

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

Senate Bill 90 (Senator Dyson)
(By Request)

Judicial Proceedings

Livestock Activities - Limitation of Liability

This bill provides that, with specified exceptions, a livestock activity sponsor, livestock professional, or participant in a livestock activity is not liable for injuries to any person that result from an inherent risk of livestock activity.

“Livestock activity sponsor” is defined as a person that sponsors, organizes, or provides facilities for a livestock activity. “Livestock professional” is defined as a person who, for compensation, instructs a participant in a livestock activity or who rents equipment or livestock to a participant. “Livestock” includes any cattle, oxen, bison, hog, sheep, goat, or equine.

Fiscal Summary

State Effect: To the extent that units of State government or State employees qualify as livestock activity sponsors or professionals, the bill could reduce the State’s liability exposure.

Local Effect: To the extent that units of local government or local government employees qualify as livestock activity sponsors or professionals, the bill could reduce the liability exposure of local governments.

Small Business Effect: Potential meaningful. Livestock activity sponsors, professionals, and participants could benefit from the bill’s limitation of their liability.

Analysis

Bill Summary: Civil liability is not limited if the livestock activity sponsor, professional, or participant:

- willfully or wantonly disregarded the safety of a participant;
- intentionally injured a participant;
- provided faulty equipment or tack;
- failed to make a reasonable effort to determine the ability of a participant to manage livestock, based on the participant's representations; or
- knew of a dangerous condition on land or facilities in his or her possession and control and did not warn the participant.

The bill encourages, but does not require, livestock activity organizers and professionals to post clearly-visible warning notices of the inherent risks of livestock activities at locations where a livestock activity occurs and to include this language in each contract entered into by a livestock activity sponsor or professional to provide services, equipment, supplies, tack, or livestock to participants. A participant who knowingly signs a contract or voluntarily participates in a livestock activity where the inherent risks are known is deemed to have waived the right to bring an action against a livestock activity sponsor or professional, except where the sponsor, professional, or any other person has acted with gross negligence.

Current Law: There are no current statutory provisions dealing with the liability of persons engaged in livestock activities. However, the common law doctrine of assumption of risk may apply to these activities. Assumption of risk is a complete bar to a plaintiff's recovery and is grounded on the theory that a plaintiff who voluntarily consents, either expressly or impliedly, to exposure to a known risk cannot later sue for damages incurred from exposure to that risk.

Additional Information

Prior Introductions: Several similar bills have been introduced in the past; however, those bills were limited to equine activities. SB 562 of 2001 and SB 713 of 1992 each received an unfavorable report from the Senate Judicial Proceedings Committee. HB 1076 of 1995 and HB 1234 of 1991 each received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Department of Agriculture, Department of Legislative Services

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