

SENATE, No. 1349

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Revises equine animal activities law in accordance with recommendations of New Jersey Law Revision Commission to clarify responsibility and liability issues.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning equine animal activities and amending
2 P.L.1997, c.287.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 2 of P.L.1997, c.287 (C.5:15-2) is amended to read
8 as follows:

9 2. As used in this act, P.L.1997, c.287 (C.5:15-1 et seq.):

10 "Equestrian area" means all of the real and personal property
11 under the control of the operator or on the premises of the operator
12 which are being occupied, by license, lease, fee simple or
13 otherwise, including but not limited to designated trail areas,
14 designated easements or rights-of-way for access to trails, and other
15 areas utilized for equine animal activities.

16 "Equine animal" means a horse, pony, mule or donkey.

17 "Equine animal activity" means any activity that involves the use
18 of an equine animal and shall include selling equipment and tack;
19 transportation, including the loading and off-loading for travel to or
20 from a horse show or trail system; inspecting, or evaluating an
21 equine animal belonging to another person whether or not the
22 person has received compensation; placing or replacing shoes on an
23 equine animal; and veterinary treatment on an equine animal.

24 **["Inherent risk or risks of an equine animal activity" means those**
25 **dangers which are an integral part of equine animal activity, which**
26 **shall include but need not be limited to:**

27 a. The propensity of an equine animal to behave in ways that
28 result in injury, harm, or death to nearby persons;

29 b. The unpredictability of an equine animal's reaction to such
30 phenomena as sounds, sudden movement and unfamiliar objects,
31 persons or other animals;

32 c. Certain natural hazards, such as surface or subsurface
33 ground conditions;

34 d. Collisions with other equine animals or with objects; and

35 e. The potential of a participant to act in a negligent manner
36 that may contribute to injury to the participant or others, including
37 but not limited to failing to maintain control over the equine animal
38 or not acting within the participant's ability. **】**

39 "Operator" means a person or entity who owns, manages,
40 controls or directs the operation of an area where individuals
41 engage in equine animal activities whether or not compensation is
42 paid. "Operator" shall also include an agency of this State, political
43 subdivisions thereof or instrumentality of said entities, or any
44 individual or entity acting on behalf of an operator for all or part of
45 such activities.

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 "Participant" means any person, whether an amateur or
2 professional, engaging in an equine animal activity, whether or not
3 a fee is paid to engage in the equine animal activity or, if a minor,
4 the natural guardian, or trainer of that person standing in loco
5 parentis, and shall include anyone accompanying the participant, or
6 any person coming onto the property of the provider of equine
7 animal activities or equestrian area whether or not an invitee or
8 person pays consideration.

9 "Spectator" means a person who is present in an equestrian area
10 for the purpose of observing equine animal activities whether or not
11 an invitee.

12 (cf: P.L.1997, c.287, s.2)

13
14 2. Section 3 of P.L.1997, c.287 (C.5:15-3) is amended to read
15 as follows:

16 3. A participant and spectator are deemed to assume the
17 inherent risks of equine animal activities **【created by equine**
18 **animals, weather conditions, conditions of trails, riding rings,**
19 **training tracks, equestrians, and all other inherent conditions】** ,
20 meaning those dangers that are an integral part of equine animal
21 activity, including:

22 (1) the propensity of an equine animal to behave in ways that
23 result in injury, harm, or death to nearby persons;

24 (2) the unpredictability of an equine animal's reaction to such
25 phenomena as sounds, sudden movement, and unfamiliar objects,
26 persons, or other animals;

27 (3) risks created by weather or certain natural hazards, such as
28 surface or subsurface ground conditions;

29 (4) collisions with other equine animals or with objects; and

30 (5) the potential of a participant or other person to act in a
31 negligent manner that may contribute to injury to the participant or
32 others, including, but not limited to, failing to maintain control over
33 the equine animal or not acting within the participant's ability.

34 Each participant is assumed to know the range of his ability and
35 it shall be the duty of each participant to conduct himself within the
36 limits of such ability to maintain control of his equine animal and to
37 refrain from acting in a manner which may cause or contribute to
38 the injury of himself or others, loss or damage to person or
39 property, or death which results from participation in an equine
40 animal activity.

