

HOUSE BILL NO. 1223

Introduced by

Representatives S. Meyer, Gulleson, Solberg

Senators Bowman, Grindberg, Taylor

1 A BILL for an Act to create and enact a new section to chapter 53-10 of the North Dakota
2 Century Code, relating to liability for injury or damage incurred during equine activity; and to
3 amend and reenact section 53-10-02 of the North Dakota Century Code, relating to liability for
4 injury or damage incurred during equine activity.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 53-10-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **53-10-02. Liability of equine activity sponsor or equine professional limited.**

9 1. ~~Except as provided in subsection 2~~ Because an equine by its very nature can react
10 unpredictably in a variety of situations, including those involving sound, sudden
11 movement, an unfamiliar object, the presence of an individual, or the presence of
12 another animal, an equine activity sponsor or an equine professional is not liable
13 for an injury to or the death of a participant engaged in an equine activity, ~~and,~~
14 except as provided in subsection ~~2,~~ no 4.

15 2. A participant or a participant's representative may not maintain an action against or
16 recover from an equine activity sponsor or an equine professional for an injury to or
17 the death of a participant engaged in an equine activity.

18 3. This chapter does not apply to the horse racing industry as regulated in chapter
19 53-06.2.

20 ~~2.~~ 4. Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor
21 or an equine professional:

22 a. If the equine activity sponsor or the equine professional:

23 ~~(1)~~ Provided provides the equipment or tack and the equipment or tack
24 ~~caused~~ causes the injury; ~~or~~

- 1 (2) ~~Provided the equine and failed to make reasonable and prudent efforts~~
2 ~~to determine the ability of the participant to engage safely in the equine~~
3 ~~activity, to determine the ability of the equine to behave safely with the~~
4 ~~participant, and to determine the ability of the participant to safely~~
5 ~~manage the particular equine;~~
- 6 b. If the equine activity sponsor or the equine professional owns, leases, rents,
7 or otherwise is in lawful possession and control of the land or facility upon
8 which the participant ~~sustained~~ sustains an injury because of ~~the dangerous a~~
9 latent condition ~~which was known to or should have been known to~~ that the
10 equine activity sponsor or the equine professional knew or should have
11 known was dangerous and for which a warning sign ~~has~~ was not been
12 conspicuously posted;
- 13 c. If the equine activity sponsor or the equine professional commits an act or
14 omission that constitutes willful or wanton disregard for the safety of the
15 participant and that act or omission ~~caused~~ causes the injury;
- 16 d. If the equine activity sponsor or the equine professional intentionally injures
17 the participant;
- 18 e. Under products liability provisions as set forth in products liability laws; or
19 f. Under liability provisions in chapter 36-11.

20 **SECTION 2.** A new section to chapter 53-10 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Statement of liability - Warning sign.** An equine activity sponsor or an equine
23 professional shall post and maintain a sign and shall include in every contract governing equine
24 activity language warning that there are inherent risks in equine activities and stating that the
25 equine activity sponsor or equine professional is not liable for any injury or damage resulting
26 from such activities, except as otherwise provided in section 53-10-02.