

SENATE BILL NO. 140

INTRODUCED BY REA, HARP, PETERSON, YELLOWTAIL, PIPINICH,
KENNEDY, REHBEIN, WELDON, BURNETT, SWANSON, HALLIGAN,
SAYLES, BIANCHI, RYE, FISHER, B. BROWN, WEEDING, GRADY,
GROSFIELD, MESAROS, ECK, J. RICE, BECK, DEVLIN,
BRUSKI-MAUS, HOCKETT, M. HANSON

IN THE SENATE

JANUARY 13, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
JANUARY 29, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 30, 1993	PRINTING REPORT.
FEBRUARY 2, 1993	SECOND READING, DO PASS.
FEBRUARY 3, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 4, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 6, 1993	SECOND READING, CONCURRED IN.
MARCH 9, 1993	THIRD READING, CONCURRED IN. AYES, 93; NOES, 5.
MARCH 10, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 11, 1993	RECEIVED FROM HOUSE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Beck* *Tipton* *Senators* *Jaworski*
 2 *Barnes* BILL NO. 140
 3 INTRODUCED BY *Swanson* *Kelly* *HARP* *Peterson* *Hallbuttel*
 4 *36* *Brown* *Wheeler* *Sayles* *Bianchi* *Fisher*
 5 *Beck* *Reich* *Harkin* *Goatfield* *Pruss* *Cole*
 6 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING TORT LIABILITY
 7 FOR EQUINE ACTIVITY SPONSORS AND EQUINE PROFESSIONALS;

8
 9 REPEALING SECTION 27-1-733, MCA; AND PROVIDING AN IMMEDIATE
 10 EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

12 NEW SECTION. Section 1. Purpose. The purpose of
 13 [sections 1 through 4] is to assist courts and juries in
 14 defining the circumstances under which persons responsible
 15 for equines may be found liable for damages to persons
 16 harmed in the course of equine activities. It is the policy
 17 of the state of Montana that a person is not liable for
 18 damages sustained by another solely as a result of risks
 19 inherent in equine activities if those risks are or should
 20 be reasonably obvious, expected, or necessary to persons
 21 engaged in equine activities. It is the policy of the state
 22 of Montana that persons who are responsible for equines or
 23 for the safety of persons engaged in equine activities and
 24 who are negligent are responsible as provided in [sections 1
 25 through 4] for injuries to those engaged in equine
 activities.

NEW SECTION. Section 2. Definitions. As used in

1 [sections 1 through 4], the following definitions apply:

2 (1) "Engage in an equine activity" means to ride,
 3 train, drive, or be a passenger upon an equine, whether
 4 mounted or unmounted. The phrase does not mean activity by a
 5 spectator at an equine activity, unless the spectator is in
 6 an unauthorized area in immediate proximity to an equine
 7 activity, or by a person who participates in the equine
 8 activity but does not ride, train, drive, or ride as a
 9 passenger upon an equine.

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

12 (3) "Equine activity" means:

13 (a) equine shows, fairs, competitions, performances, or
 14 parades that involve any breed of equines and any of the
 15 equine disciplines, including but not limited to dressage,
 16 hunter and jumper horse shows, grand prix jumping, 3-day
 17 events, combined training, rodeos, driving, pulling,
 18 cutting, polo, steeplechasing, endurance trail riding and
 19 western games, and hunting;

20 (b) equine training or teaching activities;

21 (c) boarding equines;

22 (d) riding, inspecting, grooming, or evaluating an
 23 equine belonging to another, whether or not the owner has
 24 received monetary consideration or another thing of value
 25 for the use of the equine or permits a prospective purchaser

1 of the equine to ride, inspect, groom, or evaluate the
2 equine; and

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

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

16 (5) "Equine professional" means a person engaged for
17 compensation in:

18 (a) instructing a participant or renting to a
19 participant an equine for the purpose of riding, driving, or
20 being a passenger upon the equine;

21 (b) selling or renting equipment or tack to a
22 participant; or

23 (c) providing veterinary or farrier services.

24 (6) "Participant" means a person, whether amateur or
25 professional, who directly engages in an equine activity,

1 whether or not a fee is paid to participate in the equine
2 activity.

