

SUBJECT: Limiting liability for equine animal activity

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 7 ayes — T. Hunter, Hilbert, Alvarado, Moffat, Sadler, Tillery, Zbranek
0 nays
2 absent — Culberson, Hartnett

WITNESSES: For — Bill Bates; Clay C. Conoly; Christi Craddick, Texas and Southwestern Cattleraisers Association; Durwood Tucker, Texas Farm Bureau
Against — None
On — Pete G. Gibbs, Texas Agriculture Extension Service, Equine Science Section

DIGEST: CSHB 280 would add Chapter 87 to the Civil Practices and Remedies Code relieving any person from liability arising from the activity of an equine animal if the damages were a result of the inherently unpredictable nature of the animal and could not reasonably have been prevented by the person.
CSHB 280 would apply to horses, ponies, donkeys, mules (the offspring of a male donkey and a female horse) and hinnys (the offspring of a male horse and a female donkey).
CSHB 280 would not apply to any activities regulated by the Texas Racing Commission.
CSHB 280 would apply to any cause of action accruing after the bill's effective date, September 1, 1995.

SUPPORTERS SAY: Owners of horses and other equine animals are saddled with unnecessary tort liability when they are sued for injuries to people who use their animals. Most of these actions involve recreational riders at farms and ranches. Even the most skilled and careful horse owner cannot prevent an

equine animal from reacting to unexpected sounds, sudden movements or unfamiliar objects, persons or animals. The owners should not be burdened with liability for such actions.

Horses and riding figure prominently in Texas culture and history. Unfortunately, this aspect of the culture is in danger of being extinguished by the cost of liability insurance for sponsors of equine activity. High insurance costs make recreational rental of horses too costly. This legislation would lighten the burden of liability insurance necessary to protect the owner from suits caused by the nature of the animal.

Horses are used as therapy in programs for handicapped children as well as Scout programs. It would be a tragedy to deprive these children of the opportunity to experience horse riding simply because the insurance is too costly.

CSHB 280 would not promote the rental of unsafe equine animals, merely protect owners from being subjected to liability for natural actions of animals that they could not reasonably prevent. Placing a rider on an untrained horse is an action that could be prevented, and, therefore, would not excused from liability.

Twenty-eight states have adopted similar "trot reform" legislation and 14 others are considering such limitations.

The committee substitute deleted repetitive and unnecessary provisions in order to simplify the application of the statute.

**OPPONENTS
SAY:**

CSHB 280 could promote the use of poorly trained animals at recreational facilities. Before an animal is rented to recreational users, it should be trained to avoid injuring unexperienced riders. This legislation would relieve horse owners of liability if they can show the injury was caused by a natural reaction of the animal. It is the duty of the owner to do everything possible to train the animal to not act on those innate responses.

NOTES:

The committee substitute deleted the following from the introduced version of the bill:

- definitions of "engages in equine activity," "equine activity," "equine activity sponsor," "equine professional" and "participant";
- the inapplicability of the chapter to products liability or trespass actions;
- exceptions to liability limitations if the injury was caused by faulty equipment or tack, failure of an equine professional to determine the ability of the participant to engage in the activity safely, a dangerous latent condition on the land, an act or omission of wanton or willful disregard for safety, or intentional actions; and
- a posted warning notice.

The companion bill, SB 213 by Sims, Patterson, et al., has been referred to the Senate Economic Development Committee.