

HB

12

HFIN

FILE

HOUSE COMMITTEE REPORT

(11)

Date Referred to Committee: February 12, 1998

FURTHER REFERRALS:

Date of Committee Action: 4/3/98

The FINANCE Committee considered:

HB 12

HOUSE BILL NO. 12

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 12 (FIN) 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) LAW, 2/12/98

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Gene Therriault</i>	Therriault			X	
<i>John Kelly</i>	Kelly				✓
<i>Mark Hanley</i>	Hanley			X	
<i>Ellen Mulder</i>	Mulder	X			
<i>Ben Grossendorf</i>	Grossendorf				X
<i>John Dames</i>	DAMES			X	
<i>Al Moses</i>	Moses			X	
<i>Henry Davis</i>	DAVIS	X			

CHAIR'S SIGNATURE *Mark Hanley*
 CO-CHAIR *Gene Therriault*
Hanley Therriault

FISCAL NOTE

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

BILL NO. CSHB 12 (FIN)

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>	_____
Title <u>An Act relating to civil liability for commercial recreational activities; and providing for an effective date.</u>	BRU <u>Civil Division</u>	_____
Sponsor <u>Representative Davis</u>	Component <u>Special Litigation</u>	_____
Requester <u>House Finance Committee</u>	Component Serial No. <u>2213</u>	_____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

CSHB 12 (FIN) is intended to establish the responsibilities of operators of commercial recreational activities and participants in those activities and to decrease uncertainty regarding the legal responsibility for injuries that result from participation. The bill establishes that participation in a commercial recreational activity constitutes acceptance of the inherent risks of the activity, and that acceptance of the risks means a person is contributorily negligent to the extent the inherent risk causes injury, death, or property damage. Compensatory damages awarded in a case resulting from injury, death, or property damage shall be reduced for contributory negligence. CSHB 12 (FIN) further sets out certain responsibilities of the operator of the commercial recreational activity, including explaining risks to participants, requiring employees be trained and competent, and maintaining equipment and facilities in good repair.

CSHB 12 (FIN) will have no fiscal impact on the Department of Law.

Prepared by Joan M. Kasson
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date 4/10/98
 Date 4/10/98

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FISCAL NOTE

No: 1

Bill Version: CSHB 12 (JUD)

(H) Publish Date: 2/12/98

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

Revision Date (Note if correction)	Dept. Affected	Law
Title	BRU	Civil Division
resulting from equine activities	Component	Special Litigation
Sponsor	Representative Davis	
Requester	House Judiciary Committee	Component Serial No. 2213

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
1002 Federal Receipts						
1003 GF Match						
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1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides immunity from injuries resulting from equine activities subject to certain, specified exceptions. HB 12 will have no impact on the Department of Law.

Prepared by Joan M. Kasson
 Division Attorney General's Office

Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date 2/10/98
 Date 2/10/98

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Adopted
4/3/98

CS FOR HOUSE BILL NO. 12(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVE DAVIS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to civil liability for commercial recreational activities; and**
2 **providing for an effective date."**

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

4 *** Section 1. PURPOSE.** It is the purpose of this Act to establish the responsibilities of
5 persons who operate commercial recreational activities and persons who participate in those
6 recreational activities and to decrease uncertainty regarding the legal responsibility for injuries
7 that result from participation in commercial recreational activities. It is also the purpose of
8 this Act to encourage the continued availability of businesses that offer commercial
9 recreational activities to the public.

10 *** Sec. 2. AS 05 is amended by adding a new chapter to read:**

11 **Chapter 50. Civil Liability for Commercial**
12 **Recreational Activities.**

13 **Sec. 05.50.010. Acceptance of inherent risks.** Participation in a commercial
14 recreational activity constitutes acceptance of the inherent risks of the commercial

1 recreational activity that are or should be apparent to an ordinarily prudent person.

2 **Sec. 05.50.020. Contributory negligence.** A person who accepts an inherent
3 risk of a commercial recreational activity as described in AS 05.50.010 is
4 contributorily negligent to the extent that the inherent risk causes injury, death, or
5 property damage. In an action seeking to recover damages for injury or death to a
6 person or harm to property resulting from an inherent risk of a commercial recreational
7 activity, compensatory damages shall be reduced for contributory negligence as
8 provided under AS 09.17.060.

