

professional, or any other person, which shall include a corporation or a partnership, shall not be liable for an injury or death of a participant resulting from the inherent risk of equine activities, except, as provided in 773.03, when the aforementioned equine sponsors know or should have known the track or equipment used in the equine activities was faulty, failed to make reasonable and prudent efforts to judge the ability of the participant in equine activities, is in lawful control of the land or facilities on which the equine activities take place and the injury is due totally or in part to the condition of the land, or commits willful or wanton disregard for the safety of the participant, resulting in the equine sponsor being partially or totally at fault.

There are currently no obligations for equine sponsors or parents to provide helmets for minors less than 16 year of age engaging in equine activities.

In 2006, Nicole Hornstein was thrown off a horse she was riding and hit her head on a paved area of ground. Hornstein was not wearing a helmet at the time. As a result of the fall, Hornstein fell into a coma for 20 days before passing away at age 12.

III. Effect of Proposed Changes:

Section 1 declares that the act may be cited as the “Nicole Hornstein Act.”

Section 2 declares the intent of the Legislature to further promote the safety, health, and welfare of minors engaged in equestrian activities by enacting safety standards.

Section 3 creates s. 773.11, F.S., which sets forth the following:

(1) The term “equine” has the same meaning as provided in s. 773.01, F.S.

(2) Minors under the age of 16 years are required to wear helmets when riding equines on any publicly owned or controlled property. The helmet must meet the current applicable standards of the American Society of Testing and Materials for protective headgear used in horseback riding, and the helmet must be fitted properly and fastened securely upon the child’s head while riding an equine upon any of the following:

- (a) A public roadway, right-of-way, or area adjacent to a public roadway or right-of-way;
- (b) A public equestrian trail, public recreational trail, public park, or public school;
- (c) Any publicly owned or controlled property.

(3) A trainer, instructor, supervisor, or other person may not knowingly lease or rent an equine for riding by such a minor unless a helmet is provided that meets these standards.

(4) A parent or guardian of such a minor may not authorize or knowingly permit the child to violate the aforementioned standards.

(5) Any person who violates any provision of this section commits a noncriminal violation, punishable as provided in s. 775.083, F.S. (by a fine not to exceed \$500, plus court costs).

(6) This section does not apply to minors who are:

- (a) Competing or performing during a show or event in which he or she is regarded as a competitor or participant;
- (b) Riding on privately owned land; or
- (c) Engaged in an agricultural practice or pursuit.

Section 4 provides that this act shall take effect October 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The exact fiscal impact to the private sector is indeterminate, but the impact will be equal to the cost of providing helmets to riders under the age of 16 for those trainers, instructors, supervisors or other persons that are not currently providing helmets.

C. Government Sector Impact:

According to the Department of Agriculture and Consumer Services, this bill will have a small fiscal impact on the Department of Agriculture and Consumer Services for signage and revised printed materials. The cost of this can be managed with existing funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

By Agriculture on 3/27/2008:

The CS changed the penalty for a violation of any provision from a third degree misdemeanor to a noncriminal violation, punishable as provided in s. 775.083, F.S.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
