

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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SENATOR BRASHEAR: I'm not certain that there is a change.

SENATOR LANDIS: Okay.

SENATOR BRASHEAR: I think we should understand the facts and circumstances which were produced by the testimony.

SENATOR LANDIS: You've answered my question. You've answered the question. Thank you. That's exactly right. You look at 153 with or without the Brashear amendment, although the Brashear amendment's a little better, this is the common law. If you didn't have this bill and you went to court, these would be the rules. These rules are not contained in our statute book, they're contained in a wide, long listing set of previous court decisions, and they are the general rules. Which means, if you know about a defect and you don't warn somebody and they get injured, you're to blame. If you don't take a look at the tack and you put somebody up on this, you charge him money, and the reign breaks because you haven't been inspecting it, you're liable. If, on the other hand, you get up on the back of a horse and the horse rears and you know anything about horses, you've assumed the risk. And if the owner/operator hasn't been negligent, you're responsible...

PRESIDENT ROBAK: One minute.

SENATOR LANDIS: ...because you climbed up on the back of big, tall, several hundred pound animal that's fourteen hands high. And you should have known it was a dangerous thing to do. This is already, from what I can tell, and I think the...Senator Brashear just confirmed, exactly what the existing law is. Why we need to say it, I don't know. The book The Death of Common Sense is pretty much about government doing what, slashing it's way through an open door and writing, again, what is already the law? I don't get it. I suppose it can't hurt anything because it doesn't change the law. I guess in that sense, we can all say, well, okay, fair enough. But I also got to say, why would we do this if it's not a change in policy? And if it is a change in policy, tell me what it is. Tell me how this changes something because I can't...