

1513

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

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Introduced by M. of A. MAGEE -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to the liability of persons involved in equine activities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The legislature hereby finds that  
2 horseback riding is both a major recreational sport and a major industry  
3 within the state of New York. The legislature further finds: (1) that  
4 horseback riding, like many other sports, contains inherent risks  
5 including, but not limited to, the risks of personal injury, death or  
6 property damage, which may be caused by the propensity of equines to  
7 behave in ways that are not always controllable by the participant; the  
8 unpredictability of an equine's reaction to such things as sounds,  
9 sudden movements, and unfamiliar objects, persons or other animals;  
10 surface or subsurface conditions; collisions with other equines or  
11 objects; and the potential of a participant to act in a negligent  
12 manner; (2) that it is appropriate, as well as in the public interest,  
13 to establish certain duties and obligations of equine sponsors and  
14 equine professionals relative to the safety of the horseback riding  
15 public; and (3) that it is also necessary and appropriate that the  
16 public become apprised of and understand the risks inherent in the sport  
17 of horseback riding so that they may make an informed decision of wheth-  
18 er or not to participate in horseback riding notwithstanding the risks.  
19 Therefore, the purpose and intent of this act is to establish guidelines  
20 for the conduct of the participants, sponsors and professionals involved  
21 in the sport of horseback riding; to educate the public as to the inher-  
22 ent risks in the sport of horseback riding so as to minimize the risk of  
23 injury to persons engaged in the sport of horseback riding; to promote  
24 safety in the horseback riding industry; and to preserve the financial

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 sustainability of the equine sponsors and equine professionals engaged  
2 in the horseback riding industry.

3 S 2. The general obligations law is amended by adding a new article  
4 18-B to read as follows:

5 ARTICLE 18-B

6 EQUINE ACTIVITY SAFETY CODE

7 SECTION 18-301. SHORT TITLE.

8 18-302. DEFINITIONS.

9 18-303. LIABILITY OF PERSONS INVOLVED IN EQUINE ACTIVITIES.

10 18-304. LIMITATION OF LIABILITY.

11 18-305. POSTING AND NOTIFICATION.

12 S 18-301. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS  
13 THE "EQUINE ACTIVITY SAFETY CODE ACT".

14 S 18-302. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOW-  
15 ING WORDS OR PHRASES SHALL BE DEFINED AS FOLLOWS:

16 1. "ENGAGES IN AN EQUINE ACTIVITY" MEANS RIDING, TRAINING, ASSISTING  
17 IN THE VETERINARY TREATMENT OF, DRIVING OR BEING A PASSENGER UPON AN  
18 EQUINE, WHETHER MOUNTED OR UNMOUNTED, OR VISITING OR TOURING OR UTILIZ-  
19 ING AN EQUINE FACILITY AS PART OF AN ORGANIZED EVENT OR ACTIVITY, OR ANY  
20 PERSON ASSISTING A PARTICIPANT OR SHOW MANAGEMENT. THE TERM "ENGAGES IN  
21 AN EQUINE ACTIVITY" SHALL NOT INCLUDE BEING A SPECTATOR AT AN EQUINE  
22 ACTIVITY, EXCEPT IN CASES WHERE THE SPECTATOR PLACES HIMSELF OR HERSELF  
23 IN AN UNAUTHORIZED AREA OR IN IMMEDIATE PROXIMITY TO THE EQUINE ACTIV-  
24 ITY.

25 2. "EQUINE" MEANS A HORSE, PONY, MULE OR DONKEY.

26 3. "EQUINE ACTIVITY" MEANS:

27 (A) EQUINE SHOWS, FAIRS, COMPETITIONS, PERFORMANCES OR PARADES THAT  
28 INVOLVE ANY OR ALL BREEDS OF EQUINES AND ANY OF THE EQUINE DISCIPLINES,  
29 INCLUDING, BUT NOT LIMITED TO DRESSAGE, HUNTER AND JUMPER HORSE SHOWS,  
30 GRAND PRIX JUMPING, THREE-DAY EVENTS, COMBINED TRAINING, RODEOS, RIDING,  
31 DRIVING, PULLING, CUTTING, POLO, STEEPLECHASING, ENGLISH AND WESTERN  
32 PERFORMANCE RIDING, ENDURANCE TRAIL RIDING, GYMKHANA GAMES, AND HUNTING.

