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SENATE BILL 5808

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State of Washington                      65th Legislature                      2017 Regular Session

By Senators Warnick, Chase, Walsh, Brown, Becker, Short, and Bailey

1            AN ACT Relating to agritourism; and adding a new chapter to Title  
2 15 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.**    The legislature finds that agriculture  
5 plays a substantial role in the economy, culture, and history of  
6 Washington state. As an increasing number of Washington's citizens  
7 are removed from day-to-day agricultural experiences, agritourism  
8 provides a valuable opportunity for the public to interact with,  
9 experience, and understand agriculture. In addition, agritourism  
10 opportunities provide valuable options for agricultural producers and  
11 rural residents to maintain their operations and continue a  
12 traditional economic development opportunity in rural areas. Inherent  
13 risks exist on farms and ranches, the elimination of which would  
14 diminish the agritourism experience. Uncertainty of potential  
15 liability associated with inherent risks has a negative impact on the  
16 establishment and success of agritourism operations.

17            NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
18 throughout this chapter unless the context clearly requires  
19 otherwise.

1 (1) "Agritourism activity" means any activity carried out on a  
2 farm or ranch that allows members of the general public, for  
3 recreational, entertainment, or educational purposes, to view or  
4 enjoy rural activities including, but not limited to: Farming;  
5 ranching; historic, cultural, and on-site educational programs;  
6 recreational farming programs that may include on-site hospitality  
7 services; guided and self-guided tours; bed and breakfast  
8 accommodations; petting zoos; farm festivals; corn mazes; harvest-  
9 your-own operations; hayrides; barn parties; horseback riding;  
10 fishing; and camping.

11 (2) "Agritourism professional" means any person in the business  
12 of providing one or more agritourism activities, whether or not for  
13 compensation.

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

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

27 (5) "Person" means an individual, fiduciary, firm, association,  
28 partnership, limited liability company, corporation, unit of  
29 government, or any other group acting as a unit.

30 NEW SECTION. **Sec. 3.** (1)(a) Except as provided in subsection  
31 (2) of this section, an agritourism professional is not liable for  
32 injury or death of a participant resulting from the inherent risks of  
33 agritourism activities, as long as the warning contained in this  
34 section is posted as required.

35 (b) Except as provided in subsection (2) of this section, no  
36 participant or participant's representative may pursue an action or  
37 recover from an agritourism professional for injury, loss, damage, or  
38 death of the participant resulting exclusively from any of the  
39 inherent risks of agritourism activities.

1 (c) In any action for damages against an agritourism professional  
2 for agritourism activity, the agritourism professional must plead the  
3 affirmative defense of assumption of the risk of agritourism activity  
4 by the participant.

5 (2) Nothing in subsection (1) of this section prevents or limits  
6 the liability of an agritourism professional if the agritourism  
7 professional does any one or more of the following:

8 (a) Commits an act or omission that constitutes willful or wanton  
9 disregard for the safety of the participant and that act or omission  
10 proximately causes injury, damage, or death to the participant.

11 (b) Has actual knowledge or reasonably should have known of an  
12 existing dangerous condition on the land, facilities, or equipment  
13 used in the activity or the dangerous propensity of a particular  
14 animal used in such an activity and does not make the danger known to  
15 the participant, and the danger proximately causes injury, damage, or  
16 death to the participant.

17 (3) Any limitation on legal liability afforded by this section to  
18 an agritourism professional is in addition to any other limitations  
19 of legal liability otherwise provided by law.

20 NEW SECTION. **Sec. 4.** (1) Every agritourism professional must  
21 post and maintain signs that contain the warning notice specified in  
22 subsection (2) of this section. The sign must be placed in a clearly  
23 visible location at the entrance to the agritourism location and at  
24 the site of the agritourism activity. The warning notice must consist  
25 of a sign in black letters, with each letter to be a minimum of one  
26 inch in height. Every written contract entered into by an agritourism  
27 professional for the providing of professional services, instruction,  
28 or the rental of equipment to a participant, whether or not the  
29 contract involves agritourism activities on or off the location or at  
30 the site of the agritourism activity, must contain in clearly  
31 readable print the warning notice specified in subsection (2) of this  
32 section.

33 (2) The sign and contracts described in subsection (1) of this  
34 section must contain the following notice of warning:

35 "WARNING

36 Under Washington State law, there is no liability for an  
37 injury to or death of a participant in an agritourism  
38 activity conducted at this agritourism location if such an

1 injury or death results from the inherent risks of the  
2 agritourism activity. Inherent risks of agritourism  
3 activities include, among others, risks of injury inherent to  
4 land, equipment, and animals, as well as the potential for  
5 you to act in a negligent manner that may contribute to your  
6 injury or death. You are assuming the risk of participating  
7 in this agritourism activity."

8 (3) Failure to comply with the requirements concerning warning  
9 signs and notices provided in this section prohibits an agritourism  
10 professional from invoking the privilege of immunity provided by this  
11 chapter.

12 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act  
13 constitute a new chapter in Title 15 RCW.

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