

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Judiciary Committee

BILL: SB 68

INTRODUCER: Senator Aronberg

SUBJECT: Nicole Hornstein Act/Equine Activities

DATE: April 3, 2009

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Leal	Poole	AG	Favorable
2. Meyer	Meyer	TR	Favorable
3. Sumner	Maclure	JU	Favorable
4. _____	_____	GA	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

I. Summary:

This bill requires minors under the age of 16 to wear helmets while riding an equine on any publicly owned or controlled property. The helmet must meet the current applicable standards of the American Society of Testing and Materials (ASTM) for protective headgear used in horseback riding. In addition, the helmet must be fitted properly and fastened securely upon the child's head. A trainer, instructor, supervisor, or other person may not knowingly lease or rent an equine for riding by a minor unless a helmet is provided that meets ASTM standards. Parents of a minor are prohibited from authorizing or knowingly permitting the child to violate the requirement to wear a helmet.

The bill provides for punishment of violations through a noncriminal penalty (no more than \$500, plus court costs). It also provides for certain exceptions involving competitive riding during events, riding on private land, and riding while engaged in agricultural pursuits.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Equestrian-Related Injuries

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 of the accident. As a result of the fall, Hornstein lapsed into a coma for 20 days before passing away at the age of 12.

Approximately 102,904 individuals with non-fatal horse-related injuries were treated in emergency rooms throughout the United States from 2001 to 2003.¹ Most injuries occurred as a result of falling or being thrown off of the horse.² From 2001 to 2003, there were approximately 11,502 individuals who sustained traumatic brain injuries from horse-related accidents. The age group with the most prevalent horse-related injuries was 10-14 years of age.³

The most frequent cause of death and serious injury for mounted and dismounted horse activity is head injury. In the United States, an estimated 23,000 youth are treated for equestrian-related injuries annually.⁴ The most frequent body parts injured are the head and neck. Evidence demonstrates that consistent use of a secured equestrian helmet that meets the American Society of Testing and Materials standard will prevent head injury.⁵ The American Academy of Pediatrics recommends young riders wear a helmet meeting the ASTM standard while riding horses.

There are currently no obligations in Florida for minors less than 16 years of age who engage in equine activities to wear a helmet.

Liability for Equestrian-Related Injuries

Current law provides that an equine activity sponsor, an equine professional, or any other person, including a corporation or a partnership, will not be liable for an injury or death of a participant resulting from the inherent risk of equine activities.⁶ However, liability attaches to these individuals or entities if they:

- Knew 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 the equine activities;
- Are 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;
- Commit willful or wanton disregard for the safety of the participant, resulting in the equine sponsor being partially or totally at fault; or
- Intentionally injure the participant.⁷

There are currently no obligations in Florida for equine sponsors or parents to provide helmets for minors less than 16 years of age who engage in equine activities.

¹ K.E. Thomas, et al., *Non-fatal horse related injuries treated in emergency departments in the United States, 2001-2003*, BRITISH JOURNAL OF SPORTS MEDICINE, 619 (2006).

² *Id.*

³ *Id.* at 620.

⁴ U.S. Consumer Product Safety Commission, *1999-2003 Horseback riding injury and cost estimates for youth 0-19 years from the National Electronic Injury Surveillance System Data* (March 2005).

⁵ G.R. Bond, et al., *Pediatric Equestrian Injuries: Assessing the impact of helmet use*, PEDIATRICS, 487 (1995).

⁶ Section 773.02, F.S.

⁷ Section 773.03, F.S.

Use of Helmets in Other Contexts

Bicycle riders under the age of 16 are required to wear helmets when riding on public property.⁸ In addition, renting bicycles to minors is prohibited unless the renter provides a helmet or verifies the person has a helmet; a violation of this statutory provision is a nonmoving traffic violation.⁹ Similarly, a person is required to wear a helmet if he or she is under the age of 21 when riding a motorcycle, or under the age of 16 when riding a moped. Violations of these statutory provisions are noncriminal traffic infractions.¹⁰

III. Effect of Proposed Changes:

This bill expresses legislative intent to promote safety in equestrian-related activities by enacting safety standards to minimize the number of serious head injuries sustained by children during equestrian activities and recreation. This bill declares the act may be cited as the “Nicole Hornstein Act.”

Helmet Requirements

This bill requires minors under the age of 16 to wear a helmet while riding an equine under certain circumstances. In the bill, the term “equine” has the same meaning as provided in s. 773.01, F.S., which defines “equine” as a horse, pony, mule, or donkey.

The helmet must meet the current applicable standards of the American Society of Testing and Materials (ASTM) for protective headgear used in horseback riding. In addition, the helmet must be fitted properly and fastened securely upon the child’s head while riding an equine upon any of the following:

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

This bill does not allow any person to knowingly lease or rent an equine for riding by a minor under 16 years of age without providing a helmet that meets ASTM standards. This bill prohibits parents of a minor from authorizing or knowingly permitting the child to violate the requirement to wear a helmet. Any person who violates any provision of subsection (3) or subsection (4) of the bill commits a noncriminal violation, and may be required to pay a fine up to \$500 as provided in s. 775.083, F.S.

Exceptions

The requirements to wear a helmet do not apply to minors who are:

⁸ Section 316.2065(3)(d), F.S.

⁹ Section 316.2065(16), F.S.

¹⁰ Section 316.211, F.S.

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

The bill has an effective date of October 1, 2009.

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 not currently providing helmets.

To the extent use of a helmet prevents or reduces the severity of equestrian-related injuries, the families of riders younger than 16 may experience reduced health care costs associated with those injuries.

Persons violating provisions of the bill imposing duties on parents or guardians, as well as on trainers or others who lease an equine to be ridden by a child younger than 16, are subject to a noncriminal fine of up to \$500.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides the required helmet must meet the “current” applicable standards of the American Society of Testing and Materials. The use of the word “current” in this context may suggest the statute envisions capturing future revisions to the standards (e.g., whatever version is “current” at the time the statute is applied to a rider). “Because Florida courts strictly adhere to the rule that the Legislature may not delegate its authority to make laws, when material other than Florida law is incorporated in a statute by reference, only the version of that material which existed *at the time* the Legislature made the incorporation will be given effect, regardless of how general the terms of the incorporation are.”¹¹

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

¹¹ The Florida Senate, *Manual for Drafting General Bills*, 104 (Fifth Ed. 1999) (emphasis added).