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BILL ANALYSIS



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Senate Bill 738 (as introduced 8-18-09)
Sponsor: Senator Michelle A. McManus
Committee: Judiciary

Date Completed: 2-8-10

CONTENT

The bill would amend the Equine Activity Liability Act to change the standard for liability from negligence, to a willful and wanton disregard for safety, under an exception to the Act's immunity from liability.

Under the Act, an equine activity sponsor, an equine professional, or another person is not liable for an injury to or the death of a participant or property damage resulting from an inherent risk of an equine activity. A participant or his or her representative may not make a claim for or recover civil damages from an equine activity sponsor, an equine professional, or another person for injury to or the death of a participant or property damage resulting from an inherent risk of an equine activity.

The immunity and prohibition, however, do not prevent or limit liability if the equine activity sponsor, equine professional, or other person does certain things, including committing a negligent act or omission that constitutes a proximate cause of the injury, death, or damage. Under the bill, that exception to immunity instead would apply to committing an act or omission that constituted a willful and wanton disregard for the safety of the participant, and that was a proximate cause of the injury, death, or damage.

(Under the Act, "equine" means a horse, pony, mule, donkey, or hinny. "Equine activity" means any of the following:

- An equine show, fair, competition, performance, or parade.
- Equine training or teaching activities.
- Boarding equines, including their normal daily care.
- Breeding equines, including the normal daily care and activities associated with breeding equines.
- Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner receives monetary or other consideration for the use of the equine or is permitting a prospective purchaser or an agent to ride, inspect, or evaluate the animal.
- A ride, trip, hunt, or other activity, however informal or impromptu, that is sponsored by an equine activity sponsor.
- Placing or replacing a horseshoe on or hoof trimming of an equine.

"Equine activity sponsor" means an individual, group, club, partnership, or corporation, whether or not operating for profit, that sponsors, organizes, or provides the facilities for an equine activity. "Equine professional" means a person engaged in any of the following for compensation:

- Instructing a participant in an equine activity.
- Renting an equine, equipment, or tack to a participant.
- Providing daily care of horses boarded at an equine facility.
- Training an equine.
- Breeding equines for resale or stock replenishment.

"Inherent risk of an equine activity" means a danger or condition that is an integral part of an equine activity, including any of the following:

- An equine's propensity to behave in ways that may result in injury, harm, or death to a person on or around it.
- The unpredictability of an equine's reaction to things such as sounds, sudden movement, and people, other animals, or unfamiliar objects.
- A hazard such as a surface or subsurface condition.
- Collision with another equine or object.

"Participant" means an individual, whether amateur or professional, engaged in an equine activity, whether or not a fee is paid to participate.)

MCL 691.1665

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bill Bowerman

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