3 (7) "Risks inherent in equine activities" means dangers
4 or conditions that are an integral part of equine
5 activities, including but not limited to:

6 (a) the propensity of an equine to behave in ways that
7 may result in injury or harm to or the death of persons on
8 or around the equine;

9 (b) the unpredictability of an equine's reaction to
10 such things as sounds; sudden movement; and unfamiliar
11 objects, persons, or other animals;

12 (c) hazards, such as surface and subsurface ground
13 conditions;

14 (d) collisions with other equines or objects; or

15 (e) the potential of a participant to act in a
16 negligent manner that may contribute to injury to the
17 participant or others, such as to not maintain control over
18 the equine or to not act within the person's ability.

19 **NEW SECTION. Section 3. Equine activity liability**
20 **limitations.** (1) Except as provided in subsections (2) and
21 (3), an equine activity sponsor or an equine professional is
22 not liable for an injury to or the death of a participant
23 engaged in an equine activity.

24 (2) Subsection (1) does not apply to the horseracing
25 and mule racing industry as regulated in Title 23, chapter

1 4.

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

3 (a) if the equine activity sponsor or the equine
4 professional:

5 (i) provided the equipment or tack and the equipment or
6 tack caused the injury because the equine activity sponsor
7 or equine professional failed to reasonably and prudently
8 inspect and maintain the equipment;

9 (ii) provided the equine and failed to make reasonable
10 and prudent efforts to determine the ability of the
11 participant to safely engage in the equine activity and to
12 safely manage the particular equine based on the
13 participant's representations as to the participant's
14 ability;

15 (iii) owned, leased, rented, or otherwise was in lawful
16 possession and control of the land or facilities upon which
17 the participant sustained injuries caused by a dangerous
18 latent condition that was known or should have been known to
19 the equine activity sponsor or the equine professional;

20 (iv) committed an act or omission that constituted
21 willful or wanton disregard for the safety of the
22 participant and the act or omission caused the injury; or

23 (v) intentionally injured the participant; or

24 (b) in a products liability action.

25 NEW SECTION. Section 4. Veterinarian and farrier

1 liability limitations. (1) Except as provided in subsection
2 (2), a veterinarian or farrier is not liable for an injury
3 to or the death of a person who assists the veterinarian or
4 farrier in rendering veterinarian or farrier services,
5 whether or not the services are for compensation, to an
6 equine owned by that person.

7 (2) Subsection (1) does not apply:

8 (a) if the veterinarian or farrier:

9 (i) committed an act or omission that constituted
10 willful or wanton disregard for the safety of the person and
11 the act or omission caused the injury; or

12 (ii) intentionally injured the person; or

13 (b) in a products liability action.

14 NEW SECTION. Section 5. Repealer. Section 27-1-733,
15 MCA, is repealed.

16 NEW SECTION. Section 6. Two-thirds vote requirement.
17 Because [sections 3 and 4] limit governmental liability,
18 Article II, section 18, of the Montana constitution requires
19 a vote of two-thirds of the members of each house of the
20 legislature for passage.

21 NEW SECTION. Section 7. Applicability. [Sections 1
22 through 4] apply to injuries and deaths that occur on or
23 after [the effective date of this act].

24 NEW SECTION. Section 8. Effective date. [This act] is
25 effective on passage and approval.

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 140

INTRODUCED BY REA, HARP, PETERSON, YELLOWTAIL, PIPINICH,
KENNEDY, REHBEIN, WELDON, BURNETT, SWANSON, HALLIGAN,
SAYLES, BIANCHI, RYE, FISHER, B. BROWN, WEEDING, GRADY,
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BRUSKI-MAUS, HOCKETT, M. HANSON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~LIMITING TORT LIABILITY~~
~~FOR~~ DEFINING THE LEGAL RESPONSIBILITY OF PARTICIPANTS IN
EQUINE ACTIVITIES, EQUINE ACTIVITY SPONSORS, AND EQUINE
PROFESSIONALS; ~~REPEALING SECTION 27-1-733, MCA;~~ AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
DATE."

