

Senator Beverly Ann Evans proposes the following substitute bill:

INHERENT RISK OF LIVESTOCK

ACTIVITIES

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Beverly Ann Evans

This act adds livestock activities and professionals to the provisions of Title 78 providing limitations on the liability of equine activities and professionals.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-27b-101, as last amended by Chapter 257, Laws of Utah 1999

78-27b-102, as enacted by Chapter 126, Laws of Utah 1992

§ ENACTS:

78-27b-103, UTAH CODE ANNOTATED 1953 §

REPEALS:

78-27c-101, as enacted by Chapter 76, Laws of Utah 1993

78-27c-102, as enacted by Chapter 76, Laws of Utah 1993

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-27b-101** is amended to read:

78-27b-101. Definitions.

As used in this chapter:

(1) "Equine" means any member of the equidae family.

(2) "Equine activity" means:

(a) equine shows, fairs, competitions, performances, racing, sales, or parades that involve any breeds of equines and any equine disciplines, including dressage, hunter and jumper horse shows, grand prix jumping, multiple-day events, combined training, rodeos, driving, pulling, cutting, polo, steeple chasing, hunting, endurance trail riding, and western games;



- 26 (b) boarding or training equines;
- 27 (c) teaching persons equestrian skills;
- 28 (d) riding, inspecting, or evaluating an equine owned by another person regardless of
- 29 whether the owner receives monetary or other valuable consideration;
- 30 (e) riding, inspecting, or evaluating an equine by a prospective purchaser; or
- 31 (f) other equine activities of any type including rides, trips, hunts, or informal or
- 32 spontaneous activities sponsored by an equine activity sponsor.

33 (3) "Equine activity sponsor" means an individual, group, governmental entity, club,

34 partnership, or corporation, whether operating for profit or as a nonprofit entity, which

35 sponsors, organizes, or provides facilities for an equine activity, including:

36 (a) pony clubs, hunt clubs, riding clubs, 4-H programs, therapeutic riding programs,

37 and public and private schools and postsecondary educational institutions that sponsor equine

38 activities; and

39 (b) operators, instructors, and promoters of equine facilities, stables, clubhouses,

40 ponyride strings, fairs, and arenas.

41 (4) "Equine professional" means a person compensated for an equine activity by:

42 (a) instructing a participant;

43 (b) renting to a participant an equine to ride, drive, or be a passenger upon the equine;

44 or

45 (c) renting equine equipment or tack to a participant.

46 (5) "Inherent risk" with regard to equine or livestock activities means those dangers or

47 conditions which are an integral part of equine or livestock activities, which may include:

48 (a) the propensity of the animal to behave in ways that may result in injury, harm, or

49 death to persons on or around them;

50 (b) the unpredictability of the animal's reaction to outside stimulation such as sounds,

51 sudden movement, and unfamiliar objects, persons, or other animals;

52 (c) collisions with other animals or objects; or

53 (d) the potential of a participant to act in a negligent manner that may contribute to

54 injury to the participant or others, such as failing to maintain control over the animal or not

55 acting within his or her ability.

56 (6) "Livestock" means all domesticated animals used in the production of food, fiber,

57 or livestock activities.

58 (7) "Livestock activity" means:

59 (a) livestock shows, fairs, competitions, performances, packing events, or parades or
60 rodeos that involve any or all breeds of livestock;

61 (b) using livestock to pull carts or to carry packs or other items;

62 (c) using livestock to pull travois-type carriers during rescue or emergency situations;

63 (d) livestock training or teaching activities or both;

64 (e) taking livestock on public relations trips or visits to schools or nursing homes;

65 (f) boarding livestock;

66 (g) riding, inspecting, or evaluating any livestock belonging to another, whether or not
67 the owner has received some monetary consideration or other thing of value for the use of the
68 livestock or is permitting a prospective purchaser of the livestock to ride, inspect, or evaluate
69 the livestock;

70 (h) using livestock in wool production;

71 (i) rides, trips, or other livestock activities of any type however informal or impromptu
72 that are sponsored by a livestock activity sponsor; and

73 (j) trimming the feet of any livestock.

