

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 756
PROPOSED COMMITTEE SUBSTITUTE H756-PCS70350-RN-17

Short Title: Reform Recreational Use Statute.

(Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE THE NORTH CAROLINA RECREATIONAL USE STATUTE BY
3 CLARIFYING THAT EQUINE RECREATION WHERE THE LANDOWNER
4 RECEIVES NO COMPENSATION IS SUBJECT TO THE RECREATIONAL USE
5 STATUTE AND NOT THE EQUINE ACTIVITY LIABILITY STATUTE, BY
6 CLARIFYING THAT CONTRACTUAL RELEASES ARE NOT ABROGATED OR
7 INVALIDATED BY THE RECREATIONAL USE STATUTE, AND BY ALLOWING A
8 CHARGE FOR ACTIVITIES SUBJECT TO THE RECREATIONAL USE STATUTE
9 WHEN THE CHARGE IS IMPOSED BY CERTAIN ACTIVITY SPONSORS AND NOT
10 THE LANDOWNER.

11 The General Assembly of North Carolina enacts:

12 SECTION 1.(a) G.S. 38A-2(5) reads as rewritten:

13 "§ 38A-2. Definitions.

14 The following definitions shall apply throughout this Chapter, unless otherwise specified:

15 ...

16 (5) "Recreational purpose" means any activity undertaken for recreation,
17 exercise, education, relaxation, refreshment, diversion, or ~~pleasure~~pleasure
18 or sport, including equestrian recreation as defined in G.S. 99E-1."

19 SECTION 1.(b) G.S. 99E-1 reads as rewritten:

20 "§ 99E-1. Definitions.

21 As used in this Article, the term:

22 ...

23 (3) "Equine activity" means any activity involving an equine. Actions to
24 preserve, maintain, or regulate the use of land for equestrian recreation shall
25 not be considered an equine activity.

26 (4) "Equine activity sponsor" means an individual, group, club, partnership, or
27 corporation, whether the sponsor is operating for profit or nonprofit, which
28 sponsors, organizes, or provides the facilities for an equine activity. The
29 term includes operators and promoters of equine facilities. A landowner who
30 allows equine recreation on the landowner's property shall not be considered
31 an equine activity sponsor.

32 ...

33 (5a) "Equine recreation" means use of a landowner's property for an equine
34 activity (i) where the landowner is neither the equine activity sponsor nor the
35 equine professional and (ii) when the landowner permits use of the property



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1 without charge. For purposes of this subdivision, "charge" has the meaning
2 set forth in G.S. 38A-2 and G.S. 38A-3.

3"

4 **SECTION 1.(c)** Article 1 of Chapter 99E of the General Statutes is amended by
5 adding a new section to read:

6 **"§ 99E-4. Exception.**

7 The liability of a landowner for injury or death associated with participation in equine
8 recreation shall be subject to the limitation set forth in G.S. 38A-4 and shall not be subject to
9 this Article."

10 **SECTION 2.(a)** G.S. 38A-4 reads as rewritten:

11 **"§ 38A-4. Limitation of liability.**

12 (a) Except as specifically recognized by or provided for in this Chapter, an owner of
13 land who either directly or indirectly invites or permits without charge any person to use such
14 land for educational or recreational purposes owes the person the same duty of care that he
15 owes a trespasser, except nothing in this Chapter shall be construed to limit or nullify the
16 doctrine of attractive nuisance and the owner shall inform direct invitees of artificial or unusual
17 hazards of which the owner has actual knowledge. This section does not apply to an owner who
18 invites or permits any person to use land for a purpose for which the land is regularly used and
19 for which a price or fee is usually charged even if it is not charged in that instance, or to an
20 owner whose purpose in extending an invitation or granting permission is to promote a
21 commercial enterprise.

22 (b) Nothing in this section shall be construed to conflict with or render ineffectual a
23 liability release, indemnification, assumption, or acknowledgment of risk agreement between
24 the landowner and a person who uses the land for educational or recreational purposes."

25 **SECTION 2.(b)** G.S. 99E-2 is amended by adding a new subsection to read:

26 **"§ 99E-2. Liability.**

27 ...

28 (d) Nothing in this section shall be construed to conflict with or render ineffectual a
29 liability release, indemnification, assumption, or acknowledgment of risk agreement between a
30 participant and an equine activity sponsor or an equine professional."

31 **SECTION 3.** G.S. 38A-3 reads as rewritten:

32 **"§ 38A-3. Exclusions.**

33 For purposes of this Chapter, the term "charge" does not include:

- 34 (1) Any contribution in kind, services or cash contributed by a person, legal
35 entity, nonprofit organization, or governmental entity other than the owner,
36 whether or not sanctioned or solicited by the owner, the purpose of which is
37 to (i) remedy damage to land caused by educational or recreational use; ~~or~~
38 (ii) provide warning of hazards on, or remove hazards from, land used for
39 educational or recreational ~~purposes-purposes~~; or (iii) pay expenses related
40 to the use of land for a recreational or educational purpose.
- 41 (2) Unless otherwise agreed in writing or otherwise provided by the State or
42 federal tax codes, any property tax abatement or relief received by the owner
43 from the State or local taxing authority in exchange for the owner's
44 agreement to open the land for educational or recreational purposes.
- 45 (3) Dues or fees charged by an individual, group, club, partnership, corporation,
46 or governmental entity sponsoring the educational or recreational use when
47 (i) the sponsor is operating as a nonprofit or in a nonprofit capacity and (ii)
48 the dues or fees are used to pay expenses relating to the educational or
49 recreational use or to raise funds to support the sponsor's mission."

50 **SECTION 4.** This act becomes effective October 1, 2013, and applies to civil
51 actions filed on or after that date.