9 **Sec. 05.50.030. Responsibilities of participants.** A participant in a
10 commercial recreational activity has the responsibility to

- 11 (1) learn about and expressly accept the risks of the activities;
- 12 (2) act within the limits of the person's abilities;
- 13 (3) heed all warnings regarding participation in the commercial
14 recreational activity;
- 15 (4) maintain control of the participant's person, the participant's
16 children, and any equipment, devices, or animals the participant is using;
- 17 (5) refrain from acting in a manner that may cause or contribute to
18 injury of the participant or another person.

19 **Sec. 05.50.040. Responsibilities of operators of commercial recreational**
20 **activities.** A person who operates a business that offers a commercial recreational
21 activity shall

- 22 (1) explain to a participant the
 - 23 (A) fundamental inherent risks of the commercial recreational
24 activity; and
 - 25 (B) skills or equipment required to participate in the commercial
26 recreational activity that are not apparent to an inexperienced participant;
- 27 (2) require that employees who are responsible for assisting participants
28 in the actual performance of a commercial recreational activity have training in basic
29 first aid and cardiopulmonary resuscitation and explain to those employees how to use
30 emergency medical services available in the area;
- 31 (3) maintain recreational equipment and facilities in good repair;

1 (4) provide trained and competent personnel; and

2 (5) act in a reasonably safe and competent manner.

3 **Sec. 05.50.050. Interaction with other laws.** This chapter does not affect the
4 immunity of an owner of unimproved land under AS 09.65.200 or of a ski area
5 operator under AS 05.45.010.

6 **Sec. 05.05.100. Definitions.** In this chapter,

7 (1) "children" means persons under 18 years of age;

8 (2) "commercial recreational activity" means a recreational activity for
9 which the participants pay compensation;

10 (3) "recreational activity" means an outdoor activity undertaken for the
11 purpose of exercise, education, relaxation, pleasure, or sport or as a hobby.

12 * **Sec. 3.** This Act applies to acts or omissions that occur on or after the effective date of
13 this Act.

14 * **Sec. 4.** This Act takes effect July 1, 1998.

Journal Text



03/29/94

House Journal

Page 3065

HB 300

The question being: "Shall CSHB 300(JUD) am pass the House?"
The roll was taken with the following result:

CSHB 300(JUD) am
Third Reading
Final Passage

YEAS: 30 NAYS: 8 EXCUSED: 0 ABSENT: 2

Yeas: Barnes, Bunde, Carney, G.Davis, Finkelstein, Foster, Green, Grussendorf, Hanley, Hoffman, Hudson, James, Kott, Larson, Mackie, MacLean, Martin, Menard, Mulder, Olberg, Parnell, Phillips, Porter, Sanders, Sitton, Therriault, Toohey, Ulmer, Vezey, Williams

Nays: Brice, Brown, Davies, B.Davis, Navarre, Nicholia, Nordlund, Willis

Absent: Davidson, Moses

And so, CSHB 300(JUD) am passed the House.

Representative Phillips moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

Representative Brown gave notice of reconsideration of her vote on CSHB 300(JUD) am.

Bill Root: Display History/Action Clear Bill Root

Return to BASIS Main Menu (18th Legislature)
BASIS Last Updated 12/31/94

Adopted

AMENDMENT

1A |

OFFERED IN THE HOUSE

BY *D. Mies*

TO: CS HB12 (FIN) (Work Draft "B" version)

Page 2, following line 8:

Insert "In this section "compensatory damages" do not include benefits paid under an insurance policy."

AMENDMENT

OFFERED IN THE HOUSE

BY

TO: CS HB12 (FIN) (Work Draft "B" version)

Page 2, following line 8:

Insert "Nothing in this paragraph limits a person's ability to recover benefits from medical, accidental, or disability insurance."

MO

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

HB12

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

HB 12 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.

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, Hope, Moose Pass, Seward

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

SECTIONAL ANALYSIS OF HB 12

"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.

Representing House District 8

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



APR 10 1997

HC 03, Box 8392, Palmer, Alaska 99645 Phone: (907)745-4203 FAX: (907)745-4206

April 3, 1997

Honorable Gary Davis
House of Representatives
Alaska State Capitol
Juneau, AK 99801

Dear Representative Davis,

I would like to go on record as Director of Victory Ministries, Inc., as highly favorable to the passage of House Bill 12 and any other proposals that are designed to give immunity to organizations resulting from equine activity injuries.

