

Amendment No. 68

Senate Amendment to Senate Bill No. 129 (BDR 3-611)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DP/DY



Date: 4/2/2015

S.B. No. 129—Limits civil liability of certain persons for injuries or death resulting from certain equine activities. (BDR 3-611)



SENATE BILL NO. 129—SENATORS GOICOECHEA;
GUSTAVSON AND SETTELMAYER

FEBRUARY 9, 2015

JOINT SPONSOR: ASSEMBLYMAN ELLISON

Referred to Committee on Judiciary

SUMMARY—Limits civil liability of certain persons for injuries or death resulting from certain equine activities. (BDR 3-611)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to civil liability; limiting the civil liability of certain persons for injuries or death resulting from certain inherent risks of equine activities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides immunity from civil liability to certain persons for an injury or death resulting from an inherent risk of an equine activity under certain circumstances.

Existing law provides that certain nonprofit entities are not immune from civil liability for injury or death arising out of their activities under certain circumstances. Existing law also provides immunity from personal civil liability to certain persons acting in their official capacity for certain nonprofit entities under certain circumstances. (NRS 41.480) **Section 2** of this bill provides immunity from civil liability to those persons and nonprofit entities for causes of action for injury or death resulting from an inherent risk of an equine activity under certain circumstances.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a sponsor, an equine professional, a veterinarian or any other person is immune from civil liability for an injury to or the death of a participant as a result of an inherent risk of an equine activity.

2. A participant shall:

(a) Act in a safe and responsible manner when engaged in an equine activity; and

(b) Before engaging in an equine activity, know and be aware of the inherent risks of that activity.

3. A person is not immune from civil liability pursuant to this section if the person:

(a) Provided to the participant defective tack or other equipment that caused the injury or death of the participant and the person knew or should have known of the defective condition of the tack or equipment.

(b) Provided to the participant the equine upon or around which the injury or death occurred without making reasonable efforts to determine the ability of the participant to:

(1) Engage in the equine activity safely; and

(2) Control the equine based upon a representation made to the person by the participant concerning the ability of the participant to control that equine.

(c) Owns, leases, rents or is otherwise in lawful possession and control of the property or facility where the injury or death occurred if the injury or death was the result of a dangerous latent condition that was known or should have been known to the person.

(d) Committed an act or omission that:

(1) Was in willful or wanton disregard for the safety of the participant; and

(2) Caused the injury or death of the participant.

(e) Intentionally injured or caused the death of the participant.

(f) Failed to act responsibly while conducting an equine activity or maintaining an equine.

4. A person is not immune from civil liability pursuant to this section in an action for product liability.

5. As used in this section:

(a) "Equine" means a horse, pony, mule, hinny or donkey.

(b) "Equine activity" means an activity in which an equine is ridden, driven or otherwise used. The term includes, without limitation:

(1) Shows, fairs, competitions, performances, parades, rodeos, cutting events, polo matches, steeplechases, endurance rides, trail rides or packing or hunting trips.

(2) Lessons, training or other instructional activities.

(3) Boarding an equine.

(4) Riding, inspecting, evaluating or allowing the use of an equine owned by another person, regardless of whether the owner of the equine receives money or other consideration for the use of the equine.

(5) Providing medical treatment for an equine.

(6) Placing or measuring gear or tack on an equine.

(7) Placing or replacing shoes on an equine.

↪ The term does not include a race for which a license is required pursuant to the provisions of chapter 466 of NRS.

(c) "Equine professional" means a person who, for money or other consideration:

(1) Provides to a participant lessons, training or instruction relating to an equine activity; or

(2) Rents or leases to a participant an equine or tack or other equipment.

(d) "Inherent risk of an equine activity" means a danger or condition that is an essential part of an equine activity, including, without limitation:

(1) The propensity of an equine to behave in a manner that may result in injury or death to a person who is on or near the equine;

(2) *The unpredictable reaction of an equine to sounds, sudden movements or unfamiliar objects, persons or other animals;*

(3) *A hazardous surface or subsurface or other hazardous condition;*

(4) *A collision with another animal or object; and*

(5) *The failure of a participant to maintain control of an equine or to engage safely in an equine activity. It and*

~~(6) *A negligent act by a participant while using an equine.*~~

(e) *“Participant” means a person who engages in an equine activity, regardless of whether a fee is paid to engage in that activity. The term includes, without limitation:*

(1) *A person who assists a participant in an equine activity; and*

(2) *A spectator at an equine activity if the spectator is in an unauthorized area that is in the immediate area of the equine activity.*

(f) *“Product liability” has the meaning ascribed to it in NRS 695E.090.*

(g) *“Sponsor” means a person who organizes or provides money or a facility for an equine activity.*

Sec. 2. NRS 41.480 is hereby amended to read as follows:

41.480 *Except as otherwise provided in section 1 of this act:*

1. A nonprofit corporation, association or organization formed under the laws of this State is not immune from liability for the injury or damage caused any person, firm or corporation as a result of the negligent or wrongful act of the nonprofit corporation, association or organization, or its agents, employees or servants acting within the scope of their agency or employment.

2. No action may be brought against an officer, trustee, director or other possessor of the corporate powers of a nonprofit association or trust formed under the laws of this State based on any act or omission arising from failure in his or her official capacity to exercise due care regarding the management or operation of the entity unless the act or omission involves intentional misconduct, fraud or a knowing violation of the law.

Sec. 3. The amendatory provisions of this act do not apply to a cause of action or claim arising from an injury or death specified in section 1 of this act that accrues before October 1, 2015.