

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 397 Session of 2013

INTRODUCED BY M. K. KELLER, MASSER, EMRICK, BLOOM, MILLARD, CUTLER, PICKETT, KORTZ, TALLMAN, KAUFFMAN, C. HARRIS, LAWRENCE, OBERLANDER, CAUSER, CLYMER, STEVENSON, SWANGER, HESS, V. BROWN, GILLEN, MOUL, DENLINGER, GIBBONS, TURZAI, QUINN, SIMMONS AND BROOKS, JANUARY 29, 2013

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 4, 2013

AN ACT

1 Providing for limited immunity for persons that sponsor farm-
2 related tourism activities.

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 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." A farm-related tourism activity,
13 regardless of whether a fee is charged, which:

14 (1) takes place on real property ~~otherwise~~ USED
15 PRIMARILY FOR THE PURPOSE OF engaging in a normal
16 agricultural operation; and

<--

1 (2) is designed for recreational, entertainment or  
2 educational purposes.

3 The term includes, but is not limited to, a corn maze, a hay  
4 maze, farm tours, a select and cut-your-own Christmas tree  
5 operation and a pick-your-own-crop operation.

6 "AGRITOURISM OPERATOR." A PERSON THAT SPONSORS, ORGANIZES, <--  
7 CONDUCTS OR PROVIDES FACILITIES FOR AN AGRITOURISM ACTIVITY.

8 "INHERENT RISKS OF AGRITOURISM ACTIVITY." THE DANGERS OR  
9 CONDITIONS THAT ARE AN INTEGRAL PART OF AN AGRITOURISM ACTIVITY,  
10 INCLUDING CERTAIN HAZARDS, SUCH AS SURFACE OR SUBSURFACE  
11 CONDITIONS, NATURAL CONDITIONS OF LAND, VEGETATION AND WATERS,  
12 THE BEHAVIOR OF ANIMALS AND THE ORDINARY DANGERS OF STRUCTURES  
13 OR EQUIPMENT ORDINARILY USED IN A NORMAL AGRICULTURAL OPERATION.

14 "Normal agricultural operation." As defined in section 2 of  
15 the act of June 10, 1982 (P.L.454, No.133), referred to as the  
16 Right-to-Farm Law.

17 ~~"Operator." A person that sponsors, organizes, conducts or <--~~  
18 ~~provides facilities.~~

19 Section 3. Immunity.

20 (a) Scope.--Immunity under this section applies to a person  
21 if all of the following apply:

22 (1) The person is an ~~operator of an agritourism activity <--~~  
23 AGRITOURISM OPERATOR. <--

24 (2) The following notice is conspicuously posted ~~in at <--~~  
25 ~~least two locations~~ AT THE ENTRANCE TO AND IN AT LEAST ONE <--  
26 OTHER LOCATION on the premises where the agritourism activity  
27 takes place on a sign at least three feet by two feet:

28 ~~You assume the risk of agritourism activities under <--~~  
29 ~~Pennsylvania law.~~

30 UNDER PENNSYLVANIA LAW, AN AGRITOURISM OPERATOR IS NOT <--

1           LIABLE FOR INJURY TO OR DEATH OF A PARTICIPANT IN AN  
2           AGRITOURISM ACTIVITY CONDUCTED AT THIS LOCATION IF SUCH  
3           INJURY OR DEATH RESULTS FROM THE INHERENT RISKS OF THE  
4           AGRITOURISM ACTIVITY. INHERENT RISKS INCLUDE, AMONG OTHER  
5           THINGS, RISKS FROM THE CONDITION OF LAND, OPERATION OF  
6           EQUIPMENT AND BEHAVIOR OF ANIMALS. YOU ARE ASSUMING THE  
7           RISK OF PARTICIPATING IN THIS AGRITOURISM ACTIVITY.

8           (b) Grant.--A person that meets the requirements of  
9           subsection (a) shall be immune from liability in a negligence  
10          action for personal injury or death to a participant in the  
11          agritourism activity who is injured or killed as a result of  
12          ~~that participation if the participant voluntarily and~~ THAT       <--  
13          PARTICIPATION IF ALL OF THE FOLLOWING APPLY:

14               (1) THE PARTICIPANT VOLUNTARILY AND intelligently  
15               undertakes participation in the agritourism activity.

16               (2) THE PERSONAL INJURY OR DEATH RESULTS FROM THE       <--  
17               INHERENT RISKS OF THE AGRITOURISM ACTIVITY.

18 Section 19. Applicability.

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

21 Section 20. Effective date.

22          This act shall take effect in 60 days.