33 (B) EQUINE TRAINING OR TEACHING ACTIVITIES OR BOTH;

34 (C) THE BOARDING OF EQUINES, INCLUDING NORMAL DAILY CARE THEREOF;

35 (D) RIDING, INSPECTING OR EVALUATING OF AN EQUINE BELONGING TO ANOTHER  
36 BY A PURCHASER OR AGENT, WHETHER OR NOT THE OWNER HAS RECEIVED SOME  
37 MONETARY CONSIDERATION OR OTHER THING OF VALUE FOR THE USE OF THE EQUINE  
38 OR IS PERMITTING A PROSPECTIVE PURCHASER OF THE EQUINE TO RIDE, INSPECT  
39 OR EVALUATE THE EQUINE;

40 (E) RIDES, TRIPS, HUNTS OR OTHER EQUINE ACTIVITIES OF ANY TYPE HOWEVER  
41 INFORMAL OR IMPROMPTU THAT ARE SPONSORED BY AN EQUINE ACTIVITY SPONSOR;

42 (F) PLACING OR REPLACING HORSESHOES OR HOOF TRIMMING ON AN EQUINE; OR

43 (G) PROVIDING OR ASSISTING IN VETERINARY TREATMENT OF AN EQUINE.

44 4. "EQUINE ACTIVITY SPONSOR" MEANS AN INDIVIDUAL, GROUP, CLUB, PART-  
45 NERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION, WHETHER OR NOT THE  
46 SPONSOR IS OPERATING FOR PROFIT OR NOT-FOR-PROFIT, WHICH SPONSORS,  
47 ORGANIZES OR PROVIDES THE FACILITIES FOR AN EQUINE ACTIVITY, INCLUDING  
48 BUT NOT LIMITED TO: PONY CLUBS, 4-H CLUBS, HUNT CLUBS, RIDING CLUBS,  
49 SCHOOL AND COLLEGE-SPONSORED CLASSES, PROGRAMS AND ACTIVITIES, THERAPEU-  
50 TIC RIDING PROGRAMS, STABLE AND FARM OWNERS AND OPERATORS, INSTRUCTORS,  
51 AND PROMOTERS OF EQUINE FACILITIES, INCLUDING BUT NOT LIMITED TO FARMS,  
52 STABLES, CLUBHOUSES, PONY RIDE STRINGS, FAIRS AND ARENAS AT WHICH THE  
53 ACTIVITY IS HELD.

54 5. "EQUINE PROFESSIONAL" MEANS A PERSON ENGAGED FOR COMPENSATION:

55 (A) IN INSTRUCTING A PARTICIPANT OR RENTING TO A PARTICIPANT AN EQUINE  
56 FOR THE PURPOSE OF RIDING, DRIVING OR BEING A PASSENGER UPON THE EQUINE;

1 (B) IN RENTING EQUIPMENT OR TACK TO A PARTICIPANT;

2 (C) TO PROVIDE DAILY CARE OF HORSES BOARDED AT AN EQUINE FACILITY; OR

3 (D) TO TRAIN AN EQUINE.

4 6. "INHERENT RISKS OF EQUINE ACTIVITIES" MEANS THOSE DANGERS OR CONDI-  
5 TIONS WHICH ARE AN INTEGRAL PART OF EQUINE ACTIVITIES, INCLUDING BUT NOT  
6 LIMITED TO:

7 (A) THE PROPENSITY OF EQUINES TO BEHAVE IN WAYS THAT MAY RESULT IN  
8 INJURY, HARM OR DEATH TO PERSONS ON OR AROUND THEM;

