

HOUSE BILL NO. 768

INTRODUCED BY Z. WIRTH, E. BYRNE, R. GREGG, M. BERTOGLIO, S. GIST, L. JONES, C. SPRUNGER,
R. MINER, G. KMETZ, G. PARRY, S. MANESS, B. BEARD, S. ESSMANN, J. DARLING

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO EQUINE ACTIVITY LIABILITY LIMITATIONS; PROVIDING FOR WAIVERS OF LIABILITIES FOR PARTICIPANTS IN EQUINE ACTIVITIES; ALLOWING EQUINE ACTIVITY WAIVERS TO BE LEGALLY CHALLENGED ON OTHER GROUNDS; AND AMENDING SECTION 27-1-727, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-727, MCA, is amended to read:

"27-1-727. Equine activity liability limitations -- waivers. (1) Except as provided in subsections (2) and ~~(3)~~ through (4), an equine activity sponsor or an equine professional is not liable for an injury to or the death of a participant engaged in an equine activity resulting from risks inherent in equine activities.

(2) An equine participant shall act in a safe and responsible manner at all times to avoid injury to the participant and others and to be aware of risks inherent in equine activities.

(3) Subsection (1) does not apply:

(a) if the equine activity sponsor or the equine professional:

(i) provided the equipment or tack and the equipment or tack caused the injury because the equine activity sponsor or equine professional failed to reasonably and prudently inspect or maintain the equipment;

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

(iii) owned, leased, rented, or otherwise was in lawful possession and control of the land or facilities upon which the participant sustained injuries caused by a dangerous latent condition that was known or should have been known to the equine activity sponsor or the equine professional;

1 (iv) committed an act or omission that constituted willful or wanton disregard for the safety of the
2 participant and the act or omission caused the injury; or

3 (v) intentionally injured the participant; or

4 (b) in a products liability action.

5 (4) (a) Any waiver or release for equine activities must:

6 (i) state known inherent risks of equine activities; and

7 (ii) contain the following statement in bold typeface:

8 "By signing this document, you may be waiving your legal right to a jury trial to hold the provider legally
9 responsible for any injuries or damages resulting from risks inherent in equine activities or for any injuries or
10 damages you may suffer due to the provider's ordinary negligence that are the result of the provider's failure to
11 exercise reasonable care."

12 (b) Any waiver or release for equine activities may still be challenged on any legal grounds.

13 (c) Any waiver or release for equine activities that is in compliance with this section is not
14 prohibited by or subject to the provisions of 28-2-702."

15 - END -