

HB

479

CS FOR HOUSE BILL NO. 479(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE G.DAVIS

A BILL

FOR AN ACT ENTITLED

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

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

4 * Section 1. AS 09.65 is amended by adding a new section to read:

5 Sec. 09.65.145. IMMUNITY FOR INJURIES RESULTING FROM EQUINE
6 ACTIVITIES. (a) Except as provided in (b) of this section, a person, and the personal
7 representative of a person, who suffers an injury or death resulting from an inherent
8 risk of an equine activity may not recover civil damages from an equine activity
9 sponsor, an equine professional, or an equine owner.

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

11 (1) gross negligence or reckless or intentional misconduct of the equine
12 activity sponsor, equine professional, or equine owner, or agents or employees of the
13 equine activity sponsor, equine professional, or equine owner;

14 (2) a dangerous latent condition that is known or should have been

1 known to the equine activity sponsor, equine professional, or equine owner and for
2 which warning signs have not been conspicuously posted if the equine activity sponsor,
3 equine professional, or equine owner owns, leases, rents, or is otherwise in lawful
4 possession and control of the land or facilities where the injury or injuries resulting in
5 death occurred;

6 (3) faulty or defective equipment, tack, or a product provided by the
7 equine activity sponsor, equine professional, or equine owner;

8 (4) the failure of the equine activity sponsor, equine professional, or
9 equine owner who provided the equine to make reasonable efforts to determine the
10 ability of the injured person to participate safely in the equine activity and to safely
11 manage the equine involved in the equine activity;

12 (5) injury or death of a spectator.

13 (c) In this section,

14 (1) "equine" means a horse, pony, mule, donkey, or hinny;

15 (2) "equine activity" means a show, fair, competition, performance, or
16 parade involving an equine, equine riding, inspecting, evaluating, boarding, training,
17 or teaching;

18 (3) "equine activity sponsor" means a person who provides an equine,
19 land, or facilities for an equine activity;

20 (4) "equine professional" means a person who receives compensation
21 for instructing during an equine activity, for sponsoring an equine activity, or for the
22 use of an equine;

23 (5) "inherent risk of an equine activity" means a danger or condition
24 that is an integral part of an equine activity, including

25 (A) the propensity of an equine to behave in a way that may
26 result in injury, harm, or death to a person on or around the equine;

27 (B) the unpredictability of an equine's reaction to a sound,
28 sudden movement, or unfamiliar object, person, or other animal;

29 (C) collisions with other equines, objects, or a person; or

30 (D) the potential of a person to act in a negligent manner that
31 may contribute to injury to the person or others.

1 * Sec. 2. This Act applies to a civil action that accrues on or after the effective date of this
2 Act.

Date of Committee Action: 3/18/96

The JUDICIARY Committee considered:

HB 479

HOUSE BILL NO. 479

IMMUNITY FOR EQUINE ACTIVITIES

"An Act relating to civil liability for injuries or death resulting from equine activities."

recommends it be replaced with the following committee substitute CS HB 479 (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) CE-D (3.18.96)

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>David Hobbs</i>		<input checked="" type="checkbox"/>		
<i>Betty Davis</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>Van Brunt</i>			<input checked="" type="checkbox"/>	

CHAIR'S SIGNATURE *Boyd Porter*

STATE EQUINE LAWS

STATE	LAW PASSED	SIGNS POSTED	RELEASE W/WARNING	SPECIAL REQUIREMENTS
Alabama	Yes	Yes	Yes	
Alaska	No			
Arizona	Yes	No	Yes	
Arkansas	Yes	Yes	No	
California	Pending			
Colorado	Yes	Yes	Yes	
Connecticut	Yes	No	No	
Delaware	Yes			
Florida	Yes	Yes	Yes	
Georgia	Yes	Yes	Yes	
Hawaii	Yes	No	No	
Idaho	Yes	No	No	
Illinois	Yes	Yes	Yes	
Indiana	Yes	Yes	Yes	
Iowa	No			
Kansas	Yes	Yes	Yes	
Kentucky	Pending			
Louisiana	Yes	Yes	Yes	
Maine	Yes	No	Yes	
Maryland	No			
Massachusetts	Yes	Yes	Yes	
Michigan	Yes	Yes	Yes	
Minnesota	Yes	Yes	No	Non-Profit entities only
Mississippi	Yes	Yes	Yes	Also creates volunteer immunities
Missouri	Yes	Yes	Yes	
Montana	Yes	No	No	
Nebraska	Pending			
Nevada	No			
New Hampshire	No			
New Jersey	Pending			
New Mexico	Yes	Yes	No	
New York	Pending			
North Carolina	Pending			

