

Chapter 99

SPECIAL LIABILITY PROVISIONS

Article I. Equine Activity Liability

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ARTICLE I. EQUINE ACTIVITY LIABILITY**Sec. 99-1. Definitions.**

As used in this Article, the term:

- (1) *Engage in an equine activity* means participate in an equine activity, assist a participant in an equine activity, or assist an equine activity sponsor or equine professional. The term "engage in an equine activity" does not include being a spectator at the equine activity, except in cases in which the spectator places himself in an unauthorized area and in immediate proximity to the equine activity.
- (2) *Equine* means a horse, pony, mule, donkey, or hinny.
- (3) *Equine activity* means any activity involving an equine.
- (4) *Equine activity sponsor* means an individual, group, club, partnership, or corporation, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for an equine activity. The term includes operators and promoters of equine facilities.
- (5) *Equine professional* means a person engaged for compensation in any one or more of the following:
 - a. Instructing a participant.
 - b. Renting an equine to participant for the purpose of riding, driving, or being a passenger upon the equine.
 - c. Renting equipment or tack to a participant.
 - d. Examining or administering medical treatment to an equine.
 - e. Hoof trimming or placing or replacing horseshoes on an equine.
- (6) *Inherent risks of equine activities* means those dangers or conditions that are an integral part of engaging in an equine activity, including any of the following:
 - a. The possibility of an equine behaving in ways that may result in injury, harm, or death to person on or around them.

- b. The unpredictability of an equine's reaction to such things as sounds, sudden movement, unfamiliar objects, persons, or other animals.

Inherent risks of equine activities does not include a collision or accident involving a motor vehicle.

- (7) *Participant* means any person, whether amateur or professional, who engages in an equine activity, whether or not a fee is paid to participate in the equine activity. (Ord. No. 212, 4-26-2006)

Sec. 99-2. Liability.

(a) Except as provided in subsection (b) of this section, an equine activity sponsor, an equine professional, or any other person engaged in an equine activity, including a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of equine activities and, except as provided in subsection (b) of this section, no participant or participant's representative shall maintain an action against or recover from an equine activity sponsor, an equine professional, or any other person engaged in an equine activity for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of equine activities.

(b) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity if the equine activity sponsor, equine professional, or person engaged in an equine activity does any one or more of the following:

- (1) Provides the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such faulty equipment or tack proximately caused the injury, damage, or death.
- (2) Provides the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity or to safely manage the particular equine.

- (3) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission proximately caused the injury, damage, or death.
- (4) Commits any other act of negligence or omission that proximately caused the injury, damage, or death.

(c) Nothing in subsection (a) of this section shall prevent or limit the liability of an equine activity sponsor, an equine professional, or any other person engaged in an equine activity under liability provisions as set forth in the products liability laws.

(Ord. No. 212, 4-26-2006)

Sec. 99-3. Warning required.

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

(b) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

"WARNING

Under Tribal law, an equine activity sponsor or equine professional is not liable for an injury to or the death of a participant in equine activi-

ties resulting exclusively from the inherent risks of equine activities. Chapter 99 of the Cherokee Code."

(c) Failure to comply with the requirements concerning warning signs and notices provided in this Article shall prevent an equine activity sponsor or equine professional from invoking the privileges of immunity provided by this Article.
(Ord. No. 212, 4-26-2006)