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

NEW SECTION. Section 1. Purpose. The purpose of
[sections 1 through 4 3] is to assist courts and juries in
defining the circumstances under which persons responsible
for equines may be found liable for damages to persons
harmd in the course of equine activities. It is the policy
of the state of Montana that a person is not liable for
damages sustained by another solely as a result of risks
inherent in equine activities if those risks are or should
be reasonably obvious, expected, or necessary to persons
engaged in equine activities. It is the policy of the state

of Montana that ~~persons who are responsible for equines or~~
~~for the safety of persons engaged in equine activities and~~
~~who are negligent are responsible as provided in sections 1~~
~~through 4 for injuries to those engaged in equine~~
~~activities~~ AN EQUINE ACTIVITY SPONSOR OR EQUINE PROFESSIONAL
WHO IS NEGLIGENT AND CAUSES FORESEEABLE INJURY TO A
PARTICIPANT BEARS RESPONSIBILITY FOR THAT INJURY IN
ACCORDANCE WITH OTHER APPLICABLE LAW.

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 4 3], the following definitions apply:

(1) "Engage in an equine activity" means to ride,
train, drive, or be a passenger upon an equine, whether
mounted or unmounted, OR TO ASSIST A PARTICIPANT, EQUINE
ACTIVITY SPONSOR, OR EQUINE PROFESSIONAL. The phrase does
not mean activity by a spectator at an equine activity,
unless the spectator is IMPROPERLY in an unauthorized area
in immediate proximity to an equine activity, ~~or by 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 breed of equines and any of the
equine disciplines, including but not limited to dressage,

1 hunter and jumper horse shows, grand prix jumping, 3-day
2 events, combined training, rodeos, driving, pulling,
3 cutting, polo, steeplechasing, endurance trail riding and
4 western games, and hunting;

5 (b) equine training or teaching activities;

6 (c) boarding equines;

7 (d) riding, inspecting, grooming, or evaluating an
8 equine belonging to another, whether or not the owner has
9 received monetary consideration or another thing of value
10 for the use of the equine or permits a prospective purchaser
11 of the equine to ride, inspect, groom, or evaluate the
12 equine; and

13 (e) rides, trips, hunts, pack trips, or other equine
14 activities of any type, however informal, that are sponsored
15 by an equine activity sponsor; AND

16 (F) PROVIDING VETERINARIAN OR FARRIER SERVICES.

17 (4) "Equine activity sponsor" means an individual,
18 group, club, partnership, or corporation, OR OTHER ENTITY,
19 whether operating for profit or nonprofit, that sponsors,
20 organizes, or provides the facilities for an equine
21 activity. The phrase includes but is not limited to pony
22 clubs; 4-H clubs; hunt clubs; riding clubs; school--and
23 college-sponsored RIDING classes and programs; therapeutic
24 riding programs; operators, instructors, and promoters of
25 equine facilities; stables; clubhouses; pony ride strings;

1 fairs, farms, ranches; and arenas.

2 (5) "Equine professional" means a person engaged for
3 compensation in:

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

7 (b) selling or renting equipment or tack to a
8 participant; or

9 (c) providing veterinary or farrier services.

10 (6) "Participant" means a person, whether amateur or
11 professional, who directly engages in an equine activity,
12 whether or not a fee is paid to participate in the equine
13 activity.

14 (7) "Risks inherent in equine activities" means dangers
15 or conditions that are an integral part of equine
16 activities, including but not limited to:

17 (a) the propensity of an equine to behave in ways that
18 may result in injury or harm to or the death of persons on
19 or around the equine;

20 (b) the unpredictability of an equine's reaction to
21 such things as MEDICATION; sounds; sudden movement; and
22 unfamiliar objects, persons, or other animals;

23 (c) hazards, such as surface and subsurface ground
24 conditions;

25 (d) collisions with other equines or objects; or

(e) the potential of a ANOTHER participant to ~~act-in-a negligent-manner--that--may--contribute--to--injury--to--the participant--or-others--such-as-to~~ not maintain control over the equine or to not act within the person's ability.

NEW SECTION. Section 3. Equine activity liability limitations. (1) Except as provided in subsections (2) and (3), an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant engaged in an equine activity RESULTING FROM RISKS INHERENT IN EQUINE ACTIVITIES.

