GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 936

Short Title: Liability for Llama Activities. (Public)

Sponsors: Representatives Beall, Ramsey, and Brown.

Referred to: Judiciary I.

April 14, 1997

1 A BILL TO BE ENTITLED

AN ACT TO CLARIFY RESPONSIBILITIES FOR LLAMA ACTIVITIES AND TO PROVIDE QUALIFIED IMMUNITY FROM LIABILITY.

The General Assembly of North Carolina enacts:

Section 1. Chapter 106 of the General Statutes is amended by adding a new Article to read:

"LLAMA ACTIVITY LIABILITY IMMUNITY.

"<u>§ 106-810. Purpose; findings.</u>

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The General Assembly finds that North Carolina is climatically and environmentally suited to raising llamas; llama breeding and the recreational use of llamas provide alternative land uses and new economically feasible ventures that are environmentally sound; llamas are used as hiking companion animals by families to carry the loads necessary for comfortable camping in the North Carolina wilderness; these gentle pack animals make the wilderness accessible to a much broader spectrum of people, especially those unable to carry a pack; commercial llama trekking companies in western North Carolina are an integral part of the growing tourism industry; llama trekking attracts tourists to our area because it is an unusual way to hike into the wilderness areas and is forecast to grow to several hundreds of thousands of dollars annually by the year 2000; llama wool and wool products are now offered commercially in regional and national

fiber sales; llama breeding is a profitable business; llamas are being used increasingly as sheep and goat herd guard animals against predators both here in North Carolina and extensively with the larger sheep herds in the West; the growth of the llama industry should be encouraged in this State.

"§ 106-811. Definitions.

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As used in this Article, the term:

- (1) 'Engage in a llama activity' means participate in a llama activity, assist a participant in a llama activity, or assist a llama activity sponsor or llama professional. The term 'engage in a llama activity' does not include being a spectator at a llama activity, except in cases in which the spectator places himself or herself in an unauthorized area and in immediate proximity to the llama activity.
- (2) 'Inherent risks of llama activities' means those dangers or conditions that are an integral part of llama activities, including all of the following:
 - a. The propensity of a llama to behave in ways that may result in injury, harm, or death to persons on or around them.
 - b. The unpredictability of a llama's reaction to such things as sounds, sudden movement, unfamiliar objects, persons, or other animals.
 - <u>c.</u> <u>Certain hazards such as surface and subsurface conditions.</u>
 - <u>d.</u> <u>Collisions with other llamas or objects.</u>
 - e. The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the participant or others, such as failing to maintain control over the animal or not acting within his or her ability.
- (3) 'Llama' means a South American camelid that is an animal of the genus llama, commonly referred to as a 'one llama,' including llamas, alpacas, guanacos, and vicunas.
- (4) 'Llama activity' means any one or more of the following activities:
 - a. <u>Llama shows, fairs, competitions, performances, packing events, or parades that involve any or all breeds of llamas.</u>
 - <u>b.</u> <u>Using llamas to pull carts or to carry packs or other items.</u>
 - c. Using llamas to pull travois-type carriers during rescue or emergency situations.
 - <u>d.</u> <u>Llama training or teaching activities.</u>
 - e. <u>Taking llamas on public relations trips or visits to schools or nursing homes.</u>
 - f. Participating in commercial packing trips in which participants pay a llama professional to be a guide on a hike, leading llamas.
 - g. Boarding llamas.

- Riding, inspecting, or evaluating a llama belonging to another, 1 h. 2 whether or not the owner has received some monetary 3 consideration or other thing of value for the use of the llama or is 4 permitting a prospective purchaser of the llama to ride, inspect, 5 or evaluate the llama. 6 Using llamas in wool production. <u>i.</u> j. 7 Rides, trips, or other llama activities of any type however 8 informal or impromptu that are sponsored by a llama activity 9 sponsor. 10 Trimming the nails of a llama. (5) 'Llama activity sponsor' means an individual, group, club, partnership, 11 12 or corporation, whether or not the sponsor is operating for profit or nonprofit, that sponsors, organizes, or provides the facilities for a llama 13 14 activity, including, but not limited to: llama clubs; 4-H clubs; hunt 15 clubs; riding clubs; school and college-sponsored classes, programs, and activities; and therapeutic riding programs. 'Llama activity sponsor' 16 17 also means operators, instructors, and promoters of llama facilities, including, but not limited to: stables; clubhouses; fairs; and arenas at 18 which the activity is held. 19 'Llama professional' means a person engaged for compensation in either 20 (6) 21 one or both of the following: 22
 - - In instructing a participant or renting to a participant a llama for a. the purpose of riding, driving, or being a passenger upon the llama.
 - In renting equipment or tack to a participant.
 - 'Participant' means any person, whether amateur or professional, who **(7)** engages in a llama activity, whether or not a fee is paid to participate in such activity.

"§ 106-812. Immunity from liability.

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- Except as provided in subsection (b) of this section, a llama activity sponsor; a llama professional; or any other person, including a corporation or partnership, shall not be liable for injury, loss, damage, or death of a participant resulting from the inherent risks of llama activities and, except as provided in subsection (b) of this section, no participant or participant's representative shall maintain an action against or recover from a llama activity sponsor, a llama professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of llama activities.
- Nothing in subsection (a) of this section shall prevent or limit the liability of a (b) llama activity sponsor, a llama professional, or any other person if the llama activity sponsor, llama professional, or person does any one or more of the following:
 - Provides the equipment or tack and knew, or should have known, that (1) the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury.

- Provides the llama and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the llama activity and to safely manage the particular llama based on the participant's representations of his or her ability.

 Owns, leases, rents, or otherwise is in lawful possession and control of
 - Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition that was known or should have been known to the llama activity sponsor, llama professional, or person and for which warning signs have not been conspicuously posted.
 - (4) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury.
 - (5) <u>Intentionally injures the participant.</u>
 - (c) Nothing in subsection (a) of this section shall prevent or limit the liability of a llama activity sponsor or a llama professional under liability provisions as set forth in Chapter 99B of the General Statutes.

"§ 106-813. Warning required.

- (a) Every llama professional and every llama activity sponsor shall post and maintain signs that contain the warning notice specified in subsection (c) of this section. The signs required by this section shall be placed in a clearly visible location on or near stables, corrals, or arenas where the llama professional or the llama activity sponsor conducts llama activities. The warning notice specified in subsection (c) of this section shall be designed by the Department of Agriculture and shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by a llama professional or by a llama activity sponsor for the providing of professional services, instruction, or the rental of equipment, tack, or a llama to a participant, whether or not the contract involves llama activities on or off the location or site of the llama professional's or the llama activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (c) of this section.
- (b) The Department may prepare and make available for sale the warning sign specified in subsection (a) of this section. The Department shall charge a fee, not to exceed fifteen dollars (\$15.00), for each warning sign.
- (c) The signs and contracts described in subsection (a) of this section shall contain the following warning notice:

'WARNING

Under North Carolina law, a llama activity sponsor or a llama professional is not liable for an injury to or the death of a participant in llama activities resulting from the inherent risks of llama activities. Article 68 of Chapter 106 of the North Carolina General Statutes.'

(d) Failure to comply with the requirements concerning warning signs and notices provided in this Article shall prevent a llama activity sponsor or a llama professional from invoking the privileges of immunity provided by this Article."

Section 2. This act becomes effective January 1, 1998, and applies to causes of action arising on or after that date.