

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 820 Session of 2017

INTRODUCED BY AUMENT, EICHELBERGER, YAW, FOLMER, RAFFERTY, WARD, STEFANO, VOGEL, RESCHENTHALER, WHITE, VULAKOVICH, McILHINNEY AND MARTIN, SEPTEMBER 8, 2017

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, JUNE 12, 2018

AN ACT

1 Providing for civil immunity for persons that operate
2 agritourism activities under certain circumstances.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Agritourism
7 Activity Civil Immunity Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 ~~"Agritourism activity." Activity carried out on a farm that <--~~
13 ~~provides entertainment or education to the general public for~~
14 ~~the purpose of promoting agricultural products or farming or~~
15 ~~rural lifestyles, regardless of whether or not the general~~
16 ~~public pays to participate in the activity including:~~

17 ~~(1) interaction with farm or rural animals;~~

1 ~~(2) farming or harvesting activities;~~
2 ~~(3) tours, exhibitions or taste tests that promote the~~
3 ~~farm or on farm produced products;~~
4 ~~(4) bed and breakfast operations or similar lodging~~
5 ~~accommodations that encourage engagement with farming or~~
6 ~~harvesting activities or the farm's agricultural character or~~
7 ~~aesthetic nature;~~
8 ~~(5) equine training, teaching or recreational riding;~~
9 ~~(6) games, rides and other entertainment activities~~
10 ~~normally engaged in by farm families or rural communities;~~
11 and
12 ~~(7) activities carried out in conjunction with seasonal~~
13 ~~festivals to promote local agricultural products.~~

14 ~~The term does not include rodeos, hunting, water skiing or~~
15 ~~tubing, paintball and nonmotorized freestyle, mountain or off-~~
16 ~~road bicycling.~~

17 "AGRITOURISM ACTIVITY." FARM-RELATED TOURISM OR FARM-RELATED <--
18 ENTERTAINMENT ACTIVITY THAT:

19 (1) TAKES PLACE ON A FARM WHERE AGRICULTURAL,
20 HORTICULTURAL OR SILVICULTURAL CROPS ARE GROWN OR FARM
21 ANIMALS OR FARMED FISH ARE RAISED; AND

22 (2) ALLOWS MEMBERS OF THE GENERAL PUBLIC, WHETHER OR NOT
23 FOR A FEE, TO TOUR, EXPLORE, OBSERVE, LEARN ABOUT,
24 PARTICIPATE IN OR BE ENTERTAINED BY AN ASPECT OF AGRICULTURAL
25 PRODUCTION, HARVESTING, HUSBANDRY OR RURAL LIFESTYLE THAT
26 OCCURS ON THE FARM.

27 "AGRITOURISM PROVIDER." A PERSON WHO OWNS, OPERATES,
28 PROVIDES OR SPONSORS AN AGRITOURISM ACTIVITY OR AN EMPLOYEE OF
29 SUCH A PERSON WHO ENGAGES IN OR PROVIDES AGRITOURISM WHETHER OR
30 NOT FOR A FEE.

1 "Anticipated annual gross income." Gross income normally
2 expected to be generated in one year, without occurrence of a
3 natural disaster or other occurrence or condition beyond the
4 ~~operator's~~ AGRITOURISM PROVIDER'S reasonable control. <--

5 "Farm." An operation commercially engaged in agriculture
6 that:

- 7 (1) is 10 or more acres in contiguous area; or
8 (2) has an anticipated annual gross income of at least
9 \$2,000 from agricultural production.

10 ~~"Operator." A person that engages in an agritourism~~ <--
11 ~~activity.~~

12 ~~Section 3. Immunity.~~

13 ~~(a) Scope. Immunity under this section applies to a person~~
14 ~~if the following apply:~~

15 ~~(1) The person is an operator of an agritourism~~
16 ~~activity.~~

17 ~~(2) The following notice is conspicuously posted in at~~
18 ~~least two locations on the premises where the agritourism~~
19 ~~activity takes place on a sign at least three feet by two~~
20 ~~feet:~~

21 ~~You assume the risk of agritourism activities under~~
22 ~~Pennsylvania law.~~

23 ~~(b) Grant. A person that meets the requirements of~~
24 ~~subsection (a) shall be immune from liability in a negligence~~
25 ~~action for personal injury or death to another person that~~
26 ~~voluntarily and intelligently participates in the agritourism~~
27 ~~activity and is injured or killed as a result of that~~
28 ~~participation.~~

29 "RISK INHERENT IN THE AGRITOURISM ACTIVITY." A DANGER OR <--
30 CONDITION THAT IS AN INTEGRAL PART OF AN AGRITOURISM ACTIVITY,

1 INCLUDING ALL OF THE FOLLOWING:

2 (1) SURFACE AND SUBSURFACE CONDITIONS OF LAND AND THE
3 NATURAL CONDITION OF VEGETATION AND WATER ON THE PROPERTY.

4 (2) THE BEHAVIOR OR ACTIONS OF WILD ANIMALS NOT KEPT BY
5 OR UNDER THE CONTROL OF AN AGRITOURISM PROVIDER.

6 (3) THE ORDINARY DANGERS ASSOCIATED WITH STRUCTURES OR
7 EQUIPMENT ORDINARILY USED IN FARMING OR RANCHING OPERATIONS.

