

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1638

By: Biggs

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6 AS INTRODUCED

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

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 5-14 of Title 2, unless there is
17 created a duplication in numbering, reads as follows:

18 This act shall be known and may be cited as the "Oklahoma
19 Agritourism Activities Liability Limitations Act".

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 5-15 of Title 2, unless there is
22 created a duplication in numbering, reads as follows:

23 As used in Oklahoma Agritourism Activities Liability Limitations
24 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;

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

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

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

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

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

20 1. Commits an act or omission that constitutes negligence or
21 willful or wanton disregard for the safety of the participant, and
22 that act or omission proximately causes injury, damage, or death to
23 the participant;

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

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

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

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

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1 in clearly readable print the warning notice specified in subsection
2 B of this section.

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

5 "WARNING

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

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

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

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