

SENATE BILL NO. 176

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY SENATOR SEEKINS

Introduced: 4/7/03

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to civil liability for injuries or death resulting from livestock**
2 **activities."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE FINDINGS AND INTENT. (a) The legislature finds that

7 (1) a person who engages in livestock activities may incur injuries or death as
8 a result of the inherent risks involved in the activities even in the absence of any fault or
9 negligence on the part of the person or entity who sponsors, participates in, or organizes those
10 activities; and

11 (2) the state and its citizens derive numerous economic and personal benefits
12 from livestock activities; and

13 (3) livestock are unpredictable and inherently dangerous; a person who is in
14 the proximity of livestock is presumed to be a livestock activity participant and assumes the

1 risk of injury or death resulting from the livestock activity.

2 (b) It is the intent of the legislature to

3 (1) encourage livestock activities by limiting the civil liability of livestock
4 activity sponsors and participants and of livestock professionals involved in livestock
5 activities; and

6 (2) establish the policy that the sponsor or participant in livestock activities
7 who breaches a duty to a livestock activity participant shall be responsible for the injury in
8 accordance with other applicable law.

9 * **Sec. 2.** AS 09.55.580(a) is amended to read:

10 (a) Except as provided under (f) of this section **and AS 09.65.145**, when the
11 death of a person is caused by the wrongful act or omission of another, the personal
12 representatives of the former may maintain an action therefore against the latter, if the
13 former might have maintained an action, had the person lived, against the latter for an
14 injury done by the same act or omission. The action shall be commenced within two
15 years after the death, and the damages therein shall be the damages the court or jury
16 may consider fair and just. The amount recovered, if any, shall be exclusively for the
17 benefit of the decedent's spouse and children when the decedent is survived by a
18 spouse or children, or other dependents. When the decedent is survived by no spouse
19 or children or other dependents, the amount recovered shall be administered as other
20 personal property of the decedent but shall be limited to pecuniary loss. When the
21 plaintiff prevails, the trial court shall determine the allowable costs and expenses of
22 the action and may, in its discretion, require notice and hearing thereon. The amount
23 recovered shall be distributed only after payment of all costs and expenses of suit and
24 debts and expenses of administration.

25 * **Sec. 3.** AS 09.65 is amended by adding a new section to read:

26 **Sec. 09.65.145. Liability for injuries or death resulting from livestock**
27 **activities.** (a) Livestock are unpredictable and inherently dangerous. All persons
28 who place themselves in proximity to livestock for any reason involving an activity
29 that includes livestock, subject themselves to serious injury or death and are
30 considered a participant in livestock activity and assume the risk of injury or death
31 caused by the livestock.

1 (b) Except as otherwise provided in this section, a person, and the personal
2 representative of a person, who suffers an injury or death resulting from a livestock
3 activity may not recover civil damages for the injury or death from a livestock activity
4 sponsor, livestock professional, or livestock activity participant, or the agents or
5 employees of a livestock activity sponsor, livestock professional, or livestock activity
6 participant.

7 (c) This section does not affect a civil action for damages resulting from

8 (1) gross negligence or reckless or intentional misconduct of the
9 livestock activity sponsor, livestock professional, or livestock activity participant, or
10 agents or employees of the livestock activity sponsor, livestock professional, or
11 livestock activity participant;

12 (2) equipment, tack, or a product provided by the livestock activity
13 sponsor, livestock professional, or livestock activity participant that the livestock
14 activity sponsor, livestock professional, or livestock activity participant knows is
15 faulty or defective;

16 (3) the failure of the livestock activity sponsor, livestock professional,
17 or livestock activity participant who provided the livestock to make a reasonable and
18 prudent effort to determine the ability of the participant to safely manage the livestock
19 activity, after taking into account the participant's representation of ability; a
20 participant in a livestock show, livestock sale, or rodeo is presumed to be competent to
21 handle livestock if an entry form is required for the activity and is signed or submitted
22 by the participant.

23 (d) This section does not nullify coverage or an award for an injury to or death
24 of an employee of a livestock activity sponsor or livestock professional if the
25 employee suffers an injury or death resulting from a livestock activity and the injury
26 or death is covered by or subject to workers' compensation provisions under AS 23.30.

27 (e) This section does not prevent or limit the liability of a livestock activity
28 sponsor, livestock professional, or livestock activity participant, or their agents or
29 employees under a liability provision as provided in a law relating to product liability.

30 (f) A livestock activity sponsor may not be held vicariously liable for the acts
31 or omissions of a livestock activity participant or a livestock professional.

1 (g) A person may agree, in writing, to waive the entire right to recover
2 damages resulting from an inherent risk of a livestock activity.

3 (h) This section does not affect the immunity of an owner of unimproved land
4 under AS 09.65.200.

5 (i) In this section,

6 (1) "inherent risk of a livestock activity" means those dangers or
7 conditions that are an integral part of a livestock activity, including

8 (A) the propensity of livestock to behave in ways that may
9 result in injury to a person on or around livestock;

10 (B) the unpredictability of livestock's reaction to sound, sudden
11 movement, and unfamiliar objects or persons, or other animals;

12 (C) hazards or conditions unknown to a livestock activity
13 sponsor;

14 (D) collisions with other livestock or objects;

15 (E) the potential of tack to become dislodged or move in ways
16 that may result in injury to a person on or around a livestock activity; and

17 (F) the potential of a person to negligently engage in conduct
18 that contributes to an injury or death during a livestock activity;

19 (2) "livestock" includes a cow, bison, hog, sheep, goat, musk-ox, yak,
20 pig, caribou, reindeer, elk, rabbit, hamster, guinea pig, turkey, chicken, pheasant,
21 peafowl, pigeon, duck, horse, mule, donkey, camel, llama, or alpaca; "livestock" does
22 not mean a dog or cat;

23 (3) "livestock activity" includes

24 (A) livestock shows, fairs, sales, competitions, performances,
25 or parades that involve any or all breeds of livestock and any of the livestock
26 disciplines, including rodeos, auctions, driving, pulling, judging, cutting,
27 therapeutic riding, and showing;

28 (B) livestock training or teaching activities or both training and
29 teaching activities;

30 (C) boarding or pasturing livestock;

31 (D) testing, inspecting or evaluating livestock belonging to

1 another person, whether or not the owner has received monetary consideration
 2 or other thing of value for the use of the livestock or is permitting a prospective
 3 purchaser of the livestock to inspect or evaluate the livestock;

4 (E) driving, riding, grooming, traveling, or other livestock
 5 activities of any type, however informal or impromptu, that are sponsored by a
 6 livestock activity sponsor;

7 (F) placing or replacing horseshoes on an equine, or otherwise
 8 preparing livestock for show; and

9 (G) assisting in providing medical treatment to livestock;

10 (4) "livestock activity sponsor" means an individual, group, club,
 11 partnership, limited liability company, nonprofit corporation, or corporation operating
 12 for profit that sponsors, organizes, or provides the livestock, equipment, tack, or
 13 facilities instruction for a livestock activity;

14 (5) "livestock professional" means a person who receives
 15 compensation for instructing a participant, renting livestock to a participant for the
 16 purpose of engaging in livestock activity, or renting equipment or tack to a participant;

17 (6) "participant" means a person, whether amateur or professional,
 18 who engages in a livestock activity or who is near or close to livestock, whether or not
 19 a fee is paid to participate in the livestock activity.

20 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **APPLICABILITY.** This Act applies to a civil action that accrues on or after the
 23 effective date of this Act.