

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 101 Session of 2021

INTRODUCED BY GLEIM, BOBACK, ROTHMAN, FEE, KAUFFMAN, PICKETT, SAPPEY, HICKERNELL, ROAE, GREINER, CAUSER, IRVIN, ECKER, PASHINSKI, TOPPER, DUNBAR, WARNER, GROVE, ROWE, JAMES, BROOKS, MILLARD, JOZWIAK, OBERLANDER, KEEFER, OWLETT, LEWIS, R. MACKENZIE, SCHLEGEL CULVER, RYAN, ZIMMERMAN, STRUZZI, GAYDOS, MOUL, SANKEY, WHEELAND, HERSHEY, STAMBAUGH, M. MACKENZIE, HAMM AND BOROWICZ, JANUARY 11, 2021

REFERRED TO COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS, JANUARY 11, 2021

AN ACT

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

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

6 Section 1. Short title.

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

9 Section 2. Definitions.

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

13 "Agritourism activity." As follows:

14 (1) A farm-related tourism or farm-related entertainment
 15 activity that takes place on agricultural land and allows

1 members of the general public, whether or not for a fee, to
2 tour, explore, observe, learn about, participate in or be
3 entertained by an aspect of agricultural production,
4 harvesting, husbandry or rural lifestyle that occurs on the
5 farm.

6 (2) The term shall not include overnight accommodations,
7 weddings, concerts or provisions for food and beverage
8 services.

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

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

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

17 Section 3. Limited civil liability for agritourism activity
18 providers.

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

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

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

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

1 the following apply:

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

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

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

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

13 Section 4. Notice of limited civil liability.

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

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

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

1 Section 5. Acknowledgment of limited civil liability.

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

6 (1) The written agreement is signed before the
7 participant engages in an agritourism activity.

8 (2) The written agreement is signed by the participant
9 or, if the participant is a minor or care-dependent person,
10 the participant's parent or guardian.

11 (3) The written agreement is in a document separate from
12 any other agreement between the participant and the
13 agritourism activity provider, except for a document that
14 includes a different warning, consent or assumption of risk
15 statement.

16 (4) The written agreement is printed in not less than
17 10-point bold type.

18 (5) The written agreement contains the following
19 language:

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

30 (1) Performs an act in a grossly negligent

1 manner and causes injury or damages to a participant.

2 (2) Purposefully causes a participant's injury.

3 (3) Acts or fails to act in a way that
4 constitutes criminal conduct.

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

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

14 Section 6. Applicability.

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

17 Section 7. Effective date.

18 This act shall take effect in 60 days.