~~{2}--Subsection-{1}-does-not-apply-to--the--horseracing and--mule--racing-industry-as-regulated-in--Title-23,--chapter 4-~~

(2) AN EQUINE PARTICIPANT SHALL ACT IN A SAFE AND RESPONSIBLE MANNER AT ALL TIMES TO AVOID INJURY TO THE PARTICIPANT AND OTHERS AND TO BE AWARE OF RISKS INHERENT IN EQUINE ACTIVITIES.

(3) Subsection (1) does not apply:

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

(i) provided the equipment or tack and the equipment or tack caused the injury because the equine activity sponsor or equine professional failed to reasonably and prudently inspect and OR maintain the equipment;

(ii) provided the equine and failed to make reasonable

and prudent efforts to determine the ability of the participant to safely engage in the equine activity and THE PARTICIPANT'S ABILITY to safely manage the particular equine based on the participant's representations as to the participant's ability;

(iii) owned, leased, rented, or otherwise was in lawful possession and control of the land or facilities upon which the participant sustained injuries caused by a dangerous latent condition that was known or should have been known to the equine activity sponsor or the equine professional;

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

(v) intentionally injured the participant; or

(b) in a products liability action.

~~NEW-SECTION--Section-4--Veterinarian---and---farrier--liability--limitations--{1}-Except-as-provided-in-subsection {2},--a-veterinarian-or-farrier-is-not-liable-for--an--injury to--or-the-death-of-a-person-who-assists-the-veterinarian-or farrier--in--rendering--veterinarian--or--farrier--services, whether-or-not-the-services--are--for--compensation,--to--an equine-owned-by-that-person-~~

~~{2}--Subsection-{1}-does-not-apply:~~

~~{a}--if-the-veterinarian-or-farrier:~~

~~{1}--committed--an--act--or--omission--that--constituted~~

1 ~~willful or wanton disregard for the safety of the person and~~
2 ~~the act or omission caused the injury; or~~
3 ~~(ii) intentionally injured the person; or~~
4 ~~(b) in a products liability action;~~
5 ~~NEW SECTION. Section 5. Repealer. Section 27-1-733.~~
6 ~~MEA is repealed.~~
7 ~~NEW SECTION. Section 6. Two-thirds vote requirement.~~
8 ~~Because sections 3 and 4 limit governmental liability,~~
9 ~~Article II, section 18, of the Montana constitution requires~~
10 ~~a vote of two-thirds of the members of each house of the~~
11 ~~legislature for passage.~~
12 NEW SECTION. SECTION 4. MULE AND HORSERACING.
13 [SECTIONS 1 THROUGH 3] DO NOT APPLY TO THE HORSERACING AND
14 MULE RACING INDUSTRY AS REGULATED IN TITLE 23, CHAPTER 4.
15 NEW SECTION. Section 5. Applicability. [Sections 1
16 through 4 3] apply to injuries and deaths that occur on or
17 after [the effective date of this act].
18 NEW SECTION. Section 6. Effective date. [This act] is
19 effective on passage and approval.

-End-

SENATE BILL NO. 140

INTRODUCED BY REA, HARP, PETERSON, YELLOWTAIL, PIPINICH,
KENNEDY, REHBEIN, WELDON, BURNETT, SWANSON, HALLIGAN,
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EQUINE ACTIVITIES, EQUINE ACTIVITY SPONSORS, AND EQUINE
PROFESSIONALS; ~~REPEALING---SECTION---27-1-733,---MCA,~~ AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
DATE."

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

NEW SECTION. Section 1. Purpose. The purpose of
[sections 1 through 4 3] is to assist courts and juries in
defining the circumstances under which persons responsible
for equines may be found liable for damages to persons
harmd in the course of equine activities. It is the policy
of the state of Montana that a person is not liable for
damages sustained by another solely as a result of risks
inherent in equine activities if those risks are or should
be reasonably obvious, expected, or necessary to persons
engaged in equine activities. It is the policy of the state

of Montana that persons who are responsible for equines or
for the safety of persons engaged in equine activities and
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PARTICIPANT BEARS RESPONSIBILITY FOR THAT INJURY IN
ACCORDANCE WITH OTHER APPLICABLE LAW.