74 (8) "Livestock activity sponsor" means an individual, group, governmental entity, club,
75 partnership, or corporation, whether operating for profit or as a nonprofit entity, which
76 sponsors, organizes, or provides facilities for a livestock activity, including:

77 (a) livestock clubs, 4-H programs, therapeutic riding programs, and public and private
78 schools and postsecondary educational institutions that sponsor livestock activities; and

79 (b) operators, instructors, and promoters of livestock facilities, stables, clubhouses,
80 fairs, and arenas.

81 (9) "Livestock professional" means a person compensated for a livestock activity by:

82 (a) instructing a participant;

83 (b) renting to a participant any livestock for the purpose of riding, driving, or being a
84 passenger upon the livestock; or

85 (c) renting livestock equipment or tack to a participant.

86 ~~[(5)]~~ (10) "Participant" means any person, whether amateur or professional, who
87 directly engages in an equine activity or livestock activity, regardless of whether a fee has been

88 paid to participate.

89 ~~[(6)]~~ (11) (a) "Person engaged in an equine or livestock activity" means a person who
90 rides, trains, leads, drives, or works with an equine or livestock, respectively.

91 (b) Subsection ~~[(6)]~~ (11)(a) does not include a spectator at an equine or livestock
92 activity or a participant at an equine or livestock activity who does not ride, train, lead, or drive
93 an equine or any livestock.

94 Section 2. Section **78-27b-102** is amended to read:

95 **78-27b-102. Equine and livestock activity liability limitations.**

96 (1) It shall be presumed that participants in equine or livestock activities are aware of
97 and understand that there are inherent risks associated with these activities.

98 ~~[(1)]~~ (2) An equine activity sponsor ~~[or]~~, equine professional, livestock activity
99 sponsor, or livestock professional is not liable for an injury to or the death of a participant
100 [engaged in an equine activity] due to the inherent risks associated with these activities, unless
101 the sponsor or professional:

102 (a) (i) provided the equipment or tack; ~~h~~ **h** ~~[and]~~ ~~h~~

103 (ii) the equipment or tack caused the injury; ~~h~~ **h** ~~AND~~

103a **(iii) THE EQUIPMENT FAILURE WAS DUE THE SPONSOR'S OR PROFESSIONAL'S**
103b **NEGLIGENCE;**

103c **(b) FAILED TO MAKE REASONABLE EFFORTS TO DETERMINE WHETHER THE EQUINE OR**
103d **LIVESTOCK COULD BEHAVE IN A MANNER CONSISTENT WITH THE ACTIVITY WITH THE**
103e **PARTICIPANT; h**

104 ~~[(b) (i) provided the equine; and]~~

105 ~~[(ii) failed to make reasonable and prudent efforts to determine whether:]~~

106 ~~[(A) the participant could engage safely in the equine activity and safely manage the~~
107 ~~particular equine; or]~~

108 ~~[(B) the equine could behave safely with the participant;]~~

109 ~~h~~ **h** ~~[f] (c) [f] ~~[(b)]~~ h~~ owns, leases, rents, or is in legal possession and control of land or
facilities

110 upon which the participant sustained injuries because of a dangerous condition which was
111 known to or should have been known to the sponsor or professional and for which warning
112 signs have not been conspicuously posted;

113 ~~h~~ **h** ~~[f] (d) [f] ~~[(c)]~~ h~~ (i) commits an act or omission that constitutes negligence, gross
113a negligence, or

114 willful or wanton disregard for the safety of the participant; and

115 ~~§~~ **§** ~~[(1)]~~ (ii) ~~[(3)]~~ ~~§~~ that act or omission causes the injury; or

116 ~~h~~ **h** ~~§~~ **§** ~~[f] (e) [f] ~~[(d)]~~ §~~ ~~h~~ intentionally injures or causes the injury to the participant.

