

HB

111

ALASKA STATE LEGISLATURE
House of Representatives

Committee Assignments:

Judiciary Committee, Chairman
Labor & Commerce Committee, Member
Legislative Council, Member
Special Committees:
Economic Development, Member



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REPRESENTATIVE NORMAN ROKEBERG

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

FAX COVER SHEET

DATE: 4.4.01

TO: Legal Services Attn: Mike Ford

FAX: 2029 VOICE: _____

RE: 22-LS0231L - CS for House Judiciary

MESSAGE: I would like a CS for HB 111 (JUD)

final with the following change:

Page 2, Line 26 add the word

"negligence" after "gross."

Heather x 4990

TOTAL NUMBER OF PAGES SENT, INCLUDING COVER SHEET: 1

ALASKA STATE HOUSE OF REPRESENTATIVES

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REPRESENTATIVE JOHN COGHILL

INJURIES RESULTING FROM LIVESTOCK ACTIVITIES SSHB 111 SPONSOR STATEMENT

Sponsor Substitute for House Bill 111 is the product of several meetings and work sessions with a group of 4-H members, a local veterinarian, and stable owners in the Tanana Valley. This bill is intended to give livestock owners and those associated with livestock activities extra protection from frivolous lawsuits. Forty-four other states currently have similar legislation.

This bill will recognize that a person assumes some risk when placing themselves in the vicinity of livestock. The livestock owner with the best of intentions cannot completely prevent accidents from happening. For example, a bee could come along and sting a horse, causing the horse to buck and throw a rider. Or, a bunny at a 4-H sponsored petting zoo could bite the finger of a small child feeding the bunny grain. Presently, both of these accidents could result in a lawsuit.

In June of 1996, during the Miller Reach Fire, the Alaska State Fair in Palmer opened the fairgrounds to provide housing for evacuated animals. Pens were set up in Farm Exhibits and at France Equestrian Center on the fairgrounds to hold a variety of animals. Both areas looked like Noah's ark had unloaded. All the animals' owners made the best of the crowded situation, and appreciated the Fair's hospitality except one. This individual chose to ride her horse on the fairgrounds despite the crowded conditions. Her horse spooked from a pig in a pen near the arena and bucked her off. She suffered broken ribs and a punctured lung. She sued the fair because she had "warned" them about the problem of other animals spooking her horse. In November of the following year, the fair's insurance company settled out of court for \$3,500, plus legal fees and medical expenses, because to fight the lawsuit would have cost them four or five times as much as settling."

SSHB 111 will not protect the livestock owner who acts in an unreasonable manner. By reducing some of the liability, the expectation is this legislation will create an atmosphere for more livestock activities to occur within the state, as insurance premiums become more favorable for livestock activities.

This piece of legislation is the work product of 4-H members statewide who will be following this legislation through the legislative process and participate in the passage of this bill. A 4-H member in Fairbanks wrote the bulk of this sponsor statement.

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SSHB 111 SECTIONAL

Sec. 1. Intent language outlining that this legislation was introduced to encourage more livestock activities by limiting the civil liability of livestock activities recognizing that there are certain risks taken when participating in or attending a livestock activity.

Sec. 2.(a) Provides immunity to participants and sponsors of a livestock activity when an injury or death results from the inherent risk of a livestock activity.

(b) Exempts livestock activities from AS 09.55.580(a) Action for Wrongful Death unless any of the following apply:

Gross, reckless, or intentional misconduct of someone directly involved in the livestock activity.

Faulty or defective products were knowingly allowed to be used for the livestock activity by someone directly involved in the livestock activity.

Failure of someone directly involved in the livestock activity to make reasonable efforts to determine a person's ability to participate in a livestock activity.

(c) exempts injuries or death covered by worker's compensation laws.

(d) does not exempt or limit injuries or liabilities from product liability laws.

(e) exempts a sponsor of a livestock activity from civil liability for negligent acts of participants or professionals of a livestock activity.

(f) Provides for a person signing a waiver of right to recover damages resulting from inherent risk of a livestock activity.

(g) Preserves tort immunity for a person with unimproved land unless gross negligence is an issue.

Sec. 3. Establishes definitions in state statute for inherent risk of a livestock activity, livestock, livestock activity, livestock activity sponsor, livestock professional, and participant.

Sec. 4. Establishes a date of applicability to the law.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SSHB 111
 (H) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: Civil Liability and Livestock BRU: Alaska Court System
 Component: Trial Courts
 Sponsor: Rep. Coghill
 Requester: House Judiciary Committee Component Number: 768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
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 (FY2001) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill will not have any fiscal impact on the Alaska Court System.

