

# MAINE STATE LEGISLATURE

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RWS

L.D. 2108

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DATE: May 24, 1999

(Filing No. S- 342 )

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**STATE OF MAINE  
SENATE  
119TH LEGISLATURE  
FIRST REGULAR SESSION**

SENATE AMENDMENT " B " to COMMITTEE AMENDMENT "A" to S.P. 749, L.D. 2108, Bill, "An Act to Clarify the Equine Activity Law"

Amend the amendment by inserting after the title the following:

'Amend the bill in section 2 in that part designated "**S4101.**" in subsection 7-A in paragraph C in the last line (page 3, line 49 in L.D.) by inserting after the following: "conditions:" the following: 'and'

Further amend the bill in section 2 in that part designated "**S4101.**" in subsection 7-A in paragraph D (page 3, line 51 in L.D.) by striking out the following: "; and" and inserting in its place the following: '.'

Further amend the bill in section 2 in that part designated "**S4101.**" in subsection 7-A by striking out all of paragraph E (page 4, lines 1 to 4 in L.D.)'

Further amend the amendment in the first paragraph after the title in the first line (page 1, line 22 in amendment) by striking out the following: "Amend" and inserting in its place the following: 'Further amend'

Further amend the amendment by striking out all of the 2nd paragraph after the title (page 1, lines 27 to 31 in amendment) and inserting in its place the following:

**SENATE AMENDMENT**

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2 'Further amend the bill in section 5 in that part designated  
3 "~~S4103-A.~~" in subsection 1 by striking out all of the 3rd  
4 sentence (page 4, lines 32 to 35 in L.D.)'

6 Further amend the amendment on page 2 by inserting after  
7 subsection 3 the following:

8 '4. Assumption of risk. In a personal injury action  
9 against an equine professional, a defense or immunity described  
10 in subsection 1 may be asserted only after proving that the  
11 person injured in the course of equine activity actually knew and  
12 assumed the risks that gave rise to the injury or that prior to  
13 the injury the equine professional had taken the steps necessary  
14 to make such risks reasonably apparent to the person injured.'

16 Further amend the bill by inserting after section 7 the  
17 following:

18 '**Sec. 8. Commissioner of Agriculture, Food and Rural Resources and  
19 Superintendent of Insurance to review insurability.** The Commissioner  
20 of Agriculture, Food and Rural Resources and the Superintendent  
21 of Insurance shall review, within existing resources, the status  
22 of the equine industry in Maine and shall assess:

24 1. The viability of the industry as affected by issues of  
25 safety, risk and insurability;

28 2. The availability and cost of insurance for equine  
29 activities;

30 3. The need for legislation to mitigate losses, to control  
31 risks or to facilitate development of the equine industry; and

34 4. The need for licensing or regulating any segment of the  
35 industry in order to promote public safety or welfare.

36 '**Sec. 9. Recommendations.** The Commissioner of Agriculture,  
37 Food and Rural Resources and the Superintendent of Insurance, in  
38 consultation with at least 2 members each from the Joint Standing  
39 Committee on Agriculture, Conservation and Forestry, the Joint  
40 Standing Committee on Judiciary, the Joint Standing Committee on  
41 Banking and Insurance and the Joint Standing Committee on Labor,  
42 designated by the chairs of the respective committees, and with  
43 members of groups representing the equine industry, shall make  
44 recommendations to the Governor and these committees by January  
45 4, 2000, for statutory changes, reorganization or restructuring  
46 and funding as necessary to carry out these recommendations. The  
47 Joint Standing Committee on Agriculture, Conservation and  
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Forestry may report out legislation as necessary to implement  
these recommendations to the Second Regular Session of the 119th  
Legislature.

**Sec. 10. Repeal.** The Maine Revised Statutes, Title 7, chapter  
743 is repealed January 1, 2001.' '

### FISCAL NOTE

The Department of Agriculture, Food and Rural Resources and  
the Bureau of Insurance within the Department of Professional and  
Financial Regulation will incur some minor additional costs to  
submit a required report pertaining to the availability and cost  
of insurance for equine activities to the Legislature. These  
costs can be absorbed within the respective agencies' existing  
budgeted resources.

### SUMMARY

This amendment removes that provision of the bill that  
states that each participant and spectator in an equine activity  
expressly assumes the risk and responsibility for participation  
in that activity. Instead, this amendment allows a defense to be  
asserted only if it is proven that the injured participant or  
spectator knew of the risks and assumed those risks or that prior  
to the injury the equine professional had taken the steps  
necessary to make such risks reasonably apparent to the person  
injured.

It also removes from the list of inherent risks of equine  
activities identified in the bill the potential of a participant  
to act in a negligent manner, leading to injury.

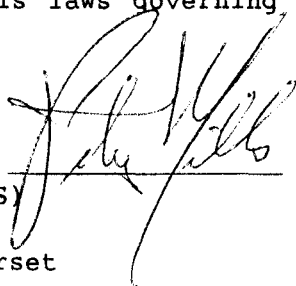
It directs the Commissioner of Agriculture, Food and Rural  
Resources and the Superintendent of Insurance to review the  
status of the equine industry in this State and to assess issues  
regarding the availability and cost of insurance for equine  
activities. The commissioner and the superintendent, in  
consultation with at least 2 members each from the Joint Standing  
Committee on Agriculture, Conservation and Forestry, the Joint  
Standing Committee on Judiciary, the Joint Standing Committee on  
Banking and Insurance and the Joint Standing Committee on Labor,  
designated by the chairs of the respective committees, and  
members of groups representing the equine industry, shall make  
recommendations to the Governor and these committees by January  
4, 2000 for statutory changes, reorganization or restructuring

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2 and funding necessary to carry out these recommendations. The  
amendment repeals laws governing equine activities on January 1,  
4 2001.

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SPONSORED BY:   
8 (Senator MILLS)

10 COUNTY: Somerset

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# SENATE AMENDMENT