117 ~~§~~ **§** ~~[(2)]~~ **(3)** ~~§~~ This chapter does not prevent or limit the liability of an equine activity sponsor

118 [~~or~~], an equine professional, a livestock activity sponsor, or a livestock professional who is:

119 (a) a veterinarian licensed under Title 58, Chapter 28, Veterinary Practice Act, in an
120 action to recover for damages incurred in the course of providing professional treatment of an
121 equine;

122 (b) liable under Title 4, Chapter 25, Estrays and Trespassing Animals; or

123 (c) liable under Title 78, Chapter 15, Product Liability Act.

123a **§ Section 3. Section 78-27b-103 is enacted to read:**

123b **78-27b-103. Signs to be posted listing inherent risks and liability limitations.**

123c ~~§ (1) AN EQUINE OR LIVESTOCK ACTIVITY SPONSOR SHALL POST SIGNS IN ONE OR MORE~~
123d ~~PROMINENT LOCATIONS WITHIN THE AREA BEING USED FOR THE ACTIVITY LISTING THE~~
123e ~~INHERENT RISKS OF THE ACTIVITY BEING CONDUCTED AND THE LIABILITY LIMITATIONS IN~~
123f ~~ACCORDANCE WITH THIS CHAPTER.] §~~ §

123f1 **§ (1) AN EQUINE OR LIVESTOCK ACTIVITY SPONSOR SHALL PROVIDE NOTICE TO**
123f2 **PARTICIPANTS OF THE EQUINE OR LIVESTOCK ACTIVITY THAT THERE ARE INHERENT RISKS OF**
123f3 **PARTICIPATING AND THAT THE SPONSOR IS NOT LIABLE FOR CERTAIN OF THOSE RISKS.**

123f4 **(2) NOTICE SHALL BE PROVIDED BY:**

123f5 **(a) POSTING A SIGN IN A PROMINENT LOCATION WITHIN THE AREA BEING USED FOR THE**
123f6 **ACTIVITY; OR**

123f7 **(b) PROVIDING A DOCUMENT OR RELEASE FOR THE PARTICIPANT, OR THE PARTICIPANT'S**
123f8 **PARENT OR LEGAL GUARDIAN IF THE PARTICIPANT IS A MINOR, TO SIGN.**

123f9 **(3) THE NOTICE PROVIDED BY THE SIGN OR DOCUMENT SHALL BE SUFFICIENT IF IT**
123f10 **INCLUDES THE DEFINITION OF INHERENT RISK IN SECTION 78-27b-101 AND STATES THAT THE**
123f11 **SPONSOR IS NOT LIABLE FOR THOSE INHERENT RISKS.** §

123g ~~§ (2)] (4) §~~ **NOTWITHSTANDING SUBSECTION (1), SIGNS ARE NOT REQUIRED TO BE**
123g1 **POSTED FOR**
123h **PARADES AND ACTIVITIES THAT FALL WITHIN SUBSECTIONS 78-27b-101(2)(f) AND (7)(c), (e), (g),**
123i **(h), AND (j).** §

124 Section ~~§ [3] 4 §~~ . Repealer.

125 This act repeals:

126 Section ~~78-27c-101~~, Definitions.

127 Section ~~78-27c-102~~, Junior Livestock Show liability limitation.

Fiscal Note
Bill Number SB0123s1

Inherent Risk of Livestock Activities

10-Feb-03

10:46 AM

State Impact

No significant State or local government fiscal impact.

Individual and Business Impact

The provisions of this bill may limit the liability of certain activity sponsors and professionals and consequently limit the damages some individuals may be able to recover under specified conditions. The fiscal impact for the parties involved will depend on the specific situation.

Office of the Legislative Fiscal Analyst