GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1 HOUSE BILL 176 Short Title: Equine Activities/Duties and Liability. (Public) Sponsors: Representatives Ives; Baker, Brown, Capps, Hall, Rayfield, Sherrill, Shubert, and Weatherly. Referred to: Judiciary II. February 17, 1997 A BILL TO BE ENTITLED AN ACT TO CLARIFY RESPONSIBILITIES FOR EQUINE ACTIVITIES AND TO PROVIDE QUALIFIED IMMUNITY FROM LIABILITY. The General Assembly of North Carolina enacts: Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read: "ARTICLE 68. "EQUINE ACTIVITY LIABILITY IMMUNITY. **"§ 106-810. Purpose; findings.** The General Assembly finds that persons who participate in equine activities may incur injuries as a result of the risks involved in such activities. The General Assembly also finds that the State and its citizens derive numerous economic and personal benefits from such activities. The General Assembly further finds, determines, and declares that this Article is necessary for the immediate preservation of the public peace, health, and safety. It is, therefore, the intent of the General Assembly to encourage equine activities by limiting the civil liability of those involved in such activities.

17 "§ 106-811. Definitions.18 As used in this Article, the term:

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1	<u>(1)</u>	'Engage in an equine activity' means participate in an equine activity,
2		assist a participant in an equine activity, or assist an equine activity
3		sponsor or equine professional. The term 'engage in an equine activity'
4		does not include being a spectator at an equine activity, except in cases
5		in which the spectator places himself in an unauthorized area and in
6		immediate proximity to the equine activity.
7	<u>(2)</u>	'Equine' means a horse, pony, mule, donkey, or hinny.
8	<u>(3)</u>	'Equine activity' means:
9		<u>a.</u> <u>Riding an equine;</u>
10		b. Participating in riding classes, therapeutic riding programs, or
11		other classes in horsemanship;
12		<u>c.</u> <u>Driving an equine;</u>
13		d. Being a passenger on an equine or a passenger in a cart or other
14		vehicle pulled by an equine;
15		e. Training an equine;
16		<u>e.</u> Training an equine;<u>f.</u> Boarding an equine;
17		g. Riding, inspecting, or evaluating an equine by a prospective
18		purchaser or his agent;
19		h. Participating in equine shows, fairs, competitions, performances,
20		or parades that involve any breed of equine and any of the equine
21		disciplines, including, dressage, hunter and jumper horse shows,
22		grand prix jumping, three-day events, combined training, rodeos,
23		driving, pulling, cutting, polo, steeplechasing, English and
24		western performance riding, endurance trail riding and western
25		games, and hunting;
26		<u>i.</u> Participating in informal or impromptu equine activities
27		including rides, trips, hunts, or other equine activities;
28		j. <u>Hooftrimming or placing or replacing horseshoes on an equine;</u>
29		<u>k.</u> Examining or administering medical treatment to an equine, or
30		assisting with the examination or administration of medical
31		treatment to an equine; and
32		<u>1.</u> <u>Hauling, plowing, and other agricultural activities using equines.</u>
33	<u>(4)</u>	'Equine activity sponsor' means an individual, group, club, partnership,
34		or corporation, whether the sponsor is operating for profit or nonprofit,
35		which sponsors, organizes, or provides the facilities for an equine
36		activity, including pony clubs; 4-H clubs; hunt clubs; riding clubs;
37		school- and college-sponsored classes, programs, and activities;
38		therapeutic riding programs. The term includes operators and promoters
39		of equine facilities, including stables, clubhouses, ponyride strings,
40		fairs, and arenas at which the activity is held.
41	<u>(5)</u>	'Equine professional' means a person engaged for compensation in:
42		a. Instructing a participant;

Renting an equine to a participant for the purpose of riding, 1 b. 2 driving, or being a passenger upon the equine; 3 Renting equipment or tack to a participant; <u>c.</u> 4 Examining or administering medical treatment to an equine; or d. 5 Hooftrimming or placing or replacing horseshoes on an equine. 6 (6) 'Inherent risks of equine activities' means those dangers or conditions 7 which are an integral part of equine activities, including: 8 The propensity of an equine to behave in ways that may result in a. 9 injury, harm, or death to persons on or around them; 10 The unpredictability of an equine's reaction to such things as b. sounds, sudden movement, unfamiliar objects, persons, or other 11 12 animals; Certain hazards such as surface and subsurface conditions; 13 <u>c.</u> 14 <u>d.</u> Collisions with other equines or objects; and 15 The potential of a participant to act in a negligent manner that e. may contribute to injury to the participant or others, such as 16 17 failing to maintain control over the animal or not acting within 18 his or her ability. 'Participant' means any person, whether amateur or professional, who 19 <u>(7)</u> 20 engages in an equine activity, whether or not a fee is paid to participate 21 in the equine activity. 22 "§ 106-812. Immunity from liability. Except as provided in subsection (b) of this section, an equine activity sponsor, 23 24 an equine professional, or any other person, including a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks 25 of equine activities and, except as provided in subsection (b) of this section, no 26 participant or participant's representative shall maintain an action against or recover from 27 an equine activity sponsor, an equine professional, or any other person for injury, loss, 28 29 damage, or death of the participant resulting from any of the inherent risks of equine 30 activities. 31 (b) Nothing in subsection (a) of this section shall prevent or limit the liability of an 32 equine activity sponsor, an equine professional, or any other person if the equine activity 33 sponsor, equine professional, or person: Provided the equipment or tack, and knew or should have known that 34 (1) 35 the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury; 36 Provided the equine and failed to make reasonable and prudent efforts to 37 <u>(2)</u> 38 determine the ability of the participant to engage safely in the equine activity and to safely manage the particular equine based on the 39 participant's representations of his ability; 40 Owns, leases, rents, or otherwise is in lawful possession and control of 41 (3) the land or facilities upon which the participant sustained injuries 42

because of a dangerous latent condition which was known or should

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- have been known to the equine activity sponsor, equine professional, or person and for which warning signs have not been conspicuously posted;
 - (4) 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
 - (5) <u>Intentionally injures the participant.</u>
 - (c) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor or an equine professional under liability provisions as set forth in the products liability laws.

"§ 106-813. Warning required.

- (a) Every equine professional and every equine activity sponsor shall post and maintain signs which contain the warning notice specified in subsection (c) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, or arenas where the equine professional or the equine activity sponsor conducts equine activities. The warning notice specified in subsection (c) of this section shall be designed by the Department of Agriculture and shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an equine professional or by an equine activity sponsor 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 or the equine activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (c) of this section.
- (b) The Department may prepare and make available for sale the warning sign specified in subsection (a) of this section. The Department shall charge a fee, not to exceed fifteen dollars (\$15.00), for each warning sign.
- (c) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

'WARNING

Under North Carolina law, an equine activity sponsor or 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. Article 68, Chapter 106 of the North Carolina General Statutes.'

- (d) Failure to comply with the requirements concerning warning signs and notices provided in this Article shall prevent an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this Article."
- Section 2. This act becomes effective January 1, 1998, and applies to causes of action arising on or after that date.