

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 111(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/6/01

Referred: Rules

Sponsor(s): REPRESENTATIVES COGHILL, Harris, James, Dyson, Scalzi, Lancaster, Hudson, Meyer, Mulder, Hayes, McGuire, Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to civil liability for injuries or death resulting from livestock**
2 **activities."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that

7 (1) a person who engages in livestock activities may incur injuries or death as
8 a result of the risks involved in the activities even in the absence of any fault or negligence on
9 the part of the person or entity who sponsors, participates in, or organizes those activities; and

10 (2) the state and its citizens derive numerous economic and personal benefits
11 from livestock activities.

12 (b) It is the intent of the legislature to encourage livestock activities by limiting the
13 civil liability of livestock activity sponsors and participants and of livestock professionals
14 involved in livestock activities.

1 * **Sec. 2.** AS 09.55.580(a) is amended to read:

2 (a) Except as provided under (f) of this section **and AS 09.65.145**, when the
 3 death of a person is caused by the wrongful act or omission of another, the personal
 4 representatives of the former may maintain an action therefor against the latter, if the
 5 former might have maintained an action, had the person lived, against the latter for an
 6 injury done by the same act or omission. The action shall be commenced within two
 7 years after the death, and the damages therein shall be the damages the court or jury
 8 may consider fair and just. The amount recovered, if any, shall be exclusively for the
 9 benefit of the decedent's spouse and children when the decedent is survived by a
 10 spouse or children, or other dependents. When the decedent is survived by no spouse
 11 or children or other dependents, the amount recovered shall be administered as other
 12 personal property of the decedent but shall be limited to pecuniary loss. When the
 13 plaintiff prevails, the trial court shall determine the allowable costs and expenses of
 14 the action and may, in its discretion, require notice and hearing thereon. The amount
 15 recovered shall be distributed only after payment of all costs and expenses of suit and
 16 debts and expenses of administration.

17 * **Sec. 3.** AS 09.65 is amended by adding a new section to read:

18 **Sec. 09.65.145. Immunity for injuries or death resulting from livestock**
 19 **activities.** (a) Except as otherwise provided in this section, a person, and the personal
 20 representative of a person, who suffers an injury or death resulting from an inherent
 21 risk of a livestock activity may not recover civil damages for the injury or death from
 22 a livestock activity sponsor, livestock professional, or livestock activity participant, or
 23 the agents or employees of a livestock activity sponsor, livestock professional, or
 24 livestock activity participant.

25 (b) This section does not affect a civil action for damages resulting from

26 (1) gross negligence or reckless or intentional misconduct of the
 27 livestock activity sponsor, livestock professional, or livestock activity participant, or
 28 agents or employees of the livestock activity sponsor, livestock professional, or
 29 livestock activity participant;

30 (2) equipment, tack, or a product provided by the livestock activity
 31 sponsor, livestock professional, or livestock activity participant that the livestock

1 activity sponsor, livestock professional, or livestock activity participant knows to be
2 faulty or defective;

3 (3) the failure of the livestock activity sponsor, livestock professional,
4 or livestock activity participant who provided the livestock to make reasonable efforts
5 to determine the ability of the injured person to participate safely in the livestock
6 activity and to safely manage the livestock involved in the livestock activity; a
7 participant in a livestock show, livestock sale, or rodeo is presumed to be competent to
8 handle livestock if an entry form is required for the activity and is signed by the
9 participant.

10 (c) This section does not apply to an injury to or death of an employee of a
11 livestock activity sponsor or livestock professional if the employee suffers an injury or
12 death resulting from a livestock activity and the injury or death is covered by or
13 subject to workers' compensation provisions under AS 23.30.

14 (d) This section does not prevent or limit the liability of a livestock activity
15 sponsor, livestock professional, or livestock activity participant, or their agents or
16 employees under a liability provision as provided in a law relating to product liability.

17 (e) A livestock activity sponsor may not be held vicariously liable for the acts
18 or omissions of a livestock activity participant or a livestock professional.

19 (f) A person may agree, in writing, to waive the right to recover damages
20 resulting from an inherent risk of a livestock activity that could otherwise be claimed
21 under this section.

22 (g) This section does not affect the immunity of an owner of unimproved land
23 under AS 09.65.200.

24 (h) In this section,

25 (1) "inherent risk of a livestock activity" means those dangers or
26 conditions that are an integral part of a livestock activity, including

27 (A) the propensity of livestock to behave in ways that may
28 result in injury to a person on or around livestock;

29 (B) the unpredictability of livestock's reaction to sound, sudden
30 movement, and unfamiliar objects or persons, or other animals;

31 (C) certain hazards or conditions unknown to a livestock

1 activity sponsor;

2 (D) collisions with other livestock or objects;

3 (E) the potential of tack to become dislodged or move in ways
4 that may result in injury to a person on or around a livestock activity; and

5 (F) the potential of a person to negligently engage in conduct
6 that contributes to an injury or death during a livestock activity;

7 (2) "livestock" includes a cow, bison, hog, sheep, goat, musk-ox, yak,
8 pig, caribou, reindeer, elk, rabbit, hamster, guinea pig, turkey, chicken, pheasant,
9 peafowl, pigeon, duck, horse, donkey, camel, llama, or alpaca; "livestock" does not
10 mean a dog or cat;

11 (3) "livestock activity" includes

12 (A) livestock shows, fairs, sales, competitions, performances,
13 or parades that involve any or all breeds of livestock and any of the livestock
14 disciplines, including rodeos, auctions, driving, pulling, judging, cutting,
15 therapeutic riding, and showing;

16 (B) livestock training or teaching activities or both training and
17 teaching activities;

18 (C) boarding or pasturing livestock;

19 (D) inspecting or evaluating livestock belonging to another
20 person, whether or not the owner has received monetary consideration or other
21 thing of value for the use of the livestock or is permitting a prospective
22 purchaser of the livestock to inspect or evaluate the livestock;

23 (E) driving, riding, traveling, or other livestock activities of any
24 type, however informal or impromptu, that are sponsored by a livestock
25 activity sponsor;

26 (F) placing or replacing horseshoes on an equine, or otherwise
27 preparing livestock for show; and

28 (G) assisting in providing medical treatment to livestock;

29 (4) "livestock activity sponsor" means an individual, group, club,
30 partnership, limited liability company, or corporation that sponsors, organizes, or
31 provides the facilities for a livestock activity;

1 (5) "livestock professional" means a person who receives
2 compensation for instructing a participant, renting livestock to a participant for the
3 purpose of engaging in livestock activity, or renting equipment or tack to a participant;

4 (6) "participant" means a person, whether amateur or professional,
5 who engages in a livestock activity, whether or not a fee is paid to participate in the
6 livestock activity.

7 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 **APPLICABILITY.** This Act applies to a civil action that accrues on or after the
10 effective date of this Act.