



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2765

Introduced 2/4/2020, by Sen. Scott M. Bennett

SYNOPSIS AS INTRODUCED:

New Act

Creates the Agritourism Liability Act. Provides that an agritourism operator is not liable for injury or death of a participant resulting from the inherent risks of agritourism activities if the agritourism operator posts the required warning notice. Provides that a participant assumes the inherent risks of an agritourism activity by engaging in the agritourism activity. Provides that no participant may pursue an action or recover from an agritourism operator for injury, loss, damage, or death of the participant resulting from any of the inherent risks of agritourism activities. Provides that nothing prevents or limits the liability of an agritourism operator if the agritourism operator: (1) commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission proximately causes injury, damage, or death to the participant; or (2) has actual knowledge or reasonably should know of an unusual dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in such an activity, does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant. Provides that an agritourism operator shall post and maintain a warning notice in a clearly visible location at or near the entrance to the agritourism activity.

LRB101 15923 LNS 65281 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Agritourism Liability Act.

6 Section 5. Findings. The General Assembly finds that
7 agriculture plays a substantial role in the economy, culture,
8 and history of this State. As an increasing number of State
9 citizens are removed from day-to-day agricultural experiences,
10 agritourism provides a valuable educational opportunity for
11 the public to interact with, experience, and understand
12 agriculture. In addition, agritourism opportunities provide
13 valuable options for agricultural producers and rural
14 residents to maintain their operations and continue a tradition
15 of economic development in rural areas. On farms and ranches,
16 inherent risks exist that are essentially impossible for
17 agritourism operators to eliminate. Uncertainty surrounding
18 potential liabilities associated with inherent risks
19 negatively impacts the establishment, growth, and success of
20 agritourism operations. The purpose of this Act is to define
21 areas of responsibility and liability for agritourism
22 operators and participants.

1 Section 10. Definitions. As used in this Act:

2 "Agritourism activity" means any activity carried out on a
3 farm or ranch that allows members of the general public, for
4 recreational, entertainment, or educational purposes, to view
5 or enjoy rural activities. "Agritourism activity" includes,
6 but is not limited to: farming; ranching; historic, cultural,
7 and on-site educational programs; guided and self-guided
8 tours; animal exhibitions; farm festivals; corn mazes;
9 harvest-your-own operations; hayrides; fishing; hiking; and
10 camping.

11 "Agritourism operator" means any person or business
12 providing one or more agritourism activities, whether or not
13 for compensation.

14 "Inherent risks of agritourism activity" means those
15 dangers or conditions that are an integral part of an
16 agritourism activity, such as surface and subsurface
17 conditions, natural conditions of land, vegetation, waters,
18 the behavior of wild or domestic animals or insects, and
19 ordinary dangers of structures or equipment when the structures
20 or equipment are being used or stored by an agritourism
21 provider in a manner and for a purpose for which a reasonable
22 person should know that structures or equipment is intended in
23 the ordinary use on farming and ranching operations. "Inherent
24 risks of agritourism activity" includes the potential of a
25 participant to act in a negligent manner that may contribute to
26 injury to the participant or others, such as failing to follow

1 instructions given by the agritourism operator or failing to
2 exercise reasonable caution while engaging in the agritourism
3 activity.

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

6 Section 15. Liability.

7 (a) Except as provided in Section 20, an agritourism
8 operator is not liable for the injury or death of a participant
9 resulting from the inherent risks of agritourism activities if
10 the warning notice contained in Section 30 is posted as
11 required.

12 (b) Except as provided in Section 20, a participant assumes
13 the inherent risks of an agritourism activity by engaging in
14 the agritourism activity.

15 (c) Except as provided in Section 20, no participant or
16 participant's representative may pursue an action or recover
17 from an agritourism operator for the injury, loss, damage, or
18 death of the participant resulting from any of the inherent
19 risks of agritourism activities.

20 Section 20. Exceptions.

21 Nothing in Section 15 prevents or limits the liability of
22 an agritourism operator if the agritourism operator:

23 (1) commits an act or omission that constitutes willful
24 or wanton disregard for the safety of the participant, and

1 that act or omission proximately causes injury, damage, or
2 death to the participant; or

3 (2) has actual knowledge or reasonably should know of
4 an unusual dangerous condition on the land, facilities, or
5 equipment used in the activity or the dangerous propensity
6 of a particular animal used in such an activity, does not
7 make the danger known to the participant, and the danger
8 proximately causes injury, damage, or death to the
9 participant.

10 Section 25. Immunity cumulative. Any limitation on legal
11 liability afforded by Section 15 to an agritourism operator is
12 in addition to any other limitations of legal liability
13 otherwise provided by law.

14 Section 30. Signage. In a clearly visible location at or
15 near the entrance to the agritourism activity, an agritourism
16 operator shall post and maintain signage that contains the
17 following warning notice:

18 "NOTICE

19 You are assuming the risk of participating in this agritourism
20 activity. Inherent risks associated with agritourism
21 activities include, among others, risks of injury inherent to
22 land, trees, plants, insects, equipment, weather, and animals,

1 as well as the potential that if you act in a negligent manner,
2 injury to yourself or others may occur. Under State law, the
3 agritourism operator is not liable for injury or death of a
4 participant in an agritourism activity resulting from the
5 inherent risks of agritourism activities."