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 4 3], the following definitions apply:

(1) "Engage in an equine activity" means to ride,
train, drive, or be a passenger upon an equine, whether
mounted or unmounted, OR TO ASSIST A PARTICIPANT, EQUINE
ACTIVITY SPONSOR, OR EQUINE PROFESSIONAL. The phrase does
not mean activity by a spectator at an equine activity,
unless the spectator is IMPROPERLY in an unauthorized area
in immediate proximity to an equine activity, ~~or by 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 breed of equines and any of the
equine disciplines, including but not limited to dressage,

1 hunter and jumper horse shows, grand prix jumping, 3-day
2 events, combined training, rodeos, driving, pulling,
3 cutting, polo, steeplechasing, endurance trail riding and
4 western games, and hunting;

5 (b) equine training or teaching activities;

6 (c) boarding equines;

7 (d) riding, inspecting, grooming, or evaluating an
8 equine belonging to another, whether or not the owner has
9 received monetary consideration or another thing of value
10 for the use of the equine or permits a prospective purchaser
11 of the equine to ride, inspect, groom, or evaluate the
12 equine; and

13 (e) rides, trips, hunts, pack trips, or other equine
14 activities of any type, however informal, that are sponsored
15 by an equine activity sponsor; AND

16 (F) PROVIDING VETERINARIAN OR FARRIER SERVICES.

17 (4) "Equine activity sponsor" means an individual,
18 group, club, partnership, or corporation, OR OTHER ENTITY,
19 whether operating for profit or nonprofit, that sponsors,
20 organizes, or provides the facilities for an equine
21 activity. The phrase includes but is not limited to pony
22 clubs; 4-H clubs; hunt clubs; riding clubs; school--and
23 college-sponsored RIDING classes and programs; therapeutic
24 riding programs; operators, instructors, and promoters of
25 equine facilities; stables; clubhouses; pony ride strings;

1 ~~fair~~; farms; ranches; and arenas.

2 (5) "Equine professional" means a person engaged for
3 compensation in:

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

7 (b) selling or renting equipment or tack to a
8 participant; or

9 (c) providing veterinary or farrier services.

10 (6) "Participant" means a person, whether amateur or
11 professional, who directly engages in an equine activity,
12 whether or not a fee is paid to participate in the equine
13 activity.

14 (7) "Risks inherent in equine activities" means dangers
15 or conditions that are an integral part of equine
16 activities, including but not limited to:

17 (a) the propensity of an equine to behave in ways that
18 may result in injury or harm to or the death of persons on
19 or around the equine;

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21 such things as MEDICATION; sounds; sudden movement; and
22 unfamiliar objects, persons, or other animals;

23 (c) hazards, such as surface and subsurface ground
24 conditions;

25 (d) collisions with other equines or objects; or

(e) the potential of a ANOTHER participant to act in a negligent manner that may contribute to injury to the participant or others, such as to not maintain control over the equine or to not act within the person's ability.

NEW SECTION. Section 3. Equine activity liability limitations. (1) Except as provided in subsections (2) and (3), an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant engaged in an equine activity RESULTING FROM RISKS INHERENT IN EQUINE ACTIVITIES.

~~{2}--Subsection-{1}--does--not--apply--to--the--horseracing and--mule--racing--industry--as--regulated--in--Title--23,--chapter 4.~~

(2) AN EQUINE PARTICIPANT SHALL ACT IN A SAFE AND RESPONSIBLE MANNER AT ALL TIMES TO AVOID INJURY TO THE PARTICIPANT AND OTHERS AND TO BE AWARE OF RISKS INHERENT IN EQUINE ACTIVITIES.

(3) Subsection (1) does not apply:

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

(i) provided the equipment or tack and the equipment or tack caused the injury because the equine activity sponsor or equine professional failed to reasonably and prudently inspect and OR maintain the equipment;

(ii) provided the equine and failed to make reasonable

and prudent efforts to determine the ability of the participant to safely engage in the equine activity and THE PARTICIPANT'S ABILITY to safely manage the particular equine based on the participant's representations as to the participant's ability;

(iii) owned, leased, rented, or otherwise was in lawful possession and control of the land or facilities upon which the participant sustained injuries caused by a dangerous latent condition that was known or should have been known to the equine activity sponsor or the equine professional;

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

(v) intentionally injured the participant; or

(b) in a products liability action.

