

By: Senator(s) Michel, Ross

To: Judiciary, Division A

SENATE BILL NO. 2701

1 AN ACT TO AMEND SECTIONS 95-11-1, 95-11-3, 95-11-5 AND
2 95-11-7, MISSISSIPPI CODE OF 1972, TO PROVIDE IMMUNITY FOR CANINE
3 ACTIVITIES; TO AMEND SECTION 95-9-1, MISSISSIPPI CODE OF 1972, IN
4 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 95-11-1, Mississippi Code of 1972, is
7 amended as follows:

8 95-11-1. The Legislature recognizes that persons who
9 participate in livestock shows or equine or canine activities may
10 incur injuries as a result of the risks involved in such
11 activities. The Legislature also finds that the state and its
12 citizens derive numerous economic and personal benefits from such
13 activities. The Legislature finds, determines and declares that
14 this chapter is necessary for the immediate preservation of the
15 public peace, health and safety. It is, therefore, the intent of
16 the Legislature to encourage livestock shows and equine and canine
17 activities by limiting the civil liability of those involved in
18 such activities.

19 **SECTION 2.** Section 95-11-3, Mississippi Code of 1972, is
20 amended as follows:

21 95-11-3. As used in this chapter, the following words and
22 phrases shall have the meanings ascribed herein unless the context
23 clearly indicates otherwise:

24 (a) "Canine" means a domesticated dog.

25 (b) "Engages in livestock shows or equine or canine
26 activity" means riding, training, providing or assisting in
27 providing medical treatment of, driving or showing an equine,
28 canine or livestock, or being a passenger upon an equine or other

29 livestock, whether mounted or unmounted, or any person assisting a
30 participant or show management. The term "engages in livestock
31 shows or equine or canine activity" does not include being a
32 spectator at a livestock show or equine or canine activity, except
33 in cases where the spectator places himself in an unauthorized
34 area and in immediate proximity to the livestock show or equine or
35 canine activity.

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

38 (d) "Livestock" means equine, cattle, swine, sheep and
39 goats.

40 (e) "Livestock shows or equine or canine activity"
41 means:

42 (i) Livestock or equine or canine shows, fairs,
43 competitions, performances, trials or parades that involve any or
44 all breeds of livestock or equines or canines and 1. any of the
45 equine disciplines, including, but not limited to, dressage,
46 hunter and jumper horse shows, grand prix jumping, three-day
47 events, combined training, rodeos, driving, pulling, cutting,
48 polo, steeplechasing, English and Western performance riding,
49 endurance trail riding, western games and hunting; and 2. any of
50 the canine events, including, but not limited to, dog conformation
51 shows, field trials, multi-event trials, agility competitions,
52 obedience trials, go-to-ground and hunting.

53 (ii) Equine, canine or livestock training or
54 teaching activities, or both.

55 (iii) Boarding equines, canines or livestock.

56 (iv) Riding, inspecting, or evaluating an equine,
57 canine or livestock belonging to another, whether or not the owner
58 has received some monetary consideration or other thing of value
59 for the use of the equine, canine or livestock or is permitting a
60 prospective purchaser of the equine, canine or livestock to ride,
61 inspect or evaluate the equine, canine or livestock.

62 (v) Rides, trips, hunts, shows or trials or other
63 equine, canine or livestock activities of any type however
64 informal or impromptu that are sponsored by an equine, canine or
65 livestock activity sponsor.

66 (vi) Placing or replacing horseshoes on an equine.

67 (vii) Examining or administering medical treatment
68 or medical tests to an equine, canine or livestock by a
69 veterinarian.

70 (viii) Notwithstanding anything to the contrary
71 contained herein, the term "livestock shows or equine or canine
72 activity" shall not include any activity prohibited by Sections
73 97-41-18 or 97-41-19.

74 (f) "Equine, canine or livestock activity sponsor"
75 means an individual, group, club, partnership or corporation,
76 whether or not the sponsor is operating for profit or nonprofit,
77 which sponsors, organizes or provides the facilities for an equine
78 or canine activity or livestock show, including, but not limited
79 to, pony clubs, 4-H clubs, hunt clubs, dog clubs, riding clubs,
80 school and college sponsored classes, programs, and operators,
81 instructors, and promoters of equine, canine or livestock
82 facilities, including, but not limited to, stables, kennels,
83 clubhouses, pony ride strings, fairs, farms, parks and arenas at
84 which the activity is held.

85 (g) "Equine, canine or livestock professional" means a
86 person engaged for compensation in:

87 (i) Instructing a participant or renting to a
88 participant, an equine or livestock for the purpose of riding,
89 driving or being a passenger upon the equine or livestock.

90 (ii) Renting equipment or tack to a participant.

91 (iii) Examining or administering medical treatment
92 or medical testing to an equine, canine or livestock as a
93 veterinarian.

94 (h) "Inherent risks of equine, canine or livestock
95 activities" means those dangers or conditions which are an
96 integral part of equine, canine or livestock activities,
97 including, but not limited to:

98 (i) The propensity of an equine, canine or
99 livestock to behave in ways that may result in injury, harm or
100 death to persons on or around them.

101 (ii) The unpredictability of an equine's, canine's
102 or livestock's reaction to such things as sounds, sudden movement
103 and unfamiliar objects, persons or other animals.

104 (iii) Certain hazards such as surface and
105 subsurface conditions.

106 (iv) Collisions with other equines, canines or
107 livestock or objects.

108 (v) The potential of a participant to act in a
109 negligent manner that may contribute to injury to the participant
110 or others, such as failing to maintain control over the animal or
111 not acting within his or her ability.

112 (i) "Participant" means any person, whether amateur or
113 professional, who engages in an equine or canine activity or
114 livestock show, whether or not a fee is paid to participate in the
115 equine or canine activity or livestock show.