Prepared by: Heather Nobrega, House Judiciary Aide Phone 465-4990

Representative Norman Rokeberg Date 4/4/01
Committee Chair

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SSHB 111
(H) Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: All Departments
Title: Civil Liability and Livestock BRU: _____
Sponsor: Rep. Coghill Component: _____
Requester: House Judiciary Committee Component Number: _____

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ANALYSIS: (Attach a separate page if necessary)

This bill will not have any fiscal impact on the state.

Prepared by: Heather Nobrega, House Judiciary Aide Phone 465-4990

Representative Norman Rokeberg Date 4/4/01
Committee Chair

THE
FOLLOWING
DOCUMENT(S)
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**ANIMAL
VETERINARY CLINIC**

Representative & Senators
Fairbanks, Alaska 99811

Subject: House Bill 111

To Whom It May Concern:

I am a 4-H leader in Fairbanks that has, unfortunately, been sued by someone that believed I was being neglectful at the Tanana Valley Fair in August of 1997. In October of 1996, I started a 4-H group for kids that did not have the means to have a horse of their own. The four young ladies that participated in my group, were required to take riding lessons for several months, attend lectures on the care of the horse and have their skills tested with a written and riding examination. They all passed and qualified to ride in the 4-H horse show at the Fair in 1997. They were to use my horses for the contests.

The member's parents and I supervised the activities. Due to the congestion of horses at the entry gate of the show ring, as each member was called into the arena for their chance at a blue ribbon, I would lead them in on one of my two horses. I would then wait for them to finish to help guide them out. As I led Ms. Ashley Swanson on my horse "Pretty Boy" into the arena, a strange woman ran up on the right rear side of "Pretty Boy" and slapped him on the rump and grabbed Ashley's right leg almost dismounting her. As the stranger did this she loudly yelled "Ashleyyyy". I was almost knocked down by the startled horse. I turned around and demanded she get away from my animal immediately. She gave me a cruel stare and walked off, never exhibiting any signs of pain or a limp (this becomes important later). Ashley's parents had evicted the stranger, Debra Bogan, from the apartments they manage. They quickly came up to me after the incident and informed me that I was never to let the woman near their daughter. Twenty minutes later Debra Bogan came up to the Swansons and showed them her toe, which was bleeding profusely. She alleged that "Pretty Boy" had stepped on her

foot when she had startled him. At the time of the alleged incident she was in an area posted for exhibitors only and was wearing opened toe sandals.

Ms. Bogan sued the Tanana Valley Fair Ground, Ashley Swanson and myself for her injuries, which included a nervous condition in both of her legs that she alleged had resulted due to the incident. With council provided to me by the 4-H district, eight months, approximately eighty hours of my own time and fifteen thousand dollars later, her case was dismissed against me. It took Ms. Ashley's attorney and the Tanana Valley Fair Association two additional months to be released of her allegations. This does not include the emotional stress and anger I still feel because of this attack on my volunteer service.

It is my opinion when someone attends a public event they need to take some personal responsibility for their own actions. It does not matter how many signs you have posted or how many guards you have in place, it is not the responsibility of the animal owner, when involved in a judged or timed event to be responsible for spectators or other participants. The participants are there primarily for the challenge of the task at hand and secondary to entertain those watching the event. The spectators are there simply present to enjoy watching. If House Bill 111 is implemented it will minimize the risk of the animal owner, participant and host of the event of being responsible for the brainless acts of others.

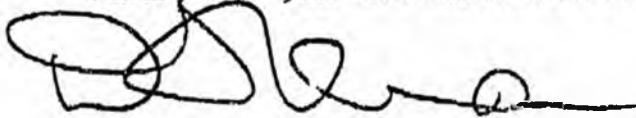
I am encouraging limited liability to those working on a horse during medical treatment. Being a veterinarian, I have been notified by my liability insurance company that currently I am legally liable for anyone, including the owners, while I am treating or caring for an animal. Unfortunately, I will not work on any animal in any situation, which I do not have one of my trained employees restraining the animal being treated. What this means is that if I am at the fair and an animal is injured I will not work on an injured animal unless I can use my employees in restraining the animal. Even if the owner is there and willing, I will not have them hold an animal under any circumstances and be held liable for any injury they may incur while holding their animal.