41 (cf: P.L.1997, c.287, s.3)

42
43 3. Section 5 of P.L.1997, c.287 (C.5:15-5) is amended to read
44 as follows:

45 5. The assumption of risk set forth in section 3 of this act,
46 P.L.1997, c.287 (C.5:15-3), shall be a complete bar of suit and shall
47 serve as a complete defense to a suit against an operator by a
48 participant for injuries resulting from the assumed risks,

1 notwithstanding the provisions of P.L.1973, c.146 (C.2A:15-5.1 et
2 seq.) relating to comparative negligence, unless an operator has
3 violated his responsibilities under this act, P.L.1997, c.287 (C.5:15-
4 1 et seq.), in which case the provisions of P.L.1973, c.146 shall
5 apply. Failure of a participant to conduct himself within the limits
6 of his abilities , and to adhere to the duties, as provided in section 3
7 of this act, P.L.1997, c.287 (C.5:15-3) shall bar suit against an
8 operator to compensate for injuries resulting from equine animal
9 activities, where such failure is found to be a contributory factor in
10 the resulting injury, unless the operator has violated his
11 responsibilities under this act, P.L.1997, c.287 (C.5:15-1 et seq.), in
12 which case the provisions of P.L.1973, c.146 shall apply.
13 (cf: P.L.1997, c.287, s.5)

14
15 4. Section 9 of P.L.1997, c.287 (C.5:15-9) is amended to read
16 as follows:

17 9. **【**Notwithstanding any provisions of sections 3 and 4 of this
18 act to the contrary, the following actions or lack thereof on the part
19 of operators shall be exceptions to the limitation on liability for
20 operators:

21 a. Knowingly providing equipment or tack that is faulty to the
22 extent that it causes or contributes to injury.

23 b. Failure to**】**

24 The operator shall have the responsibility to:

25 (1) maintain in good condition all equipment and tack used in
26 equine animal activities;

27 (2) inspect all equipment and tack on a regular basis to ensure
28 the equipment and tack are in good condition;

29 (3) make reasonable and prudent efforts to determine the
30 participant's ability to **【safely】** manage the particular equine
31 animal, based on the participant's representation of his ability, or
32 the representation of the guardian, or trainer of that person standing
33 in loco parentis, if a minor**【**.

34 c. A case in which the participant is injured or killed by a
35 known dangerous latent condition on property owned or controlled
36 by the equine animal activity operator and for which warning signs
37 have not been posted.

38 d. An**】**;

39 (4) make reasonable inspections of the property owned,
40 controlled, or used by the operator for equine animal activity, in
41 order to: discover dangerous conditions on that property, eliminate
42 the dangerous conditions or post warnings signs when elimination is
43 not practicable, maintain the property in a reasonably safe
44 condition, and refrain from creating conditions that would render
45 the property unsafe;

1 (5) refrain from any act or omission **【on the part of the**
2 operator**】** that constitutes negligent disregard for the participant's
3 safety**【, which act or omission】** and causes **【the】** injury**【,】**; and

4 **【e. Intentional】**

5 (6) refrain from causing intentional injuries to the participant
6 **【caused by the operator】**.

7 Nothing in sections 3 and 4 of P.L.1997, c.287 (C.5:15-3 and 4)
8 shall be deemed to insulate an operator from any of the
9 responsibilities imposed upon the operator by this section.

10 (cf: P.L.1997, c.287, s.9)

11
12 5. Section 10 of P.L.1997, c.287 (C.5:15-10) is amended to
13 read as follows:

14 10. All operators shall post and maintain signs on all lands
15 owned or leased thereby and used for equine activities, which signs
16 shall be posted in a manner that makes them visible to all
17 participants and which shall contain the following notice in large
18 capitalized print:

19
20 "WARNING: UNDER NEW JERSEY LAW, AN EQUESTRIAN
21 AREA OPERATOR IS NOT LIABLE FOR AN INJURY TO OR
22 THE DEATH OF A PARTICIPANT IN EQUINE ANIMAL
23 ACTIVITIES RESULTING FROM THE INHERENT RISKS OF
24 EQUINE ANIMAL ACTIVITIES, PURSUANT TO P.L.1997,
25 c.287 (C.5:15-1 et seq.)."

26
27 All such signs shall list, underneath the capitalized print, the
28 duties of participants and the responsibilities of the operator as set
29 forth in sections 3 and 9 of P.L.1997, c.287 (C.5:15-3 and 9).

30 Individuals or entities providing equine animal activities on
31 behalf of an operator, and not the operator, shall be required to post
32 and maintain signs required by this section.

33 (cf: P.L.1997, c.287, s.10)

34
35 6. This act shall take effect on the 90th day following
36 enactment.

37 38 39 STATEMENT

40
41 This bill revises the equine animal activities law to codify the
42 recommendations of the New Jersey Law Revision Commission in
43 its "Equestrian Activities Liability Act" report, issued in May 2014.
44 Specifically, the revisions address the ambiguities or conflicts
45 between the inherent risks language and the language used to
46 describe the acts on the part of the operator of an equine animal
47 activity that can result in the imposition of liability for injuries.

1 To address the ambiguity issue identified by the New Jersey
2 Supreme Court, the commission suggests a limited structural
3 redrafting of the law with limited changes to the language. It is the
4 goal of the commission to remedy the potential confusion created
5 by the conflicts between the broad language of the inherent risks,
6 identified in N.J.S.A.5:15-3 and the broad language used to describe
7 the acts on the part of the operator that can result in the imposition
8 of liability pursuant to N.J.S.A.5:15-9.