STATE EQUINE LAWS

STATE	LAW PASSED	SIGNS POSTED	RELEASE W/WARNING	SPECIAL REQUIREMENTS
North Dakota	Yes	No	No	
Ohio	No			
Oklahoma	Pending			
Oregon	Yes	No	Yes	Immunities apply to adult participants
Pennsylvania	Pending			
Rhode Island	Yes	Yes	Yes	
South Carolina	Yes	Yes	Yes	
South Dakota	Yes	Yes	No	
Tennessee	Yes	Yes	Yes	
Texas	Yes	Yes	Yes	
Utah	Yes	No	No	
Vermont	Pending			
Virginia	Yes	No	Yes	
Washington	Yes	No	No	
West Virginia	Yes	No	*No	Participants must sign statement.
Wisconsin	Yes	No	No	
Wyoming	Yes	No	No	
TOTALS	PASSED: 35	PENDING: 9	NO: 6	

Alaska State Legislature

Interim:

145 Main Street Loop #223
Kenai, Alaska 99611
(907) 283-7095
(907) 283-3075 (fax)
(907) 262-7574 (h)



Session:

State Capitol
Juneau, Alaska 99801
(907) 465-2693
(fax) (907) 465-3835

Representative Gary L. Davis

SPONSOR STATEMENT

HB 479

"An Act relating to civil liability for injuries or death resulting from equine activities."

HB 479 is intended to provide owners and handlers in the equine profession extra protection from civil liability lawsuits. The reasoning behind this proposition is that horses and related animals can be unpredictable in their behavior. This unpredictability is an inherent characteristic of some domestic animals, especially equines because of their size and specific utilization for human activities.

A horse that is carrying a rider can be easily spooked by a number of events. If the rider is subsequently thrown from the horse, the owner or trainer may not be directly responsible for the accident. This would be true as long as the owner or trainer has cared for and trained the equine in the best possible manner.

Obviously, there are a number of exceptions to this piece of legislation. If the owner or trainer is negligent in properly caring for the horse or uses faulty equipment (such as the saddle), they would not be immune to civil liability. This bill also recognizes other exceptions, such as placing an obviously inexperienced rider on a high-spirited horse known for demonstrating unpredictable behavior.

People who participate in equine activities are aware beforehand of the risks involved. Many of the resulting unfortunate accidents are intrinsic in nature. Therefore, innocent parties should not be held accountable simply for compensation.

Representing House District 8

Soldotna, Sterling, Funny River, Cooper Landing, Homer, Moose Pass, Seward

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Representative Gary L. Davis

SECTIONAL ANALYSIS OF HB 479 A BILL FOR AN ACT ENTITLED

"An Act relating to civil liability for injuries or death resulting from equine activities."

Section 1 is an addition to AS 09.65 stating that a sponsor or professional of equine activity is not liable for civil damages that arise from the injury or death resulting from equine activities.

This section also outlines the exceptions to this act. If an equine activity sponsor or professional is guilty of reckless or intentional misconduct, he/she can still be held liable for damages. Other exceptions are the failure to provide adequate warning signs for a dangerous condition, faulty equipment, allowing an unskilled participant to become engaged in a risky activity and the injury or death of a spectator.

In the latter part of section 1, the key terms are defined in order to provide clarity.

Section 2 states that this act would apply to all civil actions that occur on or after the effective date, which is 90 days after the bill becomes law.

Alaska State Legislature

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Session:
State Capitol
Juneau, Alaska 99801
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Representative Gary L. Davis

MEMORANDUM

To: Labor and Commerce Committee
From: Rep. Gary Davis
Re: proposed amendments for CS for HB 479
Date: March 5, 1996

	<u>page</u>	<u>line</u>	<u>amendment</u>
1).	2	12&13	delete [or of a person who engages in an equine activity but does not ride, train, or drive an equine;]
2).	2	6	a)change to read, " <u>faulty</u> or <u>defective</u> equipment, tack or <u>product</u> provided by the equine activity sponsor..."
3).	2	14	delete entire line
4).	2	23	change to read, "for instructing during an equine activity, <u>for sponsoring an equine activity</u> , or for the use of an equine."
5).	2	30	change to read, "collisions with other equines, objects <u>or persons</u> :"

Representing House District 8
Soldotna, Sterling, Funny River, Cooper Landing, Hope, Moose Pass, Seward

- 6). 2 20 change to read, "a person who provides an equine, land or facilities for an equine activity;"
- 7). 1 9 change to read, "equine activity sponsor, an equine professional, or an equine owner"

"Equine owner" is being included to cover those people who own equines for personal use but do not provide them for an equine activity as defined under "equine activity sponsor."

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 479

Revision Date: _____
 Title: Immunity for Equine Activities

Department: Commerce and Economic Development
 BRU: Insurance
 Component: Operations

Sponsor: Representative G. Davis
 Requestor: Representative G. Davis

COMPONENT SERIAL NO. #354

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: Joan Brown, Administrative Officer
 Division: Insurance
 Approved by Commissioner: William L. Pansley
 Agency: Commerce and Economic Development

Phone: 465-2597
 Date: 2/13/96
 Date: 2-13-96

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To House Labor & Commerce

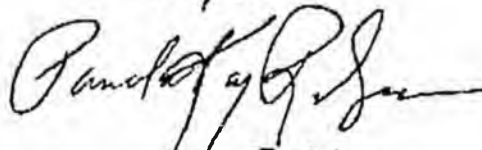
PETE KOTT Chair

HB 479

I, as a voting Alaskan and part of the Equestrian Community would like to Advocate the passage of H.B. 479. There are at present few in our state who are willing to take on the liability involved with the giving of lessons or guided rides even with waivers and signs posted as the financial risk is too great, HB 479 would help eliminate this problem. The Equestrian Community though not large are still a substantial economic part of our state.