I have also stopped accepting new large animal clients for the same reason. I am required to train one of my employees to restrain any animal I am examining or treating. Working on large animals greatly increases the risk to my employees. I feel that anyone that owns a large animal has accepted the risk that inherently comes with the ownership. Although I am willing to risk injury to myself to help an animal, I have a difficult time asking my employees to do so, even if they are trained. I have enclosed a copy of an article found in a newsletter from the American Veterinary Medical Association Professional Liability Insurance Trust describing the court cases that have necessitated this action. If House Bill 111 clearly limits the liability of a veterinarian when they are working on an animal

while the owner assists, I would not limit my services. Unfortunately, as it stands, without a statute of limitations, it is the large animal owner and their animals that will suffer the consequences of veterinarians refusing to work with large animals because of their potential liability.

I am speaking on behalf of my large animal clients and their pets. I urge you to pass House Bill 111 as it is written. I plan on being only a spectator at the fair this year.

Thank you for your time and consideration of this matter,

A handwritten signature in black ink, appearing to read 'Dee Thornell', with a long horizontal flourish extending to the right.

Dee Thornell, DVM



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee on HB 111, dated April 4, 2001
 bill/subject committee name

Dear Sirs:

As an assistant leader of the Delta 4-H club and a life-long horse owner + participant of horse shows and related activities, I have seen many dangerous incidents occur. We as horse owners know that often times these large animals do become frightened or upset and can become "out-of-control". A single person can be virtually helpless to control these large animals. In short, how can we prove "negligence" when these situations can become totally out of our control even when we have done everything reasonable to avoid these situations?

The law as it stands now makes it very difficult, if not impossible, for clubs, organizations + individuals to put on shows, activities or give riding lessons for fear of retribution and the financial costs of liability insurance to cover these activities. So I am greatly in favor of passing this bill. Thank you.

Signed:

Jackie Heller
 Testifier
Self + Delta Saddletramps 4-H club
 Representing (Optional)
HC 110 BOX 3208 DELTA Junction AK 99737
 Address
907 895-1967
 Phone No.

APR 04 2001



Alaska State Legislature

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

committee on HB 111, dated 4/4/2001
bill/subject

The Horse Industry Alliance took a poll and one out of three people said they wanted to ride a horse.

See attached statistics

Signed: *Landra K Shacht*
Testifier

Self as publisher of Alaska Horse Journal
Representing (Optional)

310 N Harriette St, Wasilla, AK 99654
Address

376-4470
Phone No.

HORSE & HORSE SHOW STATISTICS

There are over 150 different breed registries and associations, we have only contacted a few of them. These numbers are just to give you food for thought. Grade horses, if counted, would outnumber registered horses by far.

The U.S. Equestrian Marketing Association estimated Alaska's total horse population at 16,935 for 1996

The U.S. Department of Agriculture estimated 2,400 horses in Alaska. Many wonder why there is such a huge difference in numbers. The major factor is that the U.S. Department of Agriculture only counted horses that were on farms. These figures should come much closer together in 2000 when an actual count of horses in Alaska takes place. We hope to bring you more information on this in the future.

There were 11 American Horse Show Assoc.(AHSA) recognized shows held in 1999. The total number of horses competing at each show were as follows:

(Show	1999 (98)
Colony Days	112 (94)
ADA Spring Festival I	17 (26)
ADA Spring Festival II	17 (n/a)
Midsummer Festival	97 (102)
1st Annual Jr./Amateur	n/a (32)
WCCEC Show	108 (95)
Morgan Open Breed	48 (54)
ADA Big Event	14 (23)
ADA Bigger Event	14 (19)
Ak. State Fair Dressage	18 (15)
Ak. Hunter/Jumper	54 (45)
Ak. State Fair	128 (113)

Palmer Anchorage

(Continued on page 7)

REGISTERED HORSES (cont.)

