine professional under liability provisions as set forth in the products liability laws.

"§ 106-804. Warning required.

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- Every equine professional and every equine activity sponsor shall post and (a) maintain signs that contain the warning notice specified in subsection (c) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities. The warning notice specified in subsection (c) of this section shall be designed by the Department of Agriculture and shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional or by an equine activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's or the equine activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (c) of this section.
- The Department of Agriculture may prepare and make available for sale the warning sign specified in subsection (a) of this section. The Department shall charge a fee, not to exceed fifteen dollars (\$15.00), for each warning sign.
- The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

'WARNING

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities. Article 67 of Chapter 106 of the North Carolina General Statutes.'

- Failure to comply with the requirements concerning warning signs and notices provided in this Article shall prevent an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this Article."
- Section 2. This act becomes effective January 1, 1998, and applies to causes of action arising on or after that date.