

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1455

By: Kidd

AS INTRODUCED

An Act relating to Agritourism; amending Sections 2, 3 and 4, Chapter 27, O.S.L. 2013 (2 O.S. Supp. 2017, Sections 5-15, 5-16 and 5-17), which relate to the Agritourism Activities Liability Limitations Act; amending definition; adding definition; providing liability limitations to leased hunting operations; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 27, O.S.L. 2013 (2 O.S. Supp. 2017, Section 5-15), is amended to read as follows:

Section 5-15. 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, hunting, 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;

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

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

18 4. "Leased hunting operation" means an operation where persons
19 are allowed to utilize land, facilities or services associated with
20 hunting activities for a fee; and

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

23 SECTION 2. AMENDATORY Section 3, Chapter 27, O.S.L. 2013
24 (2 O.S. Supp. 2017, Section 5-16), is amended to read as follows:

1 Section 5-16. A. Except as provided in subsection B of this
2 section, an agritourism professional or leased hunting operation is
3 not liable for injury to or death of a participant resulting from
4 the inherent risks of agritourism activities, so long as the warning
5 contained in Section ~~4 of this act~~ 5-17 of this title is posted as
6 required and, except as provided in subsection B of this section, no
7 participant or participant's representative can maintain an action
8 against or recover from an agritourism professional or leased
9 hunting operation for injury, loss, damage, or death of the
10 participant resulting exclusively from any of the inherent risks of
11 agritourism activities. In any action for damages against an
12 agritourism professional or leased hunting operation for agritourism
13 activity, the agritourism professional or leased hunting operation
14 must plead the affirmative defense of assumption of the risk of
15 agritourism activity by the participant.

16 B. Nothing in subsection A of this section prevents or limits
17 the liability of an agritourism professional or leased hunting
18 operation if the agritourism professional or leased hunting
19 operation 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;

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 or leased hunting operation is in
9 addition to any other limitations of legal liability otherwise
10 provided by law.

11 SECTION 3. AMENDATORY Section 4, Chapter 27, O.S.L. 2013
12 (2 O.S. Supp. 2017, Section 5-17), is amended to read as follows:

13 Section 5-17. A. Every agritourism professional or leased
14 hunting operation shall post and maintain signs that contain the
15 warning notice specified in subsection B of this section. The sign
16 shall be placed in a clearly visible location at the entrance to the
17 agritourism location and at the site of the agritourism activity.
18 The warning notice shall consist of a sign in black letters, with
19 each letter to be a minimum of one (1) inch in height. Every
20 written contract entered into by an agritourism professional or
21 leased hunting operation for the providing of professional services,
22 instruction, or the rental of equipment to a participant, whether or
23 not the contract involves agritourism activities on or off the
24 location or at the site of the agritourism activity, shall contain

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 section shall prevent an
17 agritourism professional or leased hunting operation from invoking
18 the privileges of immunity provided by the Oklahoma Agritourism
19 Activities Liability Limitations Act.

20 SECTION 4. This act shall become effective November 1, 2018.

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