

HOUSE BILL 364

Introduced by Grady, et al.

1/22	Introduced
1/22	Referred to Judiciary
1/23	First Reading
2/01	Hearing
2/19	Committee Report--Bill Passed as Amended
2/21	Placed on Consent Calendar
2/22	Objection to Consent Calendar Filed Died in Process

1 *Amend* BILL NO. *364*
 2 INTRODUCED BY *Grady Keller, J. Lisa Ellison, Burnett*
 3 *Whalen, Marko, Selig, Wynn, J. Brown, Tea*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND LIABILITY
 5 LIMITS ON EQUINE ACTIVITIES; REPEALING SECTION 27-1-733,
 6 MCA; AND PROVIDING AN APPLICABILITY DATE." *Anderson*

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. **Section 1.** Definitions. As used in
10 [sections 1 and 2], the following definitions apply:

11 (1) "Engages in an equine activity" means a person who
12 rides, trains, drives, or is a passenger upon an equine,
13 whether mounted or unmounted. The phrase does not mean
14 activity by a spectator at an equine activity or a person
15 who participates in the equine activity but does not ride,
16 train, drive, or ride as a passenger upon an equine.

17 (2) "Equine" means a horse, pony, mule, donkey, or
18 hinny.

19 (3) "Equine activity" means:

20 (a) equine shows, fairs, competitions, performances, or
21 parades that involve any or all breeds of equines and any of
22 the equine disciplines, including but not limited to
23 dressage, hunter and jumper horse shows, grand prix jumping,
24 3-day events, combined training, rodeos, driving, pulling,
25 cutting, polo, steeplechasing, endurance trail riding and

1 western games, and hunting;
 2 (b) equine training or teaching activities;
 3 (c) boarding equines;
 4 (d) riding, inspecting, or evaluating an equine
 5 belonging to another, whether or not the owner has received
 6 some monetary consideration or other thing of value for the
 7 use of the equine or permits a prospective purchaser of the
 8 equine to ride, inspect, or evaluate the equine; and
 9 (e) rides, trips, hunts, or other equine activities of
 10 any type, however informal or impromptu, that are sponsored
 11 by an equine activity sponsor.
 12 (4) "Equine activity sponsor" means an individual,
 13 group, club, partnership, or corporation, whether operating
 14 for profit or nonprofit, that sponsors, organizes, or
 15 provides the facilities for an equine activity. The phrase
 16 includes but is not limited to pony clubs; 4-H clubs; hunt
 17 clubs; riding clubs; school- and college-sponsored classes
 18 and programs; therapeutic riding programs; operators,
 19 instructors, and promoters of equine facilities; stables;
 20 clubhouses; pony ride strings; fairs; and arenas.
 21 (5) "Equine professional" means a person engaged for
 22 compensation in:
 23 (a) instructing a participant or renting to a
 24 participant an equine for the purpose of riding, driving, or
 25 being a passenger upon the equine; or

1 (b) renting equipment or tack to a participant.

2 (6) "Participant" means any person, whether amateur or
3 professional, who directly engages in an equine activity,
4 whether or not a fee is paid to participate in the equine
5 activity.

6 NEW SECTION. **Section 2. Equine activity liability**

7 limitations. (1) Except as provided in subsections (2) and
8 (3), an equine activity sponsor or an equine professional is
9 not liable for an injury to or the death of a participant
10 engaged in an equine activity.

11 (2) Subsection (1) does not apply to the horseracing
12 and mule racing industry as regulated in Title 23, chapter
13 4.

14 (3) Subsection (1) does not apply:

15 (a) if the equine activity sponsor or the equine
16 professional:

17 (i) provided the equipment or tack and the equipment or
18 tack caused the injury;

19 (ii) provided the equine and failed to make reasonable
20 and prudent efforts to determine the ability of the
21 participant to safely engage in the equine activity,
22 determine the ability of the equine to behave safely with
23 the participant, and determine the ability of the
24 participant to safely manage the particular equine;

25 (iii) owned, leased, rented, or otherwise was in lawful

1 possession and control of the land or facilities upon which
2 the participant sustained injuries caused by a dangerous
3 latent condition that was known or should have been known to
4 the equine activity sponsor or the equine professional and
5 for which warning signs had not been conspicuously posted;

6 (iv) committed an act or omission that constituted
7 willful or wanton disregard for the safety of the
8 participant and the act or omission caused the injury; or

9 (v) intentionally injured the participant; or

10 (b) in a products liability action.

