

HB

12

HOUSE JUDICIARY STANDING COMMITTEE

DATE: 2/4/98

ISSUE: move HB 12
(amended)

	YEA	NAY	PRESENT
Vice Chair Bunde			—
Representative Berkowitz		—	
Representative Croft	—		
Representative James			—
Representative Porter	—		
Representative Rokeberg	—		
Chairman Green	—		
TOTALS:	4	1	

PASSED 4-1 FAILED _____

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 13, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/2/98

The JUDICIARY 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 (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) LAW

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Brian Porter</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>Greg Kolesky</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>Joseph [unclear]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[unclear]</i>		<input checked="" type="checkbox"/>		
<i>[unclear]</i>			<input checked="" type="checkbox"/>	

CHAIR'S SIGNATURE

[Handwritten Signature]

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

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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

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.

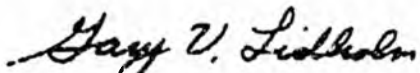
At least 15 percent of our liability insurance coverage at Echo Ranch can be attributed solely to the use of saddle animals in our program. We suspect Tort Reform would help reduce this and possibly for other activities as well. This is an important budgetary item for us since insurance providers for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

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

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 12 | _____

Revision Date (Note if correction) _____ Dept. Affected Law
 Title An Act relating to civil liability for injuries and death 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 ()						
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FUND SOURCE (Thousands of Dollars)

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)

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 *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date 2/10/98
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 2/10/98
 Agency Department of Law


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REPRESENTATIVE ERIC CROFT

MEMORANDUM

To:  Representative Joe Green, Chair
House Judiciary Committee
Representative Gary Davis, Sponsor
House Bill 12, Limited Liability for Equine Activities

From: Representative Eric Croft 

Date: February 5, 1998

Re: Judiciary Action on HB 12

In response to Mike Ford's memo of February 5, 1998, commenting on policy choices made by the House Judiciary Committee, I still feel that we, as a committee, have clarified our belief that the inherent risk of an outdoor activity, such as horseback riding, is not a proper basis for liability. This is an important policy statement and has a concrete impact on litigation. The fact that the committee did not want to immunize owners from their proven negligent acts is also an appropriate policy choice.

Please call me directly at x4998 if you have any additional comments or concerns.



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 5, 1998

SUBJECT: Civil liability from equine activities - (CSHB 12(JUD))

TO: Representative Joe Green
Attn: Kevin

FROM: Michael F. Ford 
Legislative Counsel

As you know, the Judiciary Committee has passed a CS for HB 12 that removed the word "gross" from subsection (b) of Sec. 09.65.145. As originally written the bill provided a narrow level of immunity by immunizing conduct amounting to negligence, but not acts that were grossly negligent, reckless, or intentional. As changed by the CS, the bill also does not apply to civil actions resulting from conduct that is negligent. I wanted to make sure you understand that with this change the bill does not provide any significant protection against civil liability. The primary effect of the CS is to protect against strict liability (liability without fault), assuming strict liability would exist in relation to equine activities.

Please contact me if you have further questions.

MFF:jdr
98-069.jdr



APR 10 1997

HC O3, 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

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

Sandy Shacklett
Southcentral Horsemen, Inc.
P.O. Box 670034
Chugiak, AK 99567-0034

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

Roger and Amy Anderson
4804 Strawberry Road
Kenai, AK 99611

Shirley Schollenberg
HC 67 Box 250
Anchor Point, AK 99558

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

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

Julie A. Eaton
Eaton Equestrian Centre
5801 Moosemeadow Lane
Anchorage, AK 99516

Linda L. McQueary
Diamond H. Ranch
Anchorage AK

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



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name

committee on HB 303, dated 1/29/98
bill # / subject

*The following pages were sent
to the Kenai LIO as written testimony*

Signed: _____

Testifier

Representing (Optional)

Address

Phone number

THOMAS & PATRICIA VINCENT
P.O. Box 1485 Kenai, Alaska 99611 (907) 283-3378

January 29, 1998

Chairman of the House Judiciary Committee
and Committee Members
State Capital
Juneau, Alaska 99801

RE: CS FOR HOUSE BILL NO. 203

Dear Chairman of the House Judiciary Committee and Committee Members:

We are writing to express our strong support for A BILL FOR AN ACT ENTITLED "An Act relating to actions for unlawful trade practices.", CS FOR HOUSE BILL. 203. We favor any legislation that protects the consumers in the State of Alaska, and urge you to do the same! We are sure you are aware that this bill also protects the seller or lessor from "frivolous" law suits. This legislation is fair to everyone in the state.

Unfortunately, we have first-hand knowledge of how the system works for consumers with justified complaints, and we can't begin to tell you how unfair the current system of solving disputes is to the consumer. What we can say with all certainty is that there are no monetary winners except for the lawyers involved! The giant corporations and/or insurance companies may "win" the case, but you can bet your life the consumers will have those costs passed back to us in higher cost of products and/or insurance premiums. This is unfair to everyone!

Every single penny we have had to spend on our litigation has had to come right out of our pocket. There is no insurance available to people in our situation to cover attorney fees. The other person's insurance company is paying all of his legal fees. What can be fair in this system when the person with the most money is the probably the only one left standing when the dust clears?

The Judge in our case has urged us all to settle out of Court, and that would certainly be our preference. However, unless the insurance company and the defendant are able to compensate us with a reasonable amount of money to repay our expenses for the repairs that have had to be done to make our home habitable, we are not financially able to "settle" - a jury of our peers will be forced to decide the outcome. The most we can even expect to receive to cover our attorney fees is 40%, if we "win" the litigation, and if the jury feels this is a fair compensation! Obviously, right doesn't always mean justice prevails.

The Judge told us all at a pretrial hearing that the six days the Court has set aside to hear this case will cost close to \$3,000,000. The cost of our trial will be paid in some way by every

Vincent
Page 2

citizen in the State of Alaska. It costs just as much to take the Court's time with a case like ours, an issue of approximately \$200,000, as it does to hear something important to the well-being and safety of the community such as a murder or rape or child abuse trial. Think of this! There has to be a better way for all of us!

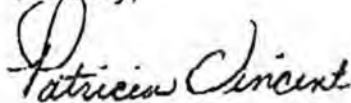
One direct quote that came from the opposing attorney when he was asked how he would like the transcript of a deposition bound (it would cost less to put it all in one folder) was, "WHAT DO I CARE ABOUT COSTS!" This lawyer works for the insurance company we are up against. We believe that about says it all!

The amount of money a consumer has access to should not dictate the outcome of any reasonable complaint! No one should be forced into accepting substandard quality because they can't afford to financially fight for their rights. No one should have to use every financial resource available to them to fight for their rights. This practice should no longer be tolerated by the lawmakers or the citizens of our state!

We urge you to put a consumer protection agency and consumer protection laws in place as soon as possible. Every taxpayer in the state deserves protection! There has to be a way for all of us to receive compensation when a product is obviously defective, or a person suffers an ascertainable loss of money and property as a result of an unlawful act or practice. Fair compensation should not pertain only to those who have enough financing to seek restitution.

We thank you in advance for your support of CS FOR HOUSE BILL 203. It is our opinion that a consumer protection agency should be established and that the legislature consider passing any future legislation which protects your constituents.

Sincerely,


Patricia Vincent

cc: Representative Gail Phillips
Representative Gary Davis
Representative Mark Hodgins
Senator John Torgerson
Senator Jerry Ward
Representative Dyson
Representative Croft

Written Testimony