

AGRITOURISM ACTIVITY PROTECTION ACT - ENACTMENT

Act of Jun. 30, 2021, P.L. 167, No. 27

Cl. 04

An Act

Providing for limited civil liability for agritourism activity providers, for notice of limited civil liability and for acknowledgment of limited civil liability.

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

Section 1. Short title.

This act shall be known and may be cited as the Agritourism Activity Protection Act.

Section 2. Definitions.

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

"Agricultural land." Land that is used for a normal agricultural operation.

"Agritourism activity." A farm-related tourism or farm-related entertainment activity that takes place on agricultural land and allows members of the general public, whether or not for a fee, to tour, explore, observe, learn about, participate in or be entertained by an aspect of agricultural production, harvesting, husbandry or rural lifestyle that occurs on the farm.

"Agritourism activity provider." A person who owns, operates, provides or sponsors an agritourism activity, whether or not for a fee, or an employee of such a person.

"Dangerous condition." A condition that creates an imminent and substantial risk of injury or damages to a participant.

"Normal agricultural operation." As defined in the act of June 10, 1982 (P.L.454, No.133), referred to as the Right-to-Farm Law.

"Participant." An individual, other than an employee of an agritourism activity provider, who engages in an agritourism activity.

Section 3. Limited civil liability for agritourism activity providers.

(a) Liability.--Except as otherwise provided by subsections (b) and (c), an agritourism activity provider shall not be civilly liable for injury or damages to a participant if:

(1) at the time of the agritourism activity from which the injury or damages occurred, a warning sign was posted in accordance with section 4; and

(2) the agritourism activity provider entered into a written agreement with the participant in accordance with section 5 with respect to the agritourism activity from which the injury or damages occurred.

(b) Exceptions.--An agritourism activity provider shall not be immune from civil liability for injury or damages if any of the following apply:

(1) The agritourism activity provider performs an act in a grossly negligent manner and causes injury or damages to a participant.

(2) The agritourism activity provider purposefully causes the injury or damages to a participant.

(3) The agritourism activity provider's action or inaction constitutes criminal conduct and causes the injury or damages to a participant.

(4) The agritourism activity provider recklessly fails to warn or guard against a dangerous condition that causes injury or damages to a participant.

(c) Exceptions for certain actions.--An agritourism activity provider shall not be immune from civil liability under subsection (a) for injury or damages arising from:

- (1) Overnight accommodation.
- (2) A wedding.
- (3) A concert.
- (4) Food and beverage services.

Section 4. Notice of limited civil liability.

(a) Notice.--For the purpose of providing notice of the limited liability under section 3, an agritourism activity provider shall post and maintain a sign with a warning notice in accordance with subsection (b). The agritourism activity provider shall post the sign in a clearly visible location at or near each entrance to the farm or at the site of each agritourism activity.

(b) Contents.--The warning notice shall consist of a sign that is at least three feet by two feet in dimension and states the following:

"WARNING: Read your written agreement or the back of your ticket. Under Pennsylvania law, except for limited circumstances, an agritourism activity provider is not liable for any injury to or death of a participant resulting from an agritourism activity. Do not participate in the activity if you do not wish to waive liability."

Section 5. Acknowledgment of limited civil liability.

For the purpose of enforcing the limited liability under section 3, a written agreement between an agritourism activity provider and a participant shall be enforceable if the written agreement meets all the following criteria:

- (1) The written agreement is signed before the participant engages in an agritourism activity.
- (2) The written agreement is signed by the participant or, if the participant is a minor or care-dependent person, the participant's parent or guardian.
- (3) The written agreement is in a document separate from any other agreement between the participant and the agritourism activity provider, except for a document that includes a different warning, consent or assumption of risk statement.

(4) The written agreement is printed in not less than 10-point bold type.

(5) The written agreement contains the following language:

"AGREEMENT AND WARNING: I understand and acknowledge that, except for limited circumstances listed below, an agritourism activity provider is not liable for any injury to or death of a participant resulting from an agritourism activity. I understand that I have accepted all risk of injury, death, property damage and other loss that may result from an agritourism activity. I understand that an agritourism activity provider is not protected from liability if the provider:

- (1) Performs an act in a grossly negligent manner and causes injury or damages to a participant.
- (2) Purposefully causes a participant's injury.
- (3) Acts or fails to act in a way that constitutes criminal conduct.

(4) Recklessly fails to warn or guard against a dangerous condition that causes injury or damages to a participant. A dangerous condition is a condition that creates an imminent and substantial risk of injury or damages to a participant."

(6) Notwithstanding paragraphs (1), (2), (3) and (4), a written agreement that contains substantially the same language under paragraph (5) may be printed on a ticket required for access to an agritourism activity.

Section 6. Applicability.

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

Section 7. Effective date.

This act shall take effect in 60 days.