## GENERAL ASSEMBLY OF NORTH CAROLINA

## SESSION 1995

H 1 HOUSE BILL 61 Short Title: Immunity From Liability. (Public) Sponsors: Representatives Dickson; Ives, Cummings, McMahan, Culp, and Dockham. Referred to: Agriculture. January 30, 1995 A BILL TO BE ENTITLED AN ACT TO PROVIDE IMMUNITY FROM LIABILITY FOR EQUINE ACTIVITIES. The General Assembly of North Carolina enacts: Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read: "ARTICLE 67. "EQUINE ACTIVITY LIABILITY IMMUNITY. "§ 106-801. Purpose; findings. The General Assembly recognizes that persons who participate in equine activities may incur injuries as a result of the risks involved in such activities. The General Assembly also finds that the State and its citizens derive numerous economic and personal benefits from such activities. The General Assembly finds, determines, and declares that this Article is necessary for the immediate preservation of the public peace, health, and safety. It is, therefore, the intent of the General Assembly to encourage equine activities by limiting the civil liability of those involved in such activities. "§ 106-802. Definitions. As used in this Article, the term: 'Engage in an equine activity' means riding, training, providing or (1) assisting in providing medical treatment of, driving, or being a

passenger upon an equine, whether mounted or unmounted, or any

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1		person assisting a participant or show management. The term 'engages
2		in an equine activity' does not include being a spectator at an equine
3		activity, except in cases where the spectator places himself in an
4		unauthorized area and in immediate proximity to the equine activity.
5	<u>(2)</u>	'Equine' means a horse, pony, mule, donkey, or hinny.
6	(3)	'Equine activity' means:
7	<del>\/</del>	a. Equine shows, fairs, competitions, performances, or parades that
8		involve any or all breeds of equines and any of the equine
9		disciplines, including, but not limited to, dressage, hunter and
10		jumper horse shows, grand prix jumping, three-day events,
11		combined training, rodeos, driving, pulling, cutting, polo,
12		steeplechasing, English and western performance riding,
13		endurance trail riding and western games, and hunting;
14		b. Equine training or teaching activities, or both;
15		c. Boarding equines;
16		d. Riding, inspecting, or evaluating an equine belonging to another,
17		whether or not the owner has received some monetary
18		consideration or other thing of value for the use of the equine or
19		is permitting a prospective purchaser of the equine to ride,
20		inspect, or evaluate the equine;
21		e. Rides, trips, hunts, or other equine activities of any type however
22		informal or impromptu that are sponsored by an equine activity
23		sponsor;
24		<u>f.</u> <u>Placing or replacing horseshoes on an equine; and</u>
25		g. Examining or administering medical treatment to an equine by a
26		veterinarian.
27	<u>(4)</u>	'Equine activity sponsor' means an individual, group, club, partnership,
28	<del></del>	or corporation, whether or not the sponsor is operating for profit or
29		nonprofit, which sponsors, organizes, or provides the facilities for an
30		equine activity, including, but not limited to, pony clubs; 4-H clubs;
31		hunt clubs; riding clubs; school- and college-sponsored classes,
32		programs, and activities; therapeutic riding programs; and operators,
33		instructors, and promoters of equine facilities, including, but not limited
34		to, stables, clubhouses, ponyride strings, fairs, and arenas at which the
35		activity is held.
36	<u>(5)</u>	'Equine professional' means a person engaged for compensation in:
37	<u>(2)</u>	
38		the purpose of riding, driving, or being a passenger upon the
39		equine;
40		b. Renting equipment or tack to a participant; or
41		c. Examining or administering medical treatment to an equine as a
42		<u>veterinarian.</u>

'Inherent risks of equine activities' means those dangers or conditions 1 (6) 2 which are an integral part of equine activities, including, but not limited 3 to: 4 The propensity of an equine to behave in ways that may result in <u>a.</u> 5 injury, harm, or death to persons on or around them; 6 The unpredictability of an equine's reaction to such things as <u>b.</u> 7 sounds, sudden movement, and unfamiliar objects, persons, or 8 other animals: 9 Certain hazards such as surface and subsurface conditions: <u>c.</u> 10 d. Collisions with other equines or objects; and The potential of a participant to act in a negligent manner that 11 e. 12 may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within 13 14 his or her ability. 15 (7) 'Participant' means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate 16 17 in the equine activity. 18 "§ 106-803. Immunity from liability. 19 Except as provided in subsection (b) of this section, an equine activity sponsor, 20 an equine professional, or any other person, including a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks 21 of equine activities and, except as provided in subsection (b) of this section, no 22 23 participant or participant's representative shall make any claim against, maintain an action 24 against, or recover from an equine activity sponsor, an equine professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the 25 inherent risks of equine activities. 26 Nothing in subsection (a) of this section shall prevent or limit the liability of an 27 (b) equine activity sponsor, an equine professional, or any other person if the equine activity 28 29 sponsor, equine professional, or person: 30 Provided the equipment or tack, and knew or should have known that (1) the equipment or tack was faulty, and such equipment or tack was faulty 31 32 to the extent that it did cause the injury. Provided the equine and failed to make reasonable and prudent efforts to 33 <u>(2)</u> determine the ability of the participant to engage safely in the equine 34 activity and to safely manage the particular equine based on the 35 participant's representations of his ability; 36 Owns, leases, rents, or otherwise is in lawful possession and control of 37 <u>(3)</u> 38 the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known or should 39 have been known to the equine activity sponsor, equine professional, or 40 person and for which warning signs have not been conspicuously 41 42 posted;

injury; or

1 <u>(4)</u> 

- (5) <u>Intentionally injures the participant.</u>
- (c) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor or an equine professional under liability provisions as set forth in the products liability laws.

Commits an act or omission that constitutes willful or wanton disregard

for the safety of the participant, and that act or omission caused the

## "§ 106-804. Warning required.

- (a) Every equine professional and every equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (c) of this section. Such signs shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities. The warning notice specified in subsection (c) of this Code section shall be prepared by the Department of Agriculture and shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional or by an equine activity sponsor for the providing of professional services, instruction, or the rental of equipment or tack or an equine to a participant, whether or not the contract involves equine activities on or off the location or site of the equine professional's or the equine activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (c) of this section.
- (b) The Department shall charge a fee, not to exceed fifteen dollars (\$15.00), for each warning sign.
- (c) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

## **'WARNING**

Under North Carolina law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities, pursuant to Article 67 of Chapter 106 of the North Carolina General Statutes.'

- (d) Failure to comply with the requirements concerning warning signs and notices provided in this Article shall prevent an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this Article."
- Sec. 2. This act becomes effective January 1, 1996, and applies to causes of action arising on or after that date.