

1 ENGROSSED HOUSE  
2 BILL NO. 1638

By: Biggs of the House

3 and

4 Justice of the Senate  
5  
6

7 An Act relating to agriculture; enacting the Oklahoma  
8 Agritourism Activities Liability Limitations Act;  
9 defining terms; providing immunity from liability for  
10 agritourism professionals; providing immunity as  
11 affirmative defense; providing exceptions from  
immunity; requiring agritourism professionals to post  
certain warnings; requiring agritourism contracts to  
contain certain warnings; providing for codification;  
and declaring an emergency.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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SECTION 1. NEW LAW A new section of law to be codified

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in the Oklahoma Statutes as Section 5-14 of Title 2, unless there is  
17 created a duplication in numbering, reads as follows:

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This act shall be known and may be cited as the "Oklahoma

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Agritourism Activities Liability Limitations Act".

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SECTION 2. NEW LAW A new section of law to be codified

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in the Oklahoma Statutes as Section 5-15 of Title 2, unless there is  
22 created a duplication in numbering, reads as follows:

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As used in the Oklahoma Agritourism Activities Liability

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Limitations Act:

1        1. "Agritourism activity" means any activity carried out on a  
2 farm or ranch that allows members of the general public, for  
3 recreational, entertainment, or educational purposes, to view or  
4 enjoy rural activities, including farming, ranching, historic,  
5 cultural, harvest-your-own activities, or natural activities and  
6 attractions. An activity is an agritourism activity whether or not  
7 the participant paid to participate in the activity;

8        2. "Agritourism professional" means any person who is engaged  
9 in the business of providing one or more agritourism activities,  
10 whether or not for compensation and whose agritourism activity is  
11 registered with the Oklahoma Department of Agriculture, Food, and  
12 Forestry;

13        3. "Inherent risks of agritourism activity" means those dangers  
14 or conditions that are an integral part of an agritourism activity  
15 including certain hazards, surface and subsurface conditions,  
16 natural conditions of land, vegetation, and waters, the behavior of  
17 wild or domestic animals, and ordinary dangers of structures or  
18 equipment ordinarily used in farming and ranching operations.  
19 Inherent risks of agritourism activity also include the potential of  
20 a participant to act in a negligent manner that may contribute to  
21 injury to the participant or others, including failing to follow  
22 instructions given by the agritourism professional or failing to  
23 exercise reasonable caution while engaging in the agritourism  
24 activity; and

1 4. "Participant" means any person, other than the agritourism  
2 professional, who engages in an agritourism activity.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 5-16 of Title 2, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. Except as provided in subsection B of this section, an  
7 agritourism professional is not liable for injury to or death of a  
8 participant resulting from the inherent risks of agritourism  
9 activities, so long as the warning contained in Section 4 of this  
10 act is posted as required and, except as provided in subsection B of  
11 this section, no participant or participant's representative can  
12 maintain an action against or recover from an agritourism  
13 professional for injury, loss, damage, or death of the participant  
14 resulting exclusively from any of the inherent risks of agritourism  
15 activities. In any action for damages against an agritourism  
16 professional for agritourism activity, the agritourism professional  
17 must plead the affirmative defense of assumption of the risk of  
18 agritourism activity by the participant.

19 B. Nothing in subsection A of this section prevents or limits  
20 the liability of an agritourism professional if the agritourism  
21 professional does any one or more of the following:

22 1. Commits an act or omission that constitutes negligence or  
23 willful or wanton disregard for the safety of the participant, and  
24

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

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

9 C. Any limitation on legal liability afforded by this section  
10 to an agritourism professional is in addition to any other  
11 limitations of legal liability otherwise provided by law.

12 SECTION 4. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 5-17 of Title 2, unless there is  
14 created a duplication in numbering, reads as follows:

15 A. Every agritourism professional shall post and maintain signs  
16 that contain the warning notice specified in subsection B of this  
17 section. The sign shall be placed in a clearly visible location at  
18 the entrance to the agritourism location and at the site of the  
19 agritourism activity. The warning notice shall consist of a sign in  
20 black letters, with each letter to be a minimum of one (1) inch in  
21 height. Every written contract entered into by an agritourism  
22 professional for the providing of professional services,  
23 instruction, or the rental of equipment to a participant, whether or  
24 not the contract involves agritourism activities on or off the

1 location or at the site of the agritourism activity, shall contain  
2 in clearly readable print the warning notice specified in subsection  
3 B of this section.

4 B. The signs and contracts described in subsection A of this  
5 section must contain the following notice of warning:

6 "WARNING

7 Under Oklahoma law, there is no liability for an injury to or  
8 death of a participant in an agritourism activity conducted at this  
9 agritourism location if such injury or death results from the  
10 inherent risks of the agritourism activity. Inherent risks of  
11 agritourism activities include, among others, risks of injury  
12 inherent to land, equipment, and animals, as well as the potential  
13 for you to act in a negligent manner that may contribute to your  
14 injury or death. You are assuming the risk of participating in this  
15 agritourism activity."

16 C. Failure to comply with the requirements concerning warning  
17 signs and notices provided in this section shall prevent an  
18 agritourism professional from invoking the privileges of immunity  
19 provided by the Oklahoma Agritourism Activities Liability  
20 Limitations Act.

21 SECTION 5. It being immediately necessary for the preservation  
22 of the public peace, health and safety, an emergency is hereby  
23 declared to exist, by reason whereof this act shall take effect and  
24 be in full force from and after its passage and approval.

1 Passed the House of Representatives the 28th day of February,  
2013.

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Presiding Officer of the House  
5 of Representatives

6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2013.

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Presiding Officer of the Senate