

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 375
98TH GENERAL ASSEMBLY

0704H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 537.325, 537.345, and 537.348, RSMo, and to enact in lieu thereof three new sections relating to liability for landowners.

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

Section A. Sections 537.325, 537.345, and 537.348, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 537.325, 537.345, and 537.348, to read as follows: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 the
18 owner has received [some] **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 [of any type] however informal or
22 impromptu that 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 to
27 pony clubs, 4-H clubs, hunt clubs, riding clubs, school- and college-sponsored classes, programs
28 and activities, therapeutic riding programs and operators, instructors and promoters of equine
29 facilities, including but not limited to stables, clubhouses, pony ride strings, fairs and arenas at
30 which the activity is held;

31 (5) "Equine professional", a person engaged for compensation, or an employee of such
32 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 which
37 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 injury,
39 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 sounds,
41 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 equine
68 or livestock activities and, except as provided in subsection 4 of this section, no participant or
69 a participant's representative shall make any claim against, maintain an action against, or recover
70 from an equine activity sponsor, [an] equine professional, livestock activity sponsor, livestock
71 owner, livestock facility, livestock auction market, any employee thereof, or any other person
72 from injury, loss, damage or death of the participant resulting from any of the inherent risks of
73 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, livestock activity sponsor, livestock
79 owner, livestock facility, livestock auction market, any employee thereof, or any other person
80 if the equine activity sponsor, equine professional, livestock activity sponsor, livestock owner,
81 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 equipment
83 or tack was faulty and such equipment or tack was faulty to the extent that [it did cause] 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 sponsor,**
93 **livestock owner, livestock facility, livestock auction market, any employee thereof,** or person
94 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 safety
96 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 [or an] , equine professional, **livestock activity sponsor, livestock**
102 **owner, livestock facility, 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 maintain
105 signs which contain the warning notice specified in this subsection. Such signs shall be placed
106 in a clearly visible location on or near stables, corrals or arenas where the [equine professional]
107 **equine activity sponsor or livestock activity sponsor** conducts equine **or livestock** activities
108 if such stables, corrals or arenas are owned, managed or controlled by the [equine professional]
109 **equine activity sponsor or livestock activity sponsor**. The warning notice specified in this
110 subsection shall appear on the sign in black letters on a white background with each letter to be
111 a minimum of one inch in height. Every written contract entered into by an equine professional
112 [and] , equine activity sponsor, **livestock activity sponsor, livestock owner, livestock facility,**
113 **livestock auction market, or any employee thereof** for the providing of professional services,
114 instruction or the rental of equipment [or] , tack, or an equine to a participant, whether or not the
115 contract involves equine **or livestock** activities on or off the location or site of the equine
116 professional's [or] , equine activity sponsor's **or livestock activity sponsor's** business, shall
117 contain 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,** equine professional, **livestock**
121 **activity sponsor, livestock owner, livestock facility, livestock auction market,**
122 **or any employee thereof** is not liable for an injury to or the death of a participant

123 in equine **or livestock** activities resulting from the inherent risks of equine **or**
124 **livestock** activities pursuant to the Revised Statutes of 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 nature study, winter sports, viewing or enjoying archaeological or scenic sites, **trapping, paddle**
13 **sports as defined in section 537.327, swimming except for such activity as defined in section**
14 **537.348**, or other similar activities undertaken for recreation, exercise, education, relaxation, or
15 pleasure on land owned by another;

16 (5) "Trespasser", any person who enters on the property of another without permission
17 and without an invitation, express or implied regardless of whether actual notice of trespass was
18 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.**

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