11 NEW SECTION. **Section 3. Repealer.** Section 27-1-733,
12 MCA, is repealed.

13 NEW SECTION. **Section 4. Applicability.** [Sections 1 and
14 2] apply to injuries and deaths that occur on or after
15 October 1, 1991.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 364

INTRODUCED BY GRADY, KELLER, J. RICE, ELLISON, BURNETT,
WHALEN, DARKO, SCHYE, WYATT, J. BROWN, REA, WEEDING,
D. BROWN, JERGESON, T. BECK, YELLOWTAIL, GROSFIELD,
MANNING, WILLIAMS, ANDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~EXPEND~~ DEFINE THE
LIABILITY LIMITS--ON FOR NEGLIGENCE IN EQUINE ACTIVITIES;
REPEALING SECTION 27-1-733, MCA; AND PROVIDING AN
APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in
[sections 1 and 2], the following definitions apply:

(1) "Engages in an equine activity" means a person who
rides, trains, drives, or is a passenger upon an equine,
whether mounted or unmounted. The phrase does not mean
activity by a spectator at an equine activity or a person
who participates in the equine activity but does not ride,
train, drive, or ride as a passenger upon an equine.

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

(3) "Equine activity" means:

(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,
3-day events, combined training, rodeos, driving, pulling,
cutting, polo, steeplechasing, endurance trail riding and
western games, and hunting;

(b) equine training or teaching activities;

(c) boarding equines;

(d) riding, inspecting, or evaluating an equine
belonging to another, whether or not the owner has received
some monetary consideration or other thing of value for the
use of the equine or permits a prospective purchaser of the
equine to ride, inspect, or evaluate the equine; and

(e) rides, trips, hunts, or other equine activities of
any type, however informal or impromptu, that are sponsored
by an equine activity sponsor.

(4) "Equine activity sponsor" means an individual,
group, club, partnership, or corporation, whether operating
for profit or nonprofit, that sponsors, organizes, or
provides the facilities for an equine activity. The phrase
includes but is not limited to pony clubs; 4-H clubs; hunt
clubs; riding clubs; school- and college-sponsored classes
and programs; therapeutic riding programs; operators,
instructors, and promoters of equine facilities; stables;
clubhouses; pony ride strings; fairs; and arenas.

(5) "Equine professional" means a person engaged for

SECOND READING

1 compensation in:

2 (a) instructing a participant or renting to a
3 participant an equine for the purpose of riding, driving, or
4 being a passenger upon the equine; or

5 (b) renting equipment or tack to a participant.

6 (6) "Participant" means any person, whether amateur or
7 professional, who directly engages in an equine activity,
8 whether or not a fee is paid to participate in the equine
9 activity.

10 NEW SECTION. Section 2. Equine activity liability
11 limitations. (1) Except as provided in subsections (2) and
12 (3), an AN equine activity sponsor or an equine professional
13 HAS THE DUTY TO EXERCISE DUE AND REASONABLE CARE WITH
14 RESPECT TO EQUINE ACTIVITIES AND PARTICIPANTS IN SUCH
15 ACTIVITIES AND is not liable IN NEGLIGENCE for an injury to
16 or the death of a participant engaged in an equine activity
17 PROXIMATELY CAUSED BY FAILURE OF THE EQUINE ACTIVITY SPONSOR
18 OR EQUINE PROFESSIONAL TO REASONABLY AND PRUDENTLY EXERCISE
19 THAT DUTY.

