

An Act

ENROLLED HOUSE
BILL NO. 1638

By: Biggs and Hickman of the
House

and

Justice and Fields of the
Senate

An Act relating to agriculture; enacting the Oklahoma Agritourism Activities Liability Limitations Act; defining terms; providing immunity from liability for agritourism professionals; providing immunity as affirmative defense; providing exceptions from immunity; requiring agritourism professionals to post certain warnings; requiring agritourism contracts to contain certain warnings; providing for codification; and declaring an emergency.

SUBJECT: Agritourism activities liability limitations

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-14 of Title 2, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Agritourism Activities Liability Limitations Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-15 of Title 2, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Agritourism Activities Liability Limitations Act:

1. "Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity;

2. "Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation and whose agritourism activity is registered with the Oklahoma Department of Agriculture, Food, and Forestry;

3. "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity including certain hazards, surface and subsurface conditions, natural conditions of land, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity; and

4. "Participant" means any person, other than the agritourism professional, who engages in an agritourism activity.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-16 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in Section 4 of this act is posted as required and, except as provided in subsection B of this section, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities. In any action for damages against an agritourism professional for agritourism activity, the agritourism professional

must plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

B. Nothing in subsection A of this section prevents or limits the liability of an agritourism professional if the agritourism professional does any one or more of the following:

1. Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant;

2. Has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant.

C. Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-17 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. Every agritourism professional shall post and maintain signs that contain the warning notice specified in subsection B of this section. The sign shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one (1) inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the warning notice specified in subsection B of this section.

B. The signs and contracts described in subsection A of this section must contain the following notice of warning:

"WARNING

Under Oklahoma law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

C. Failure to comply with the requirements concerning warning signs and notices provided in this section shall prevent an agritourism professional from invoking the privileges of immunity provided by the Oklahoma Agritourism Activities Liability Limitations Act.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 28th day of February, 2013.

Mark Jacob
Presiding Officer of the House
of Representatives

Passed the Senate the 8th day of April, 2013.

Pat Johnston
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 9th

day of April, 20 13, at 12:39 o'clock P M.

By: Audrey Keadwell

Approved by the Governor of the State of Oklahoma this 12th

day of April, 20 13, at 10:58 o'clock A M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 12th

day of April, 20 13, at 1:39 o'clock P. M.

By: Allyson V. Parrish