

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-376
HOUSE BILL 176

AN ACT TO CLARIFY RESPONSIBILITIES AND LIABILITY FOR EQUINE ACTIVITIES AND TO CLARIFY THE DUTIES OF ROLLER SKATING RINK OPERATORS AND SKATERS AT ROLLER SKATING RINKS RELATING TO LIABILITY.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 99E.

"Equine Activity Liability.

"§ 99E-1. Definitions.

As used in this Chapter, the term:

- (1) 'Engage in an equine activity' means participate in an equine activity, assist a participant in an equine activity, or assist an equine activity sponsor or equine professional. The term 'engage in an equine activity' does not include being a spectator at an equine activity, except in cases in which the spectator places himself in an unauthorized area and in immediate proximity to the equine activity.
- (2) 'Equine' means a horse, pony, mule, donkey, or hinny.
- (3) 'Equine activity' means any activity involving an equine.
- (4) 'Equine activity sponsor' means an individual, group, club, partnership, or corporation, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity. The term includes operators and promoters of equine facilities.
- (5) 'Equine professional' means a person engaged for compensation in any one or more of the following:
 - a. Instructing a participant.
 - b. Renting an equine to a participant for the purpose of riding, driving, or being a passenger upon the equine.
 - c. Renting equipment or tack to a participant.
 - d. Examining or administering medical treatment to an equine.
 - e. Hooftrimming or placing or replacing horseshoes on an equine.

- (6) 'Inherent risks of equine activities' means those dangers or conditions that are an integral part of engaging in an equine activity, including any of the following:
- a. The possibility of an equine behaving in ways that may result in injury, harm, or death to persons on or around them.
 - b. The unpredictability of an equine's reaction to such things as sounds, sudden movement, unfamiliar objects, persons, or other animals.

Inherent risks of equine activities does not include a collision or accident involving a motor vehicle.

- (7) 'Participant' means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

"§ 99E-2. Liability.

(a) Except as provided in subsection (b) of this section, an equine activity sponsor, an equine professional, or any other person engaged in an equine activity, including a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities and, except as provided in subsection (b) of this section, no participant or participant's representative shall maintain an action against or recover from an equine activity sponsor, an equine professional, or any other person engaged in an equine activity for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of equine activities.

(b) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity if the equine activity sponsor, equine professional, or person engaged in an equine activity does any one or more of the following:

- (1) Provides the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such faulty equipment or tack proximately caused the injury, damage, or death.
- (2) Provides the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity or to safely manage the particular equine.
- (3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission proximately caused the injury, damage, or death.
- (4) Commits any other act of negligence or omission that proximately caused the injury, damage, or death.

(c) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity under liability provisions as set forth in the products liability laws.

"§ 99E-3. Warning required.

(a) Every equine professional and every equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (b) of this

section. The signs required by this section 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 (b) of this section shall be designed by the Department of Agriculture and Consumer Services 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 (b) of this section.

(b) 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 exclusively from the inherent risks of equine activities. Chapter 99E of the North Carolina General Statutes.'

(c) Failure to comply with the requirements concerning warning signs and notices provided in this Chapter shall prevent an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this Chapter."

Section 2. The General Statutes are amended by adding a new Chapter to read:

"Chapter 99F.

"Roller Skating Rink Safety and Liability.

"§ 99F-1. Definitions.

As used in this Chapter:

- (1) 'Operator' means a person or entity who owns, manages, controls, or directs, or who has operational responsibility for a roller skating rink.
- (2) 'Roller skater' means an individual wearing roller skates while in a roller skating rink for the purpose of recreational or competitive roller skating. 'Roller skater' includes any individual in the roller skating rink who is an invitee, whether or not this individual pays consideration.
- (3) 'Roller skating rink' means a building, facility, or premises that provide an area specifically designed to be used by the public for recreational or competitive roller skating.
- (4) 'Spectator' means an individual who is present in a roller skating rink only for the purpose of observing recreational or competitive roller skating.

"§ 99F-2. Duties of an operator.

The operator, to the extent practicable, shall:

- (1) Post the duties of roller skaters and spectators and the duties, obligations, and liabilities of the operator as prescribed in this Chapter in conspicuous places in at least three locations in the roller skating rink.
- (2) Maintain the stability and legibility of all signs, symbols, and posted notices required under subdivision (1) of this section.
- (3) Comply with all roller skating rink safety standards published by the Roller Skating Rink Operators Association, including, but not limited to, the proper maintenance of roller skating equipment and roller skating surfaces.
- (4) When the rink is open for sessions, have at least one floor guard on duty for approximately every 200 skaters.
- (5) Maintain the skating surface in reasonably safe condition and clean and inspect the skating surface before each session.
- (6) Maintain in good condition the railings, kickboards, and walls surrounding the skating surface.
- (7) In rinks with step-up or step-down skating surfaces, ensure that the covering on the riser is securely fastened.
- (8) Install fire extinguishers and inspect fire extinguishers at recommended intervals.
- (9) Provide reasonable security in parking areas during operational hours.
- (10) Inspect emergency lighting units periodically to ensure the lights are in proper order.
- (11) Keep exit lights and lights in service areas on when skating surface lights are turned off during special numbers.
- (12) Check rental skates on a regular basis to ensure the skates are in good mechanical condition.
- (13) Prohibit the sale or use of alcoholic beverages on the premises.
- (14) Comply with all applicable State and local safety codes.
- (15) Not engage willfully or negligently in any conduct that may proximately cause injury, damage, or death to a roller skater or spectator.

"§ 99F-3. Duties of a roller skater.

Each roller skater shall, to the extent commensurate with the person's age:

- (1) Maintain reasonable control of his or her speed and course at all times.
- (2) Heed all posted signs and warnings.
- (3) Maintain a proper lookout to avoid other roller skaters and objects.
- (4) Accept the responsibility for knowing the range of his or her ability to negotiate the intended direction of travel while on roller skates and to skate within the limits of that ability.
- (5) Refrain from acting in a manner that may cause or contribute to the injury of himself, herself, or any other person.

"§ 99F-4. Assumption of risk.

Roller skaters and spectators are deemed to have knowledge of and to assume the inherent risks of roller skating, insofar as those risks are obvious and necessary. The obvious and necessary inherent risks include, but are not limited to, injury, damage, or death that:

- (1) Results from incidental contact with other roller skaters or spectators,
- (2) Results from falls caused by loss of balance, or
- (3) Involves objects or artificial structures properly within the intended path of travel of the roller skater,

and that is not otherwise attributable to a rink operator's breach of the operator's duties as set forth in G.S. 99F-2.

"§ 99F-5. Defense to suit.

Assumption of risk pursuant to G.S. 99F-4 is a complete defense to a suit against an operator by a roller skater or a spectator for injuries resulting from any obvious and necessary inherent risks, unless the operator has violated the operator's duties under G.S. 99F-2."

Section 3. This act becomes effective January 1, 1998, and applies to causes of action arising on or after that date.

In the General Assembly read three times and ratified this the 30th day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 5:52 p.m. this 6th day of August, 1997