NEW SECTION:--Section 4.--Veterinarian---and---farrier-- liability--limitations:--{1}--Except--as--provided--in--subsection {2},--a--veterinarian--or--farrier--is--not--liable--for--an--injury to--or--the--death--of--a--person--who--assists--the--veterinarian--or farrier--in--rendering--veterinarian--or--farrier--services, whether--or--not--the--services--are--for--compensation,--to--an equine--owned--by--that--person:

~~{2}--Subsection-{1}--does--not--apply:~~

~~{a}--if--the--veterinarian--or--farrier:~~

~~{i}--committed--an--act--or--omission--that--constituted~~

~~willful or wanton disregard for the safety of the person and
the act or omission caused the injury; or~~

~~(ii) intentionally injured the person; or~~

~~(b) in a products liability action;~~

~~NEW SECTION. Section 5. Repealer. Section 27-1-733,~~

~~MEA, is repealed.~~

~~NEW SECTION. Section 6. Two-thirds vote requirement.~~

~~Because sections 3 and 4 limit governmental liability,~~

~~Article II, section 18, of the Montana constitution requires~~

~~a vote of two-thirds of the members of each house of the~~

~~legislature for passage.~~

NEW SECTION. SECTION 4. MULE AND HORSERACING.

[SECTIONS 1 THROUGH 3] DO NOT APPLY TO THE HORSERACING AND

MULE RACING INDUSTRY AS REGULATED IN TITLE 23, CHAPTER 4.

NEW SECTION. Section 5. Applicability. [Sections 1
through 4 3] apply to injuries and deaths that occur on or
after [the effective date of this act].

NEW SECTION. Section 6. Effective date. [This act] is
effective on passage and approval.

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INTRODUCED BY REA, HARP, PETERSON, YELLOWTAIL, PIPINICH,
KENNEDY, REHBEIN, WELDON, BURNETT, SWANSON, HALLIGAN,
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inherent in equine activities if those risks are or should
be reasonably obvious, expected, or necessary to persons
engaged in equine activities. It is the policy of the state

of Montana that ~~persons who are responsible for equines or~~
~~for the safety of persons engaged in equine activities and~~
~~who are negligent are responsible as provided in sections 1~~
~~through 4~~ for injuries to those engaged in equine
activities AN EQUINE ACTIVITY SPONSOR OR EQUINE PROFESSIONAL
WHO IS NEGLIGENT AND CAUSES FORESEEABLE INJURY TO A
PARTICIPANT BEARS RESPONSIBILITY FOR THAT INJURY IN
ACCORDANCE WITH OTHER APPLICABLE LAW.

NEW SECTION. Section 2. Definitions. As used in
[sections 1 through 4 3], the following definitions apply:

(1) "Engage in an equine activity" means to ride,
train, drive, or be a passenger upon an equine, whether
mounted or unmounted, OR TO ASSIST A PARTICIPANT, EQUINE
ACTIVITY SPONSOR, OR EQUINE PROFESSIONAL. The phrase does
not mean activity by a spectator at an equine activity,
unless the spectator is IMPROPERLY in an unauthorized area
in immediate proximity to an equine activity, ~~or by 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 breed of equines and any of the
equine disciplines, including but not limited to dressage,

1 hunter and jumper horse shows, grand prix jumping, 3-day
2 events, combined training, rodeos, driving, pulling,
3 cutting, polo, steeplechasing, endurance trail riding and
4 western games, and hunting;

5 (b) equine training or teaching activities;

6 (c) boarding equines;

7 (d) riding, inspecting, grooming, or evaluating an
8 equine belonging to another, whether or not the owner has
9 received monetary consideration or another thing of value
10 for the use of the equine or permits a prospective purchaser
11 of the equine to ride, inspect, groom, or evaluate the
12 equine; and

13 (e) rides, trips, hunts, pack trips, or other equine
14 activities of any type, however informal, that are sponsored
15 by an equine activity sponsor; AND

16 (F) PROVIDING VETERINARIAN OR FARRIER SERVICES.

17 (4) "Equine activity sponsor" means an individual,
18 group, club, partnership, or corporation, OR OTHER ENTITY,
19 whether operating for profit or nonprofit, that sponsors,
20 organizes, or provides the facilities for an equine
21 activity. The phrase includes but is not limited to pony
22 clubs; 4-H clubs; hunt clubs; riding clubs; ~~schools~~--and
23 college-sponsored RIDING classes and programs; therapeutic
24 riding programs; operators, instructors, and promoters of
25 equine facilities; stables; clubhouses; pony ride strings;

1 ~~fairs~~; farms; ranches; and arenas.