8 (4) THE POSSIBILITY OF BEING INJURED OR CONTRACTING
9 ILLNESS AS A RESULT OF PHYSICAL CONTACT WITH ANIMALS, ANIMAL
10 FEED, ANIMAL WASTE OR SURFACES CONTAMINATED BY ANIMAL WASTE.

11 (5) THE POSSIBILITY THAT A PARTICIPANT IN THE
12 AGRITOURISM ACTIVITY MAY ACT IN A NEGLIGENT MANNER, INCLUDING
13 BY FAILING TO FOLLOW INSTRUCTIONS GIVEN BY AN AGRITOURISM
14 PROVIDER OR BY FAILING TO EXERCISE REASONABLE CAUTION WHILE
15 ENGAGING IN THE AGRITOURISM ACTIVITY THAT MAY CONTRIBUTE TO
16 INJURY TO THE PARTICIPANT OR ANOTHER PARTICIPANT.

17 SECTION 3. IMMUNITY FROM LIABILITY.

18 (A) AGRITOURISM PROVIDERS.--

19 (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C), IN A
20 CIVIL ACTION, AN AGRITOURISM PROVIDER SHALL BE IMMUNE FROM
21 LIABILITY FOR ANY HARM A PARTICIPANT SUSTAINS DURING AN
22 AGRITOURISM ACTIVITY IF THE PARTICIPANT IS HARMED AS A RESULT
23 OF A RISK INHERENT IN THE AGRITOURISM ACTIVITY.

24 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO
25 REQUIRE AN AGRITOURISM PROVIDER TO ELIMINATE RISKS INHERENT
26 IN AGRITOURISM ACTIVITIES.

27 (B) NOTICES TO BE POSTED.--

28 (1) AN AGRITOURISM PROVIDER SHALL POST AND MAINTAIN
29 SIGNS THAT CONTAIN THE WARNING NOTICE SPECIFIED IN THIS
30 SECTION AND SHALL PLACE A SIGN IN A CLEARLY VISIBLE LOCATION

1 AT OR NEAR EACH ENTRANCE TO THE AGRITOURISM LOCATION OR AT
2 THE SITE OF EACH AGRITOURISM ACTIVITY.

3 (2) THE WARNING NOTICE SHALL CONSIST OF A SIGN IN BLACK
4 LETTERS WITH EACH LETTER TO BE A MINIMUM OF ONE INCH IN
5 HEIGHT AND SHALL CONTAIN THE FOLLOWING NOTICE OF WARNING:

6 "WARNING: UNDER PENNSYLVANIA LAW, THERE IS NO LIABILITY
7 FOR AN INJURY TO OR DEATH OF A PARTICIPANT IN AN
8 AGRITOURISM ACTIVITY CONDUCTED AT THIS AGRITOURISM
9 LOCATION IF THE INJURY OR DEATH RESULTS FROM THE INHERENT
10 RISKS OF THE AGRITOURISM ACTIVITY. INHERENT RISKS OF THE
11 AGRITOURISM ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO,
12 RISK OF INJURY INHERENT TO LAND, EQUIPMENT AND ANIMALS AS
13 WELL AS THE POTENTIAL FOR YOU AS A PARTICIPANT TO ACT IN
14 A NEGLIGENT MANNER THAT MAY CONTRIBUTE TO YOUR INJURY OR
15 DEATH. YOU ARE ASSUMING THE RISK OF PARTICIPATING IN THIS
16 AGRITOURISM ACTIVITY."

17 (C) EXCEPTIONS.--AN AGRITOURISM PROVIDER SHALL NOT BE IMMUNE
18 FROM CIVIL LIABILITY FOR HARM SUSTAINED BY A PARTICIPANT IF ANY
19 OF THE FOLLOWING APPLIES:

20 (1) THE AGRITOURISM PROVIDER ACTS WITH A WILLFUL OR
21 WANTON DISREGARD FOR THE SAFETY OF THE PARTICIPANT AND
22 PROXIMATELY CAUSES HARM TO THE PARTICIPANT.

23 (2) THE AGRITOURISM PROVIDER PURPOSEFULLY CAUSES HARM TO
24 THE PARTICIPANTS.

25 (3) THE AGRITOURISM PROVIDER'S ACTIONS OR INACTIONS
26 CONSTITUTE CRIMINAL CONDUCT AND CAUSE HARM TO THE
27 PARTICIPANT.

28 (4) THE AGRITOURISM PROVIDER FAILS TO POST AND MAINTAIN
29 SIGNS AS REQUIRED BY SUBSECTION (B).

30 (5) THE AGRITOURISM PROVIDER HAS ACTUAL KNOWLEDGE OR

1 SHOULD HAVE ACTUAL KNOWLEDGE OF AN EXISTING DANGEROUS
2 CONDITION ON THE LAND OR REGARDING FACILITIES OR EQUIPMENT ON
3 THE LAND THAT IS NOT AN INHERENT RISK AND DOES NOT MAKE THE
4 DANGEROUS CONDITION KNOWN TO THE PARTICIPANT AND THE
5 DANGEROUS CONDITION PROXIMATELY CAUSES INJURY TO OR DEATH OF
6 THE PARTICIPANT.

7 Section 4. Applicability.

8 This act shall apply to any cause of action that arises on or
9 after the effective date of this section.

10 Section 5. Effective date.

11 This act shall take effect in 60 days.