As a camp, we find the Horsemanship program is a great experience for campers and groups coming to our facilities. We have offered this program for over 22 years with good results and minimal accidents.

We try to operate with safety as a big priority. Our teachers of horsemanship skills are required to be trained and certified with CHA (Association of Horsemanship Safety and Education). We also require two certified wranglers on each trail ride. Helmets must be worn by all campers and staff unless judged by the Program Director in unique situations to be less safe.

In spite of extreme care on our part, we do recognize however, that the very nature of horseback riding, carries some inherent risks. Most people recognize this and want to enjoy the challenge of this sport or allow their children to have this experience. We feel if the organization is negligent, it should assume responsibilities. However, when accidents incur simply because of inherent risks or inappropriate behavior of the rider, it is unfair for the organization to be held liable.

We believe House Bill 58, the Tort Reform package, since it would cover more activities would relieve some of our concerns about providing other fun, outdoor events and would be most helpful to us and other camps. To try to remove every situation that would involve any risks would render a camp program with very few choices of activities.

We will appreciate your efforts to help remove from us the concern of frivolous lawsuits and the extreme costs of high liability insurance.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Gillespie", written over a horizontal line.

Stan Gillespie
Executive Director

Echo Ranch Bible Camp
PO Box 210608
Auke Bay, AK 99821
(907) 789-3777 FAX 789-4403
March 6, 1997

Honorable Gary Davis
House of Representatives
Alaska State Capitol
Juneau, AK 99801

Dear Representative Davis:

As the Director of Echo Ranch Bible Camp located 40 miles north of Juneau, I would like to write in support of House Bill 12 or similar legislative proposals that offer immunity for injuries resulting from equine activities.

Echo Ranch Bible Camp hosts nearly 3000 campers each season offering a variety of school retreats, Christian camps, and family and church outings. The horsemanship program at Echo Ranch is an integral part of our camping ministry and has been for over 30 years. We currently use 19 horses in the program under the oversight of trained wranglers.

We take pride in the fact that the horsemanship program has been operated with an emphasis on safety. Our horses are trained to accommodate young riders. Helmets and pointed-toe boots are a requirement for trail rides and two wranglers accompany each ride. Our tack is well maintained and suitable for the rider. Still, the very nature of horseback riding through rough country makes it a somewhat risky sport, even when everything is done correctly. Most people recognize this and accept the risks, especially since camping in general is designed to present natural risks and the associated challenges to the participant.

When accidents occur resulting from negligence on the part of the sponsoring organization, then the organization should take responsibility. But when accidents occur simply because of the inherent risks or because of inappropriate behavior of the rider, then it is not reasonable for the organization to be liable. Actually, such immunity should be considered for a number of activities normally conducted at Camp in addition to equine events. In that sense, perhaps House Bill 58, the Tort Reform package, may be a more appropriate legislative remedy than singling out one activity.

At least 15 percent of our liability insurance coverage at Echo Ranch can be attributed solely to the use of saddle animals in our program. We suspect Tort Reform would help reduce this and possibly for other activities as well. This is an important budgetary item for us since insurance providers for camping operations in Alaska are not numerous. Besides the monetary considerations, Tort Reform may help reduce a growing reluctance

House Bill 12

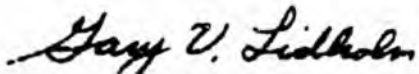
Page 2

on the part of program managers to involve people in risky activities because of a concern for frivolous lawsuits.

Again, we feel responsible to provide a safe environment for the participant at Echo Ranch Bible Camp and we will do what is feasible to ensure a safe operation. But we would truly appreciate any relief from liability for accidents when they are beyond our reasonable ability to prevent them. To eliminate all risks from an outdoor camp would be to destroy the very reason that people participate in camping.

Thank you for allowing me to comment.

Sincerely,



GARY V. LIDHOLM

Director, Echo Ranch Bible Camp

For your information, the following is a list of equine owners that have sent in additional letters of support for HB12 to Representative Davis.

