

Delaware Equine Activity Statute

DELAWARE ADVANCE LEGISLATIVE SERVICE

DELAWARE 138TH GENERAL ASSEMBLY

HOUSE OF REPRESENTATIVES

138TH GENERAL ASSEMBLY

70TH LEGISLATURE

PUBLIC ACT 212

HOUSE BILL NO. 9

1995 Del. ALS 212; 1995 Del. Laws 212; 1995 Del. HB 9

SYNOPSIS: AN ACT TO AMEND TITLE 10, DELAWARE CODE RELATING TO CIVIL LIABILITY AND EQUINE ACTIVITIES.

WHEREAS, the General Assembly recognizes that persons who participate in equine activities may incur injuries as a result of the risks inherent in such activities; and

WHEREAS, the General Assembly also finds that the state and its citizens derive numerous economic and personal benefits from such activities; and

WHEREAS, it is the intent of the General Assembly to encourage equine activities by limiting the civil liability of those involved in such activities.

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 81, Title 10, Delaware Code by adding thereto a new Section 8140 to read as follows:

“8140.

(A) For purposes of this section, the following terms shall have the meaning ascribed herein:

(1)(a) ‘Engages in an equine activity’ means riding, training, assisting in medical treatment of, driving, or being a passenger upon an equine, whether mounted or unmounted or any person assisting a participant or show management.

(b) ‘Engages in an equine activity’ does not include being a spectator at an equine activity, except in cases where the spectator places such spectator’s person 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:

(a) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding and western games, and hunting;

(b) Equine training or teaching activities, or both;

(c) Boarding equines;

(d) Riding, inspecting, or evaluating an equine belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine;

(e) Rides, trips, hunts, or other equine activities of any type, however informal or impromptu, that are sponsored by an equine activity sponsor; and

(f) Placing or replacing horseshoes on an equine;

(4) 'Equine activity sponsor' means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity, including, but not limited to, pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college-sponsored classes, programs and activities, therapeutic riding programs, and operators, instructors, and promoters of equine facilities, including, but not limited to, stables, clubhouses, ponyride strings, fairs, and arenas at which the activity is held;

(5) 'Equine professional' means a person engaged for compensation:

(a) In instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine; or

(b) In renting equipment or tack to a participant;

(6) 'Inherent risks of equine activities' means those dangers or conditions which are an integral part of equine activities, including, but not limited to:

(a) The propensity of an equine to behave 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 movements, and unfamiliar objects, persons, or other animals;

(c) Certain hazards such as surface and subsurface conditions;

(d) Collisions with other equines or objects; and

(e) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within the participant's ability.

(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.

(B) Except as provided in Section 8140(C), an equine activity sponsor, an equine professional, or any other person, which shall include 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. Except as provided in Section 8140(C), no participant or participant's representative shall make any claim against, maintain an action 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 inherent risks of equine activities.

(C)(1) This chapter shall not apply to the horse racing industry as regulated in Title 3.

(2) Nothing in Section 8140(B) shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person if the equine activity sponsor, equine professional, or person:

(a)(i) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; or

(ii) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity and determine the ability of the participant to safely manage the particular equine based on the participant's representations of the participant's ability;

(b) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the equine activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted;

(c) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury; or

(d) Intentionally injures the participant.

(3) Nothing in Section 8140(B) shall prevent or limit the liability of an equine activity sponsor or an equine professional under either product liability or trespass claims.

(D)(1) Every equine professional shall post and maintain signs which contain the warning notice specified in subsection (2). Such signs shall be placed in clearly visible locations on or near stables, corrals, or arenas where the equine professional conducts equine activities if such stables, corrals, or arenas are owned, managed, or controlled by the equine professional. The warning notice specified in subsection (2) shall appear on the sign in red and white, with each letter to be a minimum of one inch (1") in height. Every written contract entered into by an equine professional 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 business, shall contain in clearly readable print the warning notice specified in subsection (2).

(2) The signs and contracts described in subsection (1) shall contain the following warning notice:

'WARNING

Under Delaware Law, an 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 10 Delaware Code Section 8140.'"