

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 176
Committee Substitute Favorable 4/23/97
Senate Judiciary Committee Substitute Adopted 7/16/97

Short Title: Equine Activities/Skating Rink Liability.

(Public)

Sponsors:

Referred to:

February 17, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY RESPONSIBILITIES AND LIABILITY FOR EQUINE
3 ACTIVITIES AND TO CLARIFY THE DUTIES OF ROLLER SKATING RINK
4 OPERATORS AND SKATERS AT ROLLER SKATING RINKS RELATING TO
5 LIABILITY.

6 The General Assembly of North Carolina enacts:

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

8 **“CHAPTER 99E.**

9 **“EQUINE ACTIVITY LIABILITY.**

10 **“§ 99E-1. Definitions.**

11 As used in this Chapter, the term:

12 (1) ‘Engage in an equine activity’ means participate in an equine activity,
13 assist a participant in an equine activity, or assist an equine activity
14 sponsor or equine professional. The term ‘engage in an equine activity’
15 does not include being a spectator at an equine activity, except in cases
16 in which the spectator places himself in an unauthorized area and in
17 immediate proximity to the equine activity.

18 (2) ‘Equine’ means a horse, pony, mule, donkey, or hinny.

- 1 (3) 'Equine activity' means any activity involving an equine.
2 (4) 'Equine activity sponsor' means an individual, group, club, partnership,
3 or corporation, whether the sponsor is operating for profit or nonprofit,
4 which sponsors, organizes, or provides the facilities for an equine
5 activity. The term includes operators and promoters of equine facilities.
6 (5) 'Equine professional' means a person engaged for compensation in any
7 one or more of the following:
8 a. Instructing a participant.
9 b. Renting an equine to a participant for the purpose of riding,
10 driving, or being a passenger upon the equine.
11 c. Renting equipment or tack to a participant.
12 d. Examining or administering medical treatment to an equine.
13 e. Hooftrimming or placing or replacing horseshoes on an equine.
14 (6) 'Inherent risks of equine activities' means those dangers or conditions
15 that are an integral part of engaging in an equine activity, including any
16 of the following:
17 a. The possibility of an equine behaving in ways that may result in
18 injury, harm, or death to persons on or around them.
19 b. The unpredictability of an equine's reaction to such things as
20 sounds, sudden movement, unfamiliar objects, persons, or other
21 animals.
22 Inherent risks of equine activities does not include a collision or
23 accident involving a motor vehicle.
24 (7) 'Participant' means any person, whether amateur or professional, who
25 engages in an equine activity, whether or not a fee is paid to participate
26 in the equine activity.

27 **"§ 99E-2. Liability.**

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

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

- 40 (1) Provides the equipment or tack, and knew or should have known that
41 the equipment or tack was faulty, and such faulty equipment or tack
42 proximately caused the injury, damage, or death.

- 1 (2) 'Roller skater' means an individual wearing roller skates while in a
2 roller skating rink for the purpose of recreational or competitive roller
3 skating. 'Roller skater' includes any individual in the roller skating rink
4 who is an invitee, whether or not this individual pays consideration.
5 (3) 'Roller skating rink' means a building, facility, or premises that provide
6 an area specifically designed to be used by the public for recreational or
7 competitive roller skating.
8 (4) 'Spectator' means an individual who is present in a roller skating rink
9 only for the purpose of observing recreational or competitive roller
10 skating.

11 **"§ 99F-2. Duties of an operator.**

12 The operator, to the extent practicable, shall:

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

43 **"§ 99F-3. Duties of a roller skater.**

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

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

10 **"§ 99F-4. Assumption of risk.**

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

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

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

21 **"§ 99F-5. Defense to suit.**

22 Assumption of risk pursuant to G.S. 99F-4 is a complete defense to a suit against an
23 operator by a roller skater or a spectator for injuries resulting from any obvious and
24 necessary inherent risks, unless the operator has violated the operator's duties under G.S.
25 99F-2."

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