

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2093 Session of 2019

INTRODUCED BY POLINCHOCK, BERNSTINE, CALTAGIRONE, DUNBAR, ECKER, GILLEN, HERSHEY, KEEFER, OBERLANDER, OWLETT, QUINN, STAATS, YOUNGBLOOD, ZIMMERMAN, GLEIM, ROWE AND IRVIN, DECEMBER 2, 2019

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 30, 2020

AN ACT

1 Restricting local government from certain regulation of
2 agritourism.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Restriction
7 on Local Regulation of Agritourism Act.

8 Section 2. Definitions.

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

12 ~~"Agritourism activity." A farm related tourism or farm~~ <--
13 ~~related entertainment activity that takes place on agricultural~~
14 ~~land and allows members of the general public, whether or not~~
15 ~~for a fee, to tour, explore, observe, learn about, participate~~
16 ~~in or be entertained by an aspect of agricultural production,~~

1 ~~harvesting, husbandry, rural lifestyle or a limited seasonal~~
2 ~~event that occurs on the farm and that offers the sale at retail~~
3 ~~of food for consumption by customers on the agricultural land.~~
4 ~~The term does not include an overnight accommodation, concert or~~
5 ~~the sale at retail of food as the only service offered.~~

6 ~~"Agritourism activity provider." A person who owns,~~
7 ~~operates, provides or sponsors an agritourism activity or an~~
8 ~~employee of the person who engages in or provides agritourism~~
9 ~~activities, whether or not for a fee.~~

10 ~~"Farm." Land that is composed of tracts, lots or parcels~~
11 ~~totaling not less than 10 acres devoted to agricultural~~
12 ~~production or totaling less than 10 acres devoted to~~
13 ~~agricultural production if the land produces an average yearly~~
14 ~~gross income of at least \$2,500 from agricultural production.~~

15 "AGRICULTURAL LAND." LAND WHICH IS USED FOR A NORMAL
16 AGRICULTURAL OPERATION.

<--

17 "AGRITOURISM ACTIVITY."

18 (1) A FARM-RELATED TOURISM OR FARM-RELATED ENTERTAINMENT
19 ACTIVITY THAT TAKES PLACE ON AGRICULTURAL LAND AND ALLOWS
20 MEMBERS OF THE GENERAL PUBLIC, WHETHER OR NOT FOR A FEE, TO
21 TOUR, EXPLORE, OBSERVE, LEARN ABOUT, PARTICIPATE IN OR BE
22 ENTERTAINED BY AN ASPECT OF AGRICULTURAL PRODUCTION,
23 HARVESTING, HUSBANDRY OR RURAL LIFESTYLE THAT OCCURS ON THE
24 FARM.

25 (2) THE TERM SHALL NOT INCLUDE OVERNIGHT ACCOMMODATIONS,
26 WEDDINGS, CONCERTS OR PROVISIONS FOR FOOD AND BEVERAGE
27 SERVICES.

28 "LIMITED LICENSE." A LIMITED WINERY LICENSE OR LIMITED
29 DISTILLERY LICENSE ISSUED UNDER THE ACT OF APRIL 12, 1951
30 (P.L.90, NO.21), KNOWN AS THE LIQUOR CODE.

1 "Limited seasonal event." An event that occurs on
2 agricultural land to coincide with the celebration of a season
3 of the year or holiday and that highlights a seasonal or holiday
4 appropriate farm activity or phenomenon of wildlife or nature
5 ~~that occurs on a farm or the open space around a farm.~~ <--

6 "Local government." A municipality, zoning hearing board or
7 other board of a municipality.

8 ~~"Participant." An individual, other than an employee of an~~ <--
9 ~~agritourism activity provider, who engages in an agritourism~~
10 ~~activity.~~

11 ~~"Sale at retail of food." The act of offering for sale of~~
12 ~~food for human consumption, regardless of whether the food is~~
13 ~~fresh, processed, precooked or frozen or whether or not the food~~
14 ~~is intended to complement the tasting or sampling of beverages,~~
15 ~~and that may be consumed without the use of tableware and while~~
16 ~~standing or walking.~~

17 "MUNICIPALITY." A COUNTY, CITY, BOROUGH, INCORPORATED TOWN <--
18 OR TOWNSHIP.

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

22 "RETAIL FOOD FACILITY." AS DEFINED IN 3 PA.C.S. § 5702
23 (RELATING TO DEFINITIONS).

24 Section 3. Restriction on local regulation.

25 Notwithstanding any other provision of law to the contrary,
26 ~~ne~~ A local government may NOT prohibit the use of AGRICULTURAL <--
27 land for:

28 (1) agricultural purposes or FOR the construction of <--
29 buildings or structures incident to the use OF THE LAND for <--
30 agricultural purposes ~~of the land on which the buildings or~~ <--

1 ~~structures are located, including buildings or structures~~
2 ~~used primarily for vinting or selling wine and that are~~
3 ~~located on land used for viticulture; or~~

4 ~~(2) agritourism activities.;~~ <--

5 (2) AN AGRITOURISM ACTIVITY;

6 (3) A LIMITED SEASONAL EVENT;

7 (4) AN ACTIVITY THAT REQUIRES A LIMITED LICENSE;

8 (5) A RETAIL FOOD FACILITY;

9 (6) A WEDDING; OR

10 (7) MUSICAL ENTERTAINMENT THAT ACCOMPANIES AN ACTIVITY
11 UNDER PARAGRAPHS (1), (2), (3), (4), (5) OR (6) AND WHICH IS
12 IN COMPLIANCE WITH APPLICABLE NOISE AND NUISANCE ORDINANCES.

13 Section 4. Exception.

14 The restriction on local government action under section 3
15 shall not extend to the following:

16 ~~(1) The size of a structure used primarily for~~ <--
17 ~~agritourism.~~

18 ~~(2) The size of parking areas required for agritourism.~~

19 ~~This paragraph does not include requirements relating to~~
20 ~~drainage, parking area base, parking area paving or any other~~
21 ~~improvement.~~

22 ~~(3) Setback building lines for structures used primarily~~
23 ~~for agritourism.~~

24 ~~(4) Egress and ingress on land used for agritourism,~~
25 ~~where necessary to protect public health and safety.~~

26 (1) THE SIZE OF A STRUCTURE USED PRIMARILY FOR AN <--
27 ACTIVITY UNDER SECTION 3.

28 (2) THE SIZE OF A PARKING AREA REQUIRED FOR AN ACTIVITY
29 UNDER SECTION 3. THIS PARAGRAPH DOES NOT INCLUDE REQUIREMENTS
30 RELATING TO DRAINAGE, PARKING AREA BASE, PARKING AREA PAVING

1 OR ANY OTHER IMPROVEMENT.

2 (3) A PROPERTY LINE SETBACK FOR A STRUCTURE USED
3 PRIMARILY FOR AN ACTIVITY UNDER SECTION 3.

4 (4) WHERE NECESSARY TO PROTECT PUBLIC HEALTH AND SAFETY,
5 EGRESS AND INGRESS ON LAND USED FOR AN ACTIVITY UNDER SECTION
6 3.

7 Section 5. Effective date.

8 This act shall take effect in 60 days.