

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 101** Session of
2021

INTRODUCED BY GLEIM, BOBACK, ROTHMAN, FEE, KAUFFMAN, PICKETT,
SAPPEY, HICKERNELL, ROAE, GREINER, CAUSER, IRVIN, ECKER,
PASHINSKI, TOPPER, DUNBAR, WARNER, GROVE, ROWE, JAMES,
BROOKS, MILLARD, JOZWIAK, OBERLANDER, KEEFER, OWLETT, LEWIS,
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M. MACKENZIE, HAMM, BOROWICZ, B. MILLER, LAWRENCE, METCALFE,
POLINCHOCK, SILVIS, E. NELSON, DAVANZO, GILLEN AND ARMANINI,
JANUARY 11, 2021

SENATOR VOGEL, AGRICULTURE AND RURAL AFFAIRS, IN SENATE, AS
AMENDED, MARCH 23, 2021

AN ACT

1 Providing for limited civil liability for agritourism activity
2 providers, for notice of limited civil liability and for
3 acknowledgment of limited civil liability.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Agritourism
8 Activity Protection Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "AGRICULTURAL LAND." LAND THAT IS USED FOR A NORMAL
14 AGRICULTURAL OPERATION.

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1 "Agritourism activity." ~~As follows:~~ <--

2 ~~(1)~~ A farm-related tourism or farm-related entertainment
3 activity that takes place on agricultural land and allows
4 members of the general public, whether or not for a fee, to
5 tour, explore, observe, learn about, participate in or be
6 entertained by an aspect of agricultural production,
7 harvesting, husbandry or rural lifestyle that occurs on the
8 farm.

9 ~~(2) The term shall not include overnight accommodations, <--~~
10 ~~weddings, concerts or provisions for food and beverage~~
11 ~~services.~~

12 "Agritourism activity provider." A person who owns,
13 operates, provides or sponsors an agritourism activity, whether
14 or not for a fee, or an employee of such a person.

15 "Dangerous condition." A condition that creates an imminent
16 and substantial risk of injury or damages to a participant.

17 "NORMAL AGRICULTURAL OPERATION." AS DEFINED IN THE ACT OF <--
18 JUNE 10, 1982 (P.L.454, NO.133), REFERRED TO AS THE RIGHT-TO-
19 FARM LAW.

20 "Participant." An individual, other than an employee of an
21 agritourism activity provider, who engages in an agritourism
22 activity.

23 Section 3. Limited civil liability for agritourism activity
24 providers.

25 (a) Liability.--Except as otherwise provided by ~~subsection~~ <--

26 ~~(b)~~ SUBSECTIONS (B) AND (C), an agritourism activity provider <--
27 shall not be civilly liable for injury or damages to a
28 participant if:

29 (1) at the time of the agritourism activity from which
30 the injury or damages occurred, a warning sign was posted in

1 accordance with section 4; and

2 (2) the agritourism activity provider entered into a
3 written agreement with the participant in accordance with
4 section 5 with respect to the agritourism activity from which
5 the injury or damages occurred.

6 (b) Exceptions.--An agritourism activity provider shall not
7 be immune from civil liability for injury or damages if any of
8 the following apply:

9 (1) The agritourism activity provider performs an act in
10 a grossly negligent manner and causes injury or damages to a
11 participant.

12 (2) The agritourism activity provider purposefully
13 causes the injury or damages to a participant.

14 (3) The agritourism activity provider's action or
15 inaction constitutes criminal conduct and causes the injury
16 or damages to a participant.

17 (4) The agritourism activity provider recklessly fails
18 to warn or guard against a dangerous condition that causes
19 injury or damages to a participant.

20 (C) EXCEPTIONS FOR CERTAIN ACTIONS.--AN AGRITOURISM ACTIVITY <--
21 PROVIDER SHALL NOT BE IMMUNE FROM CIVIL LIABILITY UNDER
22 SUBSECTION (A) FOR INJURY OR DAMAGES ARISING FROM:

23 (1) OVERNIGHT ACCOMMODATION.

24 (2) A WEDDING.

25 (3) A CONCERT.

26 (4) FOOD AND BEVERAGE SERVICES.

27 Section 4. Notice of limited civil liability.

28 (a) Notice.--For the purpose of providing notice of the
29 limited liability under section 3, an agritourism activity
30 provider shall post and maintain a sign with a warning notice in

1 accordance with subsection (b). The agritourism activity
2 provider shall post the sign in a clearly visible location at or
3 near each entrance to the farm or at the site of each
4 agritourism activity.

5 (b) Contents.--The warning notice shall consist of a sign
6 that is at least three feet by two feet in dimension and states
7 the following:

8 "WARNING: Read your written agreement or the back of
9 your ticket. Under Pennsylvania law, except for limited
10 circumstances, an agritourism activity provider is not
11 liable for any injury to or death of a participant
12 resulting from an agritourism activity. Do not
13 participate in the activity if you do not wish to waive
14 liability."

15 Section 5. Acknowledgment of limited civil liability.

16 For the purpose of enforcing the limited liability under
17 section 3, a written agreement between an agritourism activity
18 provider and a participant shall be enforceable if the written
19 agreement meets all the following criteria:

20 (1) The written agreement is signed before the
21 participant engages in an agritourism activity.

22 (2) The written agreement is signed by the participant
23 or, if the participant is a minor or care-dependent person,
24 the participant's parent or guardian.

25 (3) The written agreement is in a document separate from
26 any other agreement between the participant and the
27 agritourism activity provider, except for a document that
28 includes a different warning, consent or assumption of risk
29 statement.

30 (4) The written agreement is printed in not less than

1 10-point bold type.

2 (5) The written agreement contains the following
3 language:

4 "AGREEMENT AND WARNING: I understand and acknowledge
5 that, except for limited circumstances listed below,
6 an agritourism activity provider is not liable for
7 any injury to or death of a participant resulting
8 from an agritourism activity. I understand that I
9 have accepted all risk of injury, death, property
10 damage and other loss that may result from an
11 agritourism activity. I understand that an
12 agritourism activity provider is not protected from
13 liability if the provider:

14 (1) Performs an act in a grossly negligent
15 manner and causes injury or damages to a participant.

16 (2) Purposefully causes a participant's injury.

17 (3) Acts or fails to act in a way that
18 constitutes criminal conduct.

19 (4) Recklessly fails to warn or guard against a
20 dangerous condition that causes injury or damages to
21 a participant. A dangerous condition is a condition
22 that creates an imminent and substantial risk of
23 injury or damages to a participant."

24 (6) Notwithstanding paragraphs (1), (2), (3) and (4), a
25 written agreement that contains substantially the same
26 language under paragraph (5) may be printed on a ticket
27 required for access to an agritourism activity.

28 Section 6. Applicability.

29 This act shall apply to any cause of action that arises on or
30 after the effective date of this section.

1 Section 7. Effective date.

2 This act shall take effect in 60 days.