

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 perspective 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

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

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

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

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

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

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

155 (d) Intentionally injures the participant.

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

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

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

165 95-11-7. (1) Every equine, canine or livestock activity
166 sponsor and every equine, canine or livestock professional shall
167 post and maintain signs which contain the warning notice specified
168 in subsection (2) of this section. Such signs shall be placed in
169 a clearly visible location on or near stables, corrals or arenas
170 where the equine, canine or livestock activity sponsor or the
171 equine, canine or livestock professional conducts equine or canine
172 activities or livestock shows. The warning notice specified in
173 subsection (2) of this section shall appear on the sign in black
174 letters, with each letter to be a minimum of one (1) inch in
175 height. Every written contract entered into by an equine, canine
176 or livestock professional or by an equine, canine or livestock
177 activity sponsor for the providing of professional services,
178 instruction or the rental of equipment or tack, to an equine,
179 canine or livestock participant, whether or not the contract
180 involves equine or canine activities or livestock shows on or off
181 the location or site of the equine, canine or livestock activity
182 sponsor's or the equine, canine or livestock professional's
183 business, shall contain in clearly readable print the warning
184 notice specified in subsection (2) of this section.

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

188 WARNING:

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

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

195 WARNING:

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

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

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

208 95-9-1. (1) For the purposes of this section, unless the
209 context otherwise requires:

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

218 (b) "Volunteer agency" means any department,
219 institution, community volunteer organization or any nonprofit
220 corporation designated 501(c)(3) by the United States Internal
221 Revenue Service, except an agency established primarily for the
222 recreational benefit of its stockholders or members. Volunteer
223 agency shall also include any volunteer fire fighter association
224 which is eligible to be designated as a nonprofit corporation
225 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.