9 (B) THE UNPREDICTABILITY OF AN EQUINE'S REACTION TO SUCH THINGS AS  
10 SOUNDS, SUDDEN MOVEMENT, AND UNFAMILIAR OBJECTS, PERSONS OR OTHER  
11 ANIMALS;

12 (C) CERTAIN HAZARDS SUCH AS SURFACE AND SUBSURFACE CONDITIONS INCLUD-  
13 ING, BUT NOT LIMITED TO, ROCKS, FOREST GROWTH, DEBRIS, BRANCHES, TREES,  
14 ROOTS, STUMPS OR OTHER NATURAL OBJECTS;

15 (D) COLLISIONS WITH OTHER EQUINES OR OBJECTS; AND

16 (E) THE POTENTIAL OF A PARTICIPANT TO ACT IN A NEGLIGENT MANNER THAT  
17 MAY CONTRIBUTE TO INJURY TO THE PARTICIPANT OR OTHERS, SUCH AS FAILING  
18 TO MAINTAIN CONTROL OVER THE ANIMAL OR NOT ACTING WITHIN HIS OR HER  
19 ABILITY.

20 7. "PARTICIPANT" MEANS ANY PERSON, WHETHER AMATEUR OR PROFESSIONAL,  
21 WHO ENGAGES IN AN EQUINE ACTIVITY, WHETHER OR NOT A FEE IS PAID TO  
22 PARTICIPATE IN THE EQUINE ACTIVITY.

23 S 18-303. LIABILITY OF PERSONS INVOLVED IN EQUINE ACTIVITIES. 1.  
24 NOTHING IN SECTION 18-304 OF THIS ARTICLE SHALL PREVENT OR LIMIT THE  
25 LIABILITY OF AN EQUINE ACTIVITY SPONSOR OR AN EQUINE PROFESSIONAL, IF  
26 THE EQUINE ACTIVITY SPONSOR OR EQUINE PROFESSIONAL:

27 (A) PROVIDED EQUIPMENT OR TACK, KNEW OR SHOULD HAVE KNOWN THAT SUCH  
28 EQUIPMENT OR TACK WAS FAULTY, AND THE EQUIPMENT OR TACK WAS FAULTY TO  
29 THE EXTENT THAT IT CAUSED THE INJURY;

30 (B) PROVIDED THE EQUINE AND FAILED TO MAKE REASONABLE AND PRUDENT  
31 EFFORTS TO DETERMINE THE ABILITY OF THE PARTICIPANT TO ENGAGE SAFELY IN  
32 THE EQUINE ACTIVITY, AND DETERMINE THE ABILITY OF THE PARTICIPANT TO  
33 SAFELY MANAGE THE PARTICULAR EQUINE BASED ON THE PARTICIPANT'S REPRESEN-  
34 TATIONS OF HIS OR HER ABILITY;

35 (C) OWNS, LEASES, RENTS, HAS AUTHORIZED USE OF OR IS OTHERWISE IN  
36 LAWFUL POSSESSION AND CONTROL OF THE LAND OR FACILITIES UPON WHICH THE  
37 PARTICIPANT SUSTAINED INJURIES BECAUSE OF A DANGEROUS LATENT CONDITION  
38 WHICH WAS KNOWN OR SHOULD HAVE BEEN KNOWN TO THE EQUINE ACTIVITY SPONSOR  
39 OR EQUINE PROFESSIONAL, AND FOR WHICH WARNING SIGNS, PURSUANT TO SECTION  
40 18-305 OF THIS ARTICLE, HAVE NOT BEEN CONSPICUOUSLY POSTED;

41 (D) COMMITS AN ACT OF OMISSION THAT CONSTITUTES WILLFUL OR WANTON  
42 DISREGARD FOR THE SAFETY OF THE PARTICIPANT, AND THAT ACT OF OMISSION  
43 CAUSED THE INJURY; OR

44 (E) INTENTIONALLY INJURES THE PARTICIPANT.

45 2. THIS SECTION SHALL NOT APPLY TO THE HORSE RACING ACTIVITY AUTHOR-  
46 IZED PURSUANT TO ARTICLE TWO, THREE OR FOUR OF THE RACING, PARI-MUTUEL  
47 WAGERING AND BREEDING LAW.

