STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

SENATE BILL 931 By: Justice

AS INTRODUCED

An Act relating to liability for agritourism activities; creating the Oklahoma Agritourism Activities Liability Limitations Act; providing short title; defining terms; limiting liability for certain professional under certain circumstances; requiring certain warning; prohibiting certain actions; requiring certain plea under specified circumstances; providing exceptions; requiring certain warning; specifying contents of certain warning notice; requiring certain warning notice in certain contracts; providing for loss of immunity for certain noncompliance; providing for codification; and declaring an emergency.

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

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

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

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

As used in the Oklahoma Agritourism Activities Liability Limitations Act:

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

2. "Agritourism professional" means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation;

3. "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity involving certain hazards including, but not limited to, surface and subsurface conditions, natural conditions of land, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity; and

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

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

A. Except as provided in subsection B of this section, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities as long as the warning contained in Section 4 of this act is posted as required. Except as provided in subsection B of this section, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage or death of the participant resulting exclusively from any of the inherent risks of agritourism activities. Assumption of risk shall be an affirmative defense against any claim for damages against an agritourism professional for agritourism activity.

B. Nothing in subsection A of this section prevents or limits the liability of an agritourism professional if the agritourism professional:

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

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

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

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

A. Every agritourism professional shall post and maintain signs that contain the warning notice specified in subsection B of this section. The sign shall be placed in a conspicuous location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the provision of professional services, instruction or the rental of equipment to a participant, whether the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the warning notice specified in subsection B of this section.

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

"WARNING

Under Oklahoma law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, but are not limited to, risks of injury inherent to land, equipment and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk by participating in this agritourism activity."

C. Failure to comply with the requirements concerning warning signs and notices provided in this subsection shall prevent an agritourism professional from asserting an affirmative defense provided by this act.

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

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