

1 HB459
2 139927-3
3 By Representatives Chesteen, Jones, Jackson, Lee, Grimsley,
4 Faust, Baker and Clouse
5 RFD: Judiciary
6 First Read: 01-MAR-12

1 ENGROSSED

2
3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to agritourism; to limit the liability of
9 an agritourism professional under certain circumstances; to
10 provide exceptions; and to require certain warning notices to
11 be posted.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. For the purposes of this act, the
14 following terms shall have the following meanings:

15 (1) AGRICULTURAL. As defined in Section 41-14-51,
16 Code of Alabama 1975.

17 (2) AGRITOURISM ACTIVITY. Any of the following,
18 whether or not a participant provides monetary or other
19 valuable compensation to participate in, view, or enjoy:

20 a. An activity at an agricultural operation, which
21 is not already addressed under Sections 6-5-337 or 35-15-40,
22 Code of Alabama 1975, including, but not limited to, farming,
23 ranching, historic and cultural agricultural activities,
24 self-pick farms, or farmers' markets, provided the agritourism
25 professional is selling his or her own product at a location
26 provided to, leased to, rented to, or owned by the agritourism

1 professional for the purpose of selling his or her own
2 product.

3 b. An activity involving an animal exhibition, show,
4 or competition at an agricultural fair or youth livestock
5 show, which is not already addressed under Section 6-5-337,
6 Code of Alabama 1975, including, but not limited to, FFA, 4-H,
7 group, club, or other association shows or expositions.

8 (3) AGRITOURISM PROFESSIONAL. A person who is
9 engaged in the business of providing agritourism activities
10 including employees or authorized agents who offer or conduct
11 agritourism activities on behalf of an agritourism
12 professional.

13 (4) INHERENT RISKS OF AGRITOURISM ACTIVITIES. Those
14 conditions, dangers, or hazards that are an integral part of
15