

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1223

Introduced by

Representatives S. Meyer, Gulleson, Solberg

Senators Bowman, Grindberg, Taylor

1 A BILL for an Act to create and enact a new section to chapter 53-10 and a new chapter to
2 title 53 of the North Dakota Century Code, relating to liability for injury or damage incurred
3 during equine activity and during activity involving livestock; and to amend and reenact section
4 53-10-02 of the North Dakota Century Code, relating to liability for injury or damage incurred
5 during equine activity.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 53-10-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **53-10-02. Liability of equine activity sponsor or equine professional limited.**

- 10 1. ~~Except as provided in subsection 2~~ Because an equine by its very nature can react
11 unpredictably in a variety of situations, including those involving sound, sudden
12 movement, an unfamiliar object, the presence of an individual, or the presence of
13 another animal, an equine activity sponsor or an equine professional is not liable
14 for an injury to or the death of a participant engaged in an equine activity, ~~and~~,
15 except as provided in subsection ~~2~~, ~~no~~ 4.
- 16 2. A participant or a participant's representative may not maintain an action against or
17 recover from an equine activity sponsor or an equine professional for an injury to
18 or the death of a participant engaged in an equine activity.
- 19 3. This chapter does not apply to the horse racing industry as regulated in chapter
20 53-06.2.
- 21 ~~2.~~ 4. Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor
22 or an equine professional:
- 23 a. If the equine activity sponsor or the equine professional:

- 1 (1) ~~Provided~~ provides the equipment or tack and the equipment or tack
2 ~~caused~~ causes the injury; or
- 3 (2) ~~Provided the equine and failed to make reasonable and prudent efforts~~
4 ~~to determine the ability of the participant to engage safely in the equine~~
5 ~~activity, to determine the ability of the equine to behave safely with the~~
6 ~~participant, and to determine the ability of the participant to safely~~
7 ~~manage the particular equine;~~
- 8 b. If the equine activity sponsor or the equine professional owns, leases, rents,
9 or otherwise is in lawful possession and control of the land or facility upon
10 which the participant ~~sustained~~ sustains an injury because of ~~the dangerous~~
11 a latent condition which was known to or should have been known to that the
12 equine activity sponsor or the equine professional knew or should have
13 known was dangerous and for which a warning sign ~~has~~ was not been
14 conspicuously posted;
- 15 c. If the equine activity sponsor or the equine professional commits an act or
16 omission that constitutes willful or wanton disregard for the safety of the
17 participant and that act or omission ~~caused~~ causes the injury;
- 18 d. If the equine activity sponsor or the equine professional intentionally injures
19 the participant;
- 20 e. Under products liability provisions as set forth in products liability laws; or
- 21 f. Under liability provisions in chapter 36-11.

22 **SECTION 2.** A new section to chapter 53-10 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Statement of liability - Warning sign.** An equine activity sponsor or an equine
25 professional shall post and maintain a sign and shall include in every contract governing equine
26 activity language warning that there are inherent risks in equine activities and stating that the
27 equine activity sponsor or equine professional is not liable for any injury or damage resulting
28 from such activities, except as otherwise provided in section 53-10-02.

29 **SECTION 3.** A new chapter to title 53 of the North Dakota Century Code is created and
30 enacted as follows:

31 **Definitions.** In this chapter, unless the context otherwise requires:

- 1 1. "Activity involving livestock" means any parade, rodeo, show, sale, demonstration,
2 fair, ride, competition, games, hunting, instruction, and any other entertainment
3 involving spectators, participants, and livestock.
- 4 2. "Livestock" means bison, cattle, goats, llamas, sheep, and swine. The term does
5 not include equines as defined in chapter 53-10.
- 6 3. "Participant" means any person, whether amateur or professional, who engages in
7 an activity involving livestock, regardless of whether a fee is paid by the participant
8 for that privilege or whether compensation is paid to the participant.
- 9 4. "Sponsor" means any person who organizes or provides the facility for any activity
10 involving livestock.

11 **Liability of sponsor for activities involving livestock.**

- 12 1. Because livestock by their very nature can react unpredictably in a variety of
13 situations, including those involving sound, sudden movement, an unfamiliar
14 object, the presence of an individual, or the presence of another animal, the
15 sponsor of an activity involving livestock is not liable for injury to or for the death of
16 a spectator or a participant in the activity, except as provided in subsection 3.
- 17 2. Neither a spectator nor a participant, nor the personal representative of either, may
18 maintain an action against or recover from the sponsor of any activity involving
19 livestock for an injury to or the death of a spectator or a participant engaged in the
20 activity.
- 21 3. Subsection 1 does not prevent or limit the liability of the sponsor of an activity
22 involving livestock:
- 23 a. If the sponsor provides any equipment or tack and the equipment or tack
24 causes the injury;
- 25 b. If the sponsor owns, leases, rents, or is otherwise in lawful possession and
26 control of the land or facility upon which the spectator or participant sustains
27 an injury because of a latent condition that the sponsor knew was dangerous;
- 28 c. If the sponsor commits an act or omission that constitutes willful or wanton
29 disregard for the safety of the spectator or the participant and that act or
30 omission causes the injury;
- 31 d. If the sponsor intentionally injures the spectator or the participant;

1 e. Under products liability provisions as set forth in products liability laws; or

2 f. Under liability provisions in chapter 36-11.

3 **Statement of liability - Warning sign.** The sponsor of an activity involving livestock
4 shall post and maintain a sign and shall include in every contract governing the activity
5 language warning that there are inherent risks in the activity and stating that the sponsor is not
6 liable for any injury or damage resulting from the activity except as otherwise provided in this
7 chapter.