20 (2) ~~Subsection (1) does not apply to the horseracing~~
21 ~~and mule racing industry as regulated in Title 23, chapter~~
22 ~~4.~~

23 (3) ~~Subsection (1) does not apply:~~

24 (a) ~~if the equine activity sponsor or the equine~~
25 ~~professional:~~

1 (i) ~~provided the equipment or tack and the equipment or~~
2 ~~tack caused the injury;~~

3 (ii) ~~provided the equine and failed to make reasonable~~
4 ~~and prudent efforts to determine the ability of the~~
5 ~~participant to safely engage in the equine activity,~~
6 ~~determine the ability of the equine to behave safely with~~
7 ~~the participant, and determine the ability of the~~
8 ~~participant to safely manage the particular equine;~~

9 (iii) ~~owned, leased, rented, or otherwise was in lawful~~
10 ~~possession and control of the land or facilities upon which~~
11 ~~the participant sustained injuries caused by a dangerous~~
12 ~~latent condition that was known or should have been known to~~
13 ~~the equine activity sponsor or the equine professional and~~
14 ~~for which warning signs had not been conspicuously posted;~~

15 (iv) ~~committed an act or omission that constituted~~
16 ~~willful or wanton disregard for the safety of the~~
17 ~~participant and the act or omission caused the injury; or~~

18 (v) ~~intentionally injured the participant; or~~

19 (b) ~~in a products liability action.~~

20 (2) IF AN EQUINE ACTIVITY SPONSOR OR EQUINE
21 PROFESSIONAL GIVES A PARTICIPANT AN INFORMATIVE, EFFECTIVE
22 WARNING OF THE FOLLOWING THAT A REASONABLE PERSON WOULD
23 FULLY UNDERSTAND, THE PARTICIPANT ASSUMES THE RISK OF THE
24 FOLLOWING:

25 (A) THE FACT THAT AN EQUINE, IRRESPECTIVE OF ITS

1 TRAINING AND USUAL PAST BEHAVIOR AND CHARACTERISTICS, MAY
2 ACT OR REACT UNPREDICTABLY AT TIMES TO SUCH THINGS AS
3 SOUNDS, SUDDEN MOVEMENT, AND UNFAMILIAR OBJECTS, PERSONS,
4 AND ANIMALS;

5 (B) VARIATIONS IN OR HAZARDS RELATED TO TERRAIN AND
6 STEEPNESS OF TERRAIN, SNOW AND ICE, FOREST GROWTH, STUMPS,
7 ROCKS, MANMADE STRUCTURES, AND UNFORESEEABLE WEATHER
8 CONDITIONS; AND

9 (C) THE POSSIBILITY AND RISK OF COLLISIONS WITH OTHER
10 PARTICIPANTS OR EQUINES OR OTHER PERSONS, OBJECTS, OR
11 ANIMALS.

12 (3) IF A PARTICIPANT FAILS TO ADEQUATELY ADVISE AN
13 EQUINE ACTIVITY SPONSOR OR EQUINE PROFESSIONAL OF THE
14 PARTICIPANT'S SKILL AND ABILITIES WITH RESPECT TO EQUINE
15 ACTIVITIES OR FAILS TO ENGAGE IN AN EQUINE ACTIVITY WITHIN
16 HIS LEVEL OF SKILL AND ABILITIES, AN EQUINE ACTIVITY SPONSOR
17 OR EQUINE PROFESSIONAL WHOSE NEGLIGENT ACTS OR OMISSIONS ARE
18 A PROXIMATE CAUSE OF INJURY TO OR DEATH OF A PARTICIPANT
19 TOWARD WHOM THE EQUINE ACTIVITY SPONSOR OR PROFESSIONAL HAS
20 A DUTY TO EXERCISE DUE AND REASONABLE CARE IS LIABLE ONLY IN
21 THE PERCENT THAT HIS NEGLIGENCE CAUSED THE INJURY OR DEATH.

22 NEW SECTION. Section 3. Repealer. Section 27-1-733,
23 MCA, is repealed.

24 NEW SECTION. Section 4. Applicability. [Sections 1 and
25 2] apply to injuries and deaths that occur on or after

1 October 1, 1991.

-End-