Sandy Shacklett
Southcentral Horsemen, Inc.
PO Box 670034
Chugiak, AK 99567-0034
907-688-7433

Linda L. McQueary
Diamond H. Ranch
Anchorage AK
907-346-1050

Diana Taplin
CAD-RE Farm and Ranch Supplies
281 Aspen Avenue
Soldotna, AK 99669
907-262-4698

Kent Lee Woodman
Producer, *Company's Coming*
12920 Hillside Drive
Anchorage, AK 99516-3260
907-345-135

Roger and Amy Anderson
4804 Strawberry Road
Kenai, AK 99611
907-283-3414

Jacqueline Imle
714 Cypress Dr.
Kenai, AK 99611
907-283-9198

Shirley Schollenberg
HC 67 Box 250
Anchor Point, AK 99558
907-567-3467

Marcia L. Boyd
Twin View Horse Park
HC 31 Box 5083-P
Wasilla, AK 99654
907-376-3276

Bill L. Turner
Bluff Park Farm
1800 West Fairview Loop
Wasilla, AK 99687-1634
907-376-6849

Julie A. Eaton
Eaton Equestrian Centre
5801 Moosemeadow Lane
Anchorage, AK 99516
907-346-3745

Journal Text



03/29/94

House Journal

Page 3065

HB 300

The question being: "Shall CSHB 300(JUD) am pass the House?"
The roll was taken with the following result:

CSHB 300(JUD) am
Third Reading
Final Passage

YEAS: 30 ~~NAYS: 8~~ EXCUSED: 0 ABSENT: 2

Yeas: Barnes, Bunde, Carney, G.Davis, Finkelstein, Foster, Green, Grussendorf, Hanley, Hoffman, Hurison, James, Kott, Larson, Mackie, MacLean, Martin, Menard, Mulder, Olberg, Parnell, Phillips, Porter, Sanders, Sitton, Therriault, Toohey, Ulmer, Vezey, Williams

Nays: Brice, Brown, Davies, B.Davis, Navarre, Nicholia, Nordlund, Willis

Absent: Davidson, Moses

And so, CSHB 300(JUD) am passed the House.

Representative Phillips moved and asked unanimous consent that the roll call on the passage of the bill be considered the roll call on the effective date clause. There being no objection, it was so ordered.

Representative Brown gave notice of reconsideration of her vote on CSHB 300(JUD) am.

Bill Root:

[Return to BASIS Main Menu\(18th Legislature\)](#)

BASIS Last Updated 12/31/94

SECTIONAL ANALYSIS
CSHB 12(FIN)

Civil Liability for Commercial Recreational Activities

Section 1 sets out the purposes of the bill -- to establish the respective responsibilities of persons who operate commercial recreational activities and persons who participate in them, to decrease uncertainty about liability for damages for injuries resulting from participating in commercial recreational activities, and to encourage the continued availability of commercial recreational activities.

Section 2 enacts a new chapter relating to "Civil Liability for Commercial Recreational Activities," and adds five new statutory provisions -- AS 05.50.010 through AS 05.50.100.

AS 05.50.010 provides that a person who participates in a commercial recreational activity accepts the risk that an injury might occur as a result of participating in the activity. AS 05.50.020 provides that if the risk inherent in the activity causes an injury, and the injured person has accepted that risk, then the person's damages, if any, will be reduced by the percentage of fault that the court or jury determines is attributable to the acceptance of the risk.

AS 05.50.030 sets out the responsibilities of a person who participates in a commercial recreational activity. Those responsibilities include learning about the risks; acting within the limits of the person's abilities; heeding all warnings; maintaining control over oneself, children, equipment, or animals; and refraining from actions that might cause or contribute to an injury. AS 05.50.040 sets out the operator's responsibilities, which include explaining the risks inherent in the activity and the skills and equipment required to participate; requiring that employees directly assisting participants have first aid and CPR training; maintaining all facilities and equipment in good repair; providing trained and competent personnel; and acting in a reasonably safe and competent manner.

AS 05.50.050 makes it clear that the provisions of the bill do not affect existing statutes relating to the immunity of an owner of unimproved land or of the operator of a ski area.

AS 05.50.100 defines the terms "children" (a person under 18), "commercial recreational activity" (an activity for which participants pay compensation), and "recreational activity" (an outdoor activity for the purpose of exercise, education, relaxation, pleasure, sport or hobby).

Section 3 makes the Act applicable only to acts or omissions that occur on or after the effective date of the Act.

Section 4 provides that the Act will take effect July 1, 1998.