48 S 18-304. LIMITATION OF LIABILITY. 1. EXCEPT AS PROVIDED IN SUBDIVI-  
49 SION TWO OF SECTION 18-303 OF THIS ARTICLE, AN EQUINE ACTIVITY SPONSOR,  
50 AN EQUINE PROFESSIONAL OR ANY OTHER PERSON, WHICH SHALL INCLUDE A CORPO-  
51 RATION, LIMITED LIABILITY COMPANY OR PARTNERSHIP, SHALL NOT BE LIABLE  
52 FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT RESULTING FROM THE INHER-  
53 ENT RISKS OF EQUINE ACTIVITIES AND, EXCEPT AS PROVIDED IN SUBDIVISION  
54 TWO OF SECTION 18-303 OF THIS ARTICLE, NO PARTICIPANT NOR PARTICIPANT'S  
55 REPRESENTATIVE SHALL MAKE ANY CLAIM AGAINST, MAINTAIN AN ACTION AGAINST,  
56 OR RECOVER FROM AN EQUINE ACTIVITY SPONSOR, AN EQUINE PROFESSIONAL OR

1 ANY OTHER PERSON FOR INJURY, LOSS, DAMAGE OR DEATH OF THE PARTICIPANT  
2 RESULTING FROM ANY OF THE INHERENT RISKS OF EQUINE ACTIVITIES.

3 2. NOTHING IN THIS ARTICLE SHALL LIMIT THE APPLICATION OF THE  
4 PROVISIONS OF SECTION 9-103 OF THIS CHAPTER.

5 S 18-305. POSTING AND NOTIFICATION. 1. EVERY EQUINE PROFESSIONAL  
6 SHALL POST AND MAINTAIN SIGNS WHICH CONTAIN THE WARNING NOTICE SPECIFIED  
7 IN SUBDIVISION TWO OF THIS SECTION. SUCH SIGNS SHALL BE PLACED IN A  
8 CLEARLY VISIBLE LOCATION IN THE PROXIMITY OF THE EQUINE ACTIVITY. THE  
9 WARNING NOTICE SPECIFIED IN SUBDIVISION TWO OF THIS SECTION SHALL APPEAR  
10 ON THE SIGN IN BLACK LETTERS, WITH EACH LETTER TO BE A MINIMUM OF ONE  
11 INCH IN HEIGHT. EVERY WRITTEN CONTRACT ENTERED INTO BY AN EQUINE PROFES-  
12 SIONAL FOR THE PROVISION OF PROFESSIONAL SERVICES, INSTRUCTION OR THE  
13 RENTAL OF EQUIPMENT OR TACK OR AN EQUINE TO A PARTICIPANT, WHETHER OR  
14 NOT THE CONTRACT INVOLVES EQUINE ACTIVITIES ON OR OFF THE LOCATION OR  
15 SITE OF THE EQUINE PROFESSIONAL'S BUSINESS, SHALL CONTAIN, IN CLEARLY  
16 READABLE PRINT, THE WARNING NOTICE SPECIFIED IN SUBDIVISION TWO OF THIS  
17 SECTION.

18 2. THE SIGNS AND CONTRACTS DESCRIBED IN SUBDIVISION ONE OF THIS  
19 SECTION SHALL CONTAIN THE FOLLOWING WARNING NOTICE:

20 WARNING

21 UNDER NEW YORK LAW, AN EQUINE PROFESSIONAL OR EQUINE ACTIVITY SPONSOR  
22 IS NOT LIABLE FOR AN INJURY TO OR THE DEATH OF A PARTICIPANT IN EQUINE  
23 ACTIVITIES RESULTING FROM THE INHERENT RISKS OF EQUINE ACTIVITIES,  
24 PURSUANT TO SECTION 18-304 OF THE GENERAL OBLIGATIONS LAW.

25 S 3. This act shall take effect on the ninetieth day after it shall  
26 have become a law.