

FREQUENTLY ASKED QUESTIONS AND ANSWERS ABOUT ACT 93 OF 2005 EQUINE ACTIVITY IMMUNITY ACT *Formerly Known as Senate Bill 618*

How do I know if the Act applies to me?

The Act applies to any individual, group, club or business that sponsors, organizes, conducts or provides facilities for an equine activity. The Act has specific definitions of what constitutes an equine activity.

Among those definitions are boarding equines, including daily care as well as leading, handling, or grooming an equine, trail riding and most types of horse shows.

How do I get the protection of the Act?

The Act has specific requirements that you post a minimum of two signs, two (2) feet by three (3) feet, in two or more locations on your facility which contains the specific language "You assume the risk of equine activities pursuant to Pennsylvania Law." If you do not have those signs, you lose the protection afforded by the Act. In addition to the signs, you must be involved in an equine activity as defined by the Act. For example, you have a horse for sale. A prospective buyer comes to your property to ride the horse in making a decision on whether or not to purchase it. If that person is injured while evaluating the horse, you would be protected under the Act so long as you have the required signs.



Do I need a Release?

The Act does not specifically require written releases. However, the Act bars liability for negligence when the person injured knowingly and voluntarily assumed the risk of the injury. Releases that outline the inherent risks involved in horseback riding would be additional evidence that the person injured knew of the risk involved.

How do I know whether the person that was injured voluntarily assumed the risk of injury or death?

You have to be able to prove that the person that was injured knew of the inherent risks involved in horseback riding or equine activities. A release which outlines inherent risks of the horseback riding activity would be a good indication and could be used as evidence to prove that the person knew of the dangers involved. Also, the person's experience in handling, riding or dealing with horses would be useful evidence that they voluntarily assumed the risk of injury.

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Does this Act apply to minors?

No. The Act specifically states that it applies to adults that participate in equine activities. However, the Act does not affect the common law assumption of risk as it applies to minors. A minor, experienced in equine activities, may still be found to have assumed the risk of injury of an equine activity. The difference would be that the assumption of risk would not be under this Act.

Now that we have an Equine Activity Immunity Act, does that mean I do not need insurance?

No. The Act does not prevent someone from filing a claim against you regardless of whether the claim has merit or not. The Act provides you with a defense to a claim if you comply with the terms of the Act. The litigation process is extremely expensive and for that reason, you should consider maintaining an insurance policy to cover liability for equine activity related injuries.

Since the bill is "an immunity bill" does that mean I automatically win?

No. In order to win a lawsuit under this Act, you must comply with the terms of the Act (i.e. signs). In addition, you need to be able to prove that the participants knowingly and voluntarily assumed the risk of the injury or death. There are certain inherent risks involved in equine activities. Those risks do not include you providing faulty tack, equipment or a horse that is not rideable. Under those situations, the Act would probably not protect you from liability as you would probably be found to have been negligent.

These Frequently Asked Questions were prepared by Robert A. Hoffa, Esquire.

DISCLAIMER: The material contained in these frequently asked questions is intended to provide general information concerning Pennsylvania's new Equine Activity Immunity Act. It is NOT intended to express any legal opinion or provide any legal advice with respect to the actual or expected interpretation of this Act. It is recommended that you seek counsel from your attorney in order for you to fully understand your legal rights and responsibilities under the Equine Activity Immunity Act, Act 93 of 2005. Copyright Robert A. Hoffa, Esquire, 2006.



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