2 (5) "Equine professional" means a person engaged for
3 compensation in:

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

7 (b) selling or renting equipment or tack to a
8 participant; or

9 (c) providing veterinary or farrier services.

10 (6) "Participant" means a person, whether amateur or
11 professional, who directly engages in an equine activity,
12 whether or not a fee is paid to participate in the equine
13 activity.

14 (7) "Risks inherent in equine activities" means dangers
15 or conditions that are an integral part of equine
16 activities, including but not limited to:

17 (a) the propensity of an equine to behave in ways that
18 may result in injury or harm to or the death of persons on
19 or around the equine;

20 (b) the unpredictability of an equine's reaction to
21 such things as MEDICATION; sounds; sudden movement; and
22 unfamiliar objects, persons, or other animals;

23 (c) hazards, such as surface and subsurface ground
24 conditions;

25 (d) collisions with other equines or objects; or

(e) the potential of a ANOTHER participant to act-in-a negligent-manner--that--may--contribute--to--injury--to--the participant--or-others; such-as-to not maintain control over the equine or to not act within the person's ability.

NEW SECTION. Section 3. Equine activity liability limitations. (1) Except as provided in subsections (2) and (3), an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant engaged in an equine activity RESULTING FROM RISKS INHERENT IN EQUINE ACTIVITIES.

~~{2}--Subsection-{1}--does--not--apply--to--the--horseracing and--mule--racing--industry--as--regulated--in--Title--23,--chapter 4.~~

(2) AN EQUINE PARTICIPANT SHALL ACT IN A SAFE AND RESPONSIBLE MANNER AT ALL TIMES TO AVOID INJURY TO THE PARTICIPANT AND OTHERS AND TO BE AWARE OF RISKS INHERENT IN EQUINE ACTIVITIES.

(3) Subsection (1) does not apply:

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

(i) provided the equipment or tack and the equipment or tack caused the injury because the equine activity sponsor or equine professional failed to reasonably and prudently inspect and OR maintain the equipment;

(ii) provided the equine and failed to make reasonable

and prudent efforts to determine the ability of the participant to safely engage in the equine activity and THE PARTICIPANT'S ABILITY to safely manage the particular equine based on the participant's representations as to the participant's ability;

(iii) owned, leased, rented, or otherwise was in lawful possession and control of the land or facilities upon which the participant sustained injuries caused by a dangerous latent condition that was known or should have been known to the equine activity sponsor or the equine professional;

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

(v) intentionally injured the participant; or

(b) in a products liability action.

NEW SECTION--Section 4--Veterinarian--and--farrier--liability--limitations--{1}--Except--as--provided--in--subsection {2},--a--veterinarian--or--farrier--is--not--liable--for--an--injury to--or--the--death--of--a--person--who--assists--the--veterinarian--or farrier--in--rendering--veterinarian--or--farrier--services, whether--or--not--the--services--are--for--compensation,--to--an equine--owned--by--that--person.

~~{2}--Subsection-{1}--does--not--apply:~~

~~{a}--if--the--veterinarian--or--farrier:~~

~~{1}--committed--an--act--or--omission--that--constituted~~

~~willful or wanton disregard for the safety of the person and
the act or omission caused the injury, or~~

~~(ii) intentionally injured the person, or~~

~~(b) in a products liability action;~~

~~NEW SECTION. Section 5. Repealer. Section 27-1-733, MCA, is repealed.~~

~~NEW SECTION. Section 6. Two-thirds vote requirement. Because {sections 3 and 4} limit governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.~~

NEW SECTION. SECTION 4. MULE AND HORSERACING.
{SECTIONS 1 THROUGH 3} DO NOT APPLY TO THE HORSERACING AND
MULE RACING INDUSTRY AS REGULATED IN TITLE 23, CHAPTER 4.

NEW SECTION. Section 5. Applicability. [Sections 1 through 4] apply to injuries and deaths that occur on or after [the effective date of this act].

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

-End-