International Arabian Horse Assoc. (Half-Arabian and Anglo-Arabian Registries) 10805 E. Bethany Dr., Aurora, CO 80014-2605	229 (221)
American Bashkir Curly Registry..... P.O. Box 246, Ely, NV 89301-0246	58 (55)
The American Hanoverian Society, Inc. 4059 Iron Works Pike, Bldg. C, Lexington, KY 40511	4 (2)
Hungarian Horse Assoc. of America HC 71, Box 108, Anselmo, NE 68813	1 (1)
Icelandic Horses (estimated by count)	69 (69)
American Miniature Horse Association, Inc..... 5601 South Interstate 35W, Alvarado, TX 76009	65 (65)
Am. Miniature Horse Registry & Am. Shetland Pony Club... 81-B E. Queenwood, Morton, IL 61550	40 (40)
Missouri Fox Trotting Horse Breed Assoc., Inc..... (This number represents the number of members in Alaska, not horse.) P.O. Box 1027, Ava, MO 65608-1027	0 (7)
American Morgan Horse Assoc., Inc..... P.O. Box 960, Shelburne, VT 05482-0960	350 (351)
National Show Horse Registry 11700 Commonwealth Dr., #200, Louisville, KY 40299-2344	15 (16)
Norwegian Fjord Horse Registry 8539 13 Mile Rd, Marshall, MI 49068	30 (64)
American Paint Horse Assoc..... P.O. Box 961023, Fort Worth, TX 76161-0023	214 (177)
Peruvian Paso Horse Registry of North America 3077 Wiljan Court, Suite A, Santa Rosa, CA 95407-5702	5 (3)
Pinto Horse Assoc. of America, Inc..... 1900 Samuels Ave., Fort Worth, TX 76102-1141	58 (48)
Pony of the Americans Club, Inc..... 5240 Elmwood Ave., Indianapolis, IN 46203-5990	33 (30)
American Quarter Horse Assoc..... P.O. Box 200, Amarillo, TX 79168-0001	1,330 (1,256)
Rocky Mountain Pleasure Horse Assoc..... 6569 East Hwy. 36, Olympia, KY 40358	2 (2)

Apr 04 01 03:07P

The AQHA Shows in Alaska had an average of 165 entries at 18 shows compared with 13 shows held in 1998 with an average of 235 entries.

During 1998 the first American Paint Horse Association recognized show was held. There were a total of 109 entries for the 21 classes. Both APHA and all-breed classes were held. The entries increased to 111 in 1999 with 38 classes being held.

American Saddlebred Horse Assoc., Inc..... 4093 Iron Works Pike, Lexington, KY 40511-8434	35 (36)
American Trakehner Assoc. 1520 W. Church St., Newark, OH 43055	12 (18)
Welsh Pony & Cob Society of American, Inc. (This number reflects the number of members they have, not horses) P.O. Box 1977, Winchester, VA 22604-2977	15 (2)
Paso Fino Horse Assoc. 101 North Collins St., Plant City, FL 33566-3311	1
American Donkey & Mule Society 2901 N. Elm St., Denton, TX 76201-7631	8



Please note: These numbers are estimates only. There has not been an actual count of horses in Alaska. Some of these figures are based on the number of members the association has in Alaska, some horses may be owned by an Alaskan resident and boarded elsewhere, and horses that have moved to Alaska or born in Alaska may not be registered yet.

Horse Show & Rodeo Grounds

Anchorage

William Clark Chamberlin
Equestrian Center
3900 Abbott Road

Chamberlin Equestrian Center is a municipal park and open to riders during the summer season with either a season pass or hourly fee. There are also numerous activities scheduled at the facilities throughout the week as well as on weekends.

The Center has a trail system, a large show arena, dressage arena, western arena, schooling arena, and over 100 stalls. Next to the large arena and western arena is an office/announcers booth. Bleachers are located on both sides of the large arena and there is both paved parking for spectators and non-paved parking for the equestrian event participants.

If you would like more information you can contact the Anchorage Horse Council at: P.O. Box 112195, Anchorage, AK 99511-2195 or you can leave a message for the facility scheduling manager at 522-1522.

Directions: Coming from the South
Take the Glenn Hwy to Diamond Blvd exit, turn right

onto Diamond Blvd. It will curve to the right turning into 88th, then turn left changing to Abbott Rd. You will pass a stop light at Lake Otis Blvd. keep going and watch for the sign and entrance on your right.

Directions: Coming from the North-
Take the Glenn Hwy to Muldoon Rd. After a sweeping right hand turn, Muldoon will change into Tudor Rd., stay on Tudor until you reach Lake Otis Pkwy. Turn left on Lake Otis Pkwy. Going South on Lake Otis Parkway to Abbott - turn left on Abbott Road - watch for signs and the entrance will be on your right.

Chugiak

Peters Creek Horse Park
19300 Old Glenn Hwy

Peters Creek Horse Park is open Tuesday through Friday from 11 a.m. until 10 p.m., Saturday from 11 a.m. until 6 p.m. and at other times for events or by prior arrangement.

Southcentral Horsemen, Inc. operates and maintains Peters Creek Horse Park, a municipal park located within the Loretta French Park, established, in part, to replace the

