

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 ENGROSSED SENATE
5 BILL NO. 616

 By: Fields of the Senate

 and

 Pfeiffer of the House

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9 An Act relating to agritourism; amending Sections 2
10 and 3, Chapter 27, O.S.L. 2013 (2 O.S. Supp. 2016,
11 Sections 5-15 and 5-16), which relate to the Oklahoma
12 Agritourism Activities Liability Limitations Act;
13 modifying definition; requiring agreement; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY Section 2, Chapter 27, O.S.L. 2013
17 (2 O.S. Supp. 2016, Section 5-15), is amended to read as follows:

18 Section 5-15. As used in the Oklahoma Agritourism Activities
19 Liability Limitations Act:

20 1. "Agritourism activity" means any activity carried out on a
21 farm or ranch that allows members of the general public, for
22 recreational, entertainment, or educational purposes, to view or
23 enjoy rural activities, including farming, ranching, historic,
24 cultural, harvest-your-own activities, or natural activities and

1 attractions. An activity is an agritourism activity whether or not
2 the participant paid to participate in the activity;

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

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

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

22 SECTION 2. AMENDATORY Section 3, Chapter 27, O.S.L. 2013
23 (2 O.S. Supp. 2016, Section 5-16), is amended to read as follows:
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1 Section 5-16. A. Except as provided in subsection B of this
2 section, an agritourism professional is not liable for injury to or
3 death of a participant resulting from the inherent risks of
4 agritourism activities, so long as:

5 1. the The warning contained in Section 4 5-17 of this ~~act~~
6 title is posted as required ~~and, except;~~ and

7 2. There exists written agreement signed by the participant or
8 parent or legal guardian, if the participant is under the age of
9 eighteen (18) years. The agreement shall contain the following
10 language:

11 I UNDERSTAND AND ACKNOWLEDGE THAT AN AGRITOURISM PROFESSIONAL IS
12 NOT LIABLE FOR ANY INJURY TO OR DEATH OF AN AGRITOURISM PARTICIPANT
13 RESULTING FROM AGRITOURISM ACTIVITIES. I UNDERSTAND THAT I HAVE
14 ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE AND OTHER LOSS
15 THAT MAY RESULT FROM AGRITOURISM ACTIVITIES.

16 B. Except as provided in subsection ~~B~~ C of this section, no
17 participant or participant's representative can maintain an action
18 against or recover from an agritourism professional for injury,
19 loss, damage, or death of the participant resulting exclusively from
20 any of the inherent risks of agritourism activities. In any action
21 for damages against an agritourism professional for agritourism
22 activity, the agritourism professional must plead the affirmative
23 defense of assumption of the risk of agritourism activity by the
24 participant.

1 ~~B.~~ C. Nothing in ~~subsection~~ subsections A and B of this section
2 prevents or limits the liability of an agritourism professional if
3 the agritourism professional does any one or more of the following:

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

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

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

17 SECTION 3. This act shall become effective November 1, 2017.

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19 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
20 dated 04/04/2017 - DO PASS.

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