

**Testimony of  
Sam Batters on behalf of Ennisbrook Enterprises LLC  
In opposition of Senate Bill 0452- Courts prohibited liability agreements-  
recreational facilities  
March 25th 2024**

Ennisbrook Enterprises LLC operates Ennisbrook Farm in Queenstown,MD, a small family farm that provides boarding and training for horses and lessons for riders at all levels in the olympic sport of eventing, we also provide a facility for our local United States Pony Club chapter (a 501c charity) to use. We are second and third generation farmers and the farm has been used as an equestrian facility for the past 24 years and in that time has never been subject to litigation.

While we agree with the spirit of the Bill, in that no entity should be able to have a customer sign away their right to claim damages from a case of gross negligence, we have to oppose the Bill as written as we believe

- a) it would remove contributory negligence
- b) it would unduly open every recreational facility up to the possibility of excess litigation as a result of a third party's own negligence
- c) it would cause an increase in frivolous lawsuits
- d) it would cause an untenable rate hike in insurance premiums
- e) it would have a detrimental effect on the ability of a person to access the sport through closures of facilities
- f) it would have a major negative impact on the \$2.96B the equine sector adds to the State economy\*
- g) it would have a major negative impact on the 28,434 jobs and \$1.24B in wages\* added by our sector
- h) It would have a major negative impact on the \$982M our sector contributes to tourism
- i) the Bill, in part, aims to prevent minors signing away their rights, something that is currently already not legal
- j) a hold harmless/liability waiver does not indemnify an entity from gross negligence
- k) Maryland is already one of only two states that has not adopted the inherent risk law, and this Bill would be a move in the wrong direction regarding that law
- l) Horse pastures are among the best filtering devices to protect the bay from run off\* and Closure of equestrian facilities would likely lead to an increase of bay pollution as they get converted to farm land or housing estates

in our sector the hold harmless/liability waiver signed before a client can even touch a horse acts as a strong reminder that not only the sport is a dangerous one but also that the animals themselves have a mind of their own and while years of experience can go a long way to understand a horse, they are a flight animal and as such, always pose a risk that they will make sudden unavoidable movements that can and do result in injuries to participants.

Respectable facilities do everything they can to make clients aware of the dangers of our sport while simultaneously making it as safe as possible to teach both experienced and inexperienced people how to enjoy one of the most dangerous but rewarding sports in the world as safely as possible.

This Bill, if passed, will have a substantial negative effect on every privately owned sports facility in the State. It will have a knock on effect that we will see in the health of our children and our State, national and international level sporting events in years to come.

While change might be warranted, we would argue that the change should be in the form of education of both operators and users of recreational facilities regarding the difference between negligence and gross negligence. Also, perhaps, the implementation of a mandatory point of use reporting system where customers/clients and workers can report any issues they see and operators have the opportunity to fix faults they perhaps did not even know existed. This would simultaneously create a safer environment for the user, reduce the chance and occurrence of litigation and give the State a grading scale for operators of recreational facilities. If a fault had been reported and not fixed, or is an issue that could reasonably be expected to have been observed by a diligent proprietor, then litigation may be warranted.

\*source- <https://marylandthoroughbred.com/cms/pdf/MDHorseIndustryImpact.pdf>