116 **SECTION 3.** Section 95-11-5, Mississippi Code of 1972, is
117 amended as follows:

118 95-11-5. (1) Except as provided in subsection (2) of this
119 section, an equine, canine or livestock activity sponsor, an
120 equine, canine or livestock professional, or any other person,
121 which shall include a corporation or partnership, shall not be
122 liable for an injury to or the death of a participant resulting
123 from the inherent risks of equine or canine activities or
124 livestock shows and, except as provided in subsection (2) of this
125 section, a participant's representative shall not make any claim
126 against, or recover from an equine, canine or livestock

professional, or any other person for injury, loss, damage or death of the participant resulting from any of the inherent risks of equine or canine activities or livestock shows.

(2) Nothing in subsection (1) of this section shall prevent or limit the liability of an equine, canine or livestock activity sponsor, an equine, canine or livestock professional or any other person if the equine or livestock activity sponsor, equine, canine or livestock professional or person:

(a) (i) Provided the equipment or tack and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury.

(ii) Provided the equine, canine or livestock and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine or canine activity or livestock show and to safely manage the particular equine, canine or livestock based on the participant's representations of his ability.

(b) Owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the equine, canine or livestock activity sponsor, equine, canine or livestock professional or person, and for which warning signs have not been conspicuously posted.

(c) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury.

(d) Intentionally injures the participant.

(3) Nothing in subsection (1) of this section shall prevent or limit the liability of an equine, canine or livestock activity sponsor or an equine, canine or livestock professional under liability provisions as set forth in products liability laws.

(4) Nothing in subsection (1) of this section shall prevent or limit the liability of any person engaged in dogfighting or any other activity prohibited by Sections 97-41-18 or 97-41-19.

SECTION 4. Section 95-11-7, Mississippi Code of 1972, is amended as follows:

95-11-7. (1) Every equine, canine or livestock activity sponsor and every equine, canine or livestock professional shall post and maintain signs which contain the warning notice specified in subsection (2) of this section. Such signs shall be placed in a clearly visible location on or near stables, corrals or arenas where the equine, canine or livestock activity sponsor or the equine, canine or livestock professional conducts equine or canine activities or livestock shows. The warning notice specified in subsection (2) of this section shall appear on the sign in black letters, with each letter to be a minimum of one (1) inch in height. Every written contract entered into by an equine, canine or livestock professional or by an equine, canine or livestock activity sponsor for the providing of professional services, instruction or the rental of equipment or tack, to an equine, canine or livestock participant, whether or not the contract involves equine or canine activities or livestock shows on or off the location or site of the equine, canine or livestock activity sponsor's or the equine, canine or livestock professional's business, shall contain in clearly readable print the warning notice specified in subsection (2) of this section.

(2) The signs and contracts described in subsection (1) of this section shall contain the following warning notice as applicable:

WARNING:

Under Mississippi law, an equine or livestock activity sponsor or an equine or livestock professional is not liable for an injury to or the death of a participant in equine activities or livestock shows resulting from the

inherent risks of equine activities or livestock shows,
pursuant to this chapter; or

WARNING:

Under Mississippi law, a canine activity sponsor or a
canine professional is not liable for an injury or death
of a participant in canine activities resulting from the
inherent risks of canine activities, pursuant to this
chapter.

(3) Failure to comply with the requirements concerning
warning signs and notices provided in this section shall prevent
an equine, canine or livestock activity sponsor or equine, canine
or livestock professional from invoking the privileges of immunity
provided by this chapter.

SECTION 5. Section 95-9-1, Mississippi Code of 1972, is
amended as follows:

95-9-1. (1) For the purposes of this section, unless the
context otherwise requires:

(a) "Qualified volunteer" means any person who freely
provides services, goods or the use of real or personal property
or equipment, without any compensation or charge to any volunteer
agency in connection with a volunteer activity. For purposes of
this chapter, reimbursement of actual expenses, including travel
expenses, necessarily incurred in the discharge of a member's
duties, insurance coverage and workers' compensation coverage of
volunteers, shall not be considered monetary compensation.

(b) "Volunteer agency" means any department,
institution, community volunteer organization or any nonprofit
corporation designated 501(c)(3) by the United States Internal
Revenue Service, except an agency established primarily for the
recreational benefit of its stockholders or members. Volunteer
agency shall also include any volunteer fire fighter association
which is eligible to be designated as a nonprofit corporation
under 501(c)(3) by the United States Internal Revenue Service.

226 (c) "Volunteer activity" means any activity within the
227 scope of any project, program or other activity regularly
228 sponsored by a volunteer agency with the intent to effect a
229 charitable purpose, or other public benefit including, but not
230 limited to, fire protection, rescue services, the enhancement of
231 the cultural, civic, religious, educational, scientific or
232 economic resources of the community or equine or canine activity
233 as provided in Section 95-11-1 et seq.

234 (2) A qualified volunteer shall not be held vicariously
235 liable for the negligence of another in connection with or as a
236 consequence of his volunteer activities.

237 (3) A qualified volunteer who renders assistance to a
238 participant in, or a recipient, consumer or user of the services
239 or benefits of a volunteer activity shall not be liable for any
240 civil damages for any personal injury or property damage caused to
241 a person as a result of any acts or omissions committed in good
242 faith except:

243 (a) Where the qualified volunteer engages in acts or
244 omissions which are intentional, willful, wanton, reckless or
245 grossly negligent; or

246 (b) Where the qualified volunteer negligently operates
247 a motor vehicle, aircraft, boat or other powered mode of
248 conveyance.

249 **SECTION 6.** This act shall take effect and be in force from
250 and after July 1, 2007.