By supplying services (Guiding, Stables, Rides & Lessons) and supporting many local business and individuals (Feed & Tack stores, Vets, Farriers, Hay & Barley Farmers). So with the passage of HB 479 liability should be easier and less expensive to obtain. Opening the way for the Equestrian Community to expand. Bills of this sort have already been ratified in many other states.

Thank you



Pamela Khy Rodriguez
P.O. Box 717
Anchor Pt AK 99556

FROM : KAY JAY INC BUTCH SCHOLLENBERG PHONE NO. : 907 567 3467

P01

February 28, 1988

To: House Labor and Commerce Committee

Dear Sirs:

I regret that I am unable to attend the scheduled teleconference hearing on proposed House Bill #479. I strongly support this bill.

We own a riding facility/farm on the Kenai Peninsula. A good portion of our farm income comes from giving riding lessons or renting our horses. Our farm is often visited by local school children who always want to top off their visit with a horse ride. I also have been a 4-H Horse Leader for 14 years.

In addition to the economic value of our business, through my continued work with 4-H and other kids, I constantly see the benefits they receive by having something constructive to do, caring for and learning about horses. I have helped kids successfully compete at a State level in equine events.

Although we run a very professional business and I am constantly upgrading my education to stay abreast of new training methods and products, the fear of a 'trivolous' lawsuit creates incredible mental stress. I often find myself realizing how much risk I am putting myself and my family in due to the 'sue happy' public.

We also sell hay from the farm and all of our hay sales for the last several years has gone to people that raise horses. I don't know if there are any accurate numbers on how many horses are in the State but they play an important part in the diversity of the economy. This is an important bill because it will make it easier for others to get into the horse business.

As stated in HB #479, even the most docile horse can be unpredictable. I feel that if the instructor or horse owner has done their best to educate the potential rider of the possible accidents, and the rider chooses to ride anyway, they should shoulder the responsibility for what might happen after that.

Sincerely,



Shirley Schollenberg
HC 67 Box 250
Anchor Point, Alaska 90556

(907)567-3467

Alaska Legislative Information Office
600 East Railroad Ave
Wasilla, AK 99654

Re: House Bill No. 479

To Whom it may concern:

I respectfully request that you support House Bill No. 479 "Immunity for injuries resulting from Equine Activities." This is a much needed addition to Alaska Law to protect an industry that has a propensity for the unpredictability of an animal.

However, I should like to suggest that a few amendments be considered:

Line 6 page 2 and line 14 page 2 appear to be able to be combined to something like
the failure of equipment or tack that is in poor repair or known to be defective provided by the equine activity sponsor or equine professional.

Line 13 add at the end
unless the injury or death is caused by that persons own negligence

Line 23 change wording to include
or sponsoring after the word during

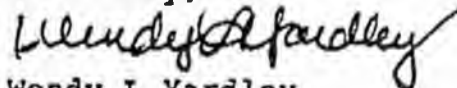
Line 30 add at the end of line
persons

Also somewhere in this bill should be something about Farriers and Veterinarians.

Someone may wish to examine the similar laws of the states of Washington and Colorado and I believe Idaho and Oregon and California have them also.

Thank you for taking the time to read my concerns and I hope to be able to follow this bill through the process.

Sincerely,



Wendy L Yardley
PO Box 874581
Wasilla, AK 99687



**Farm & Ranch Supplies
Health Foods**

281 Aspen Avenue
Soldotna, AK 99669
(907) 262-4698 FAX 262-6095

*"More than just
a feed store"*

FEBRUARY 23, 1996

TO Rep. Gary Davis
Re: HB 479

I support HB 479 which limits civil liability in equine activities.

When one deals with animals anything can happen, even when every precaution is taken.

People have to take responsibility for their own participation if they want horse owners to share their talents and their horses.

I, and others, have specifically curtailed horse riding lessons, boarding, and general neighborly horse activity because of fear of lawsuits. Therefore, the possibility of frivolous suits definitely affects direct equine business and related markets like feed and tack.

Support HB 479.

Yours,

Dianna Toplin
Dianna Toplin

President



BOARDING, LESSONS
TACK SHOP, FEED STORE
STABLE SUPPLIES

8791 CAMERON ST.
ANCHORAGE, ALASKA 99507
(907) 349-3031

February 26, 1996

Rep. Gary Davis,
Fax # 1(907) 465-3835

Dear Sir:

We at M-Bar & Support H. 8479
Concerning equine liabilities.

This bill will be good for
business, families, young people as it
will encourage more equine related
activities.

Thanks for your consideration,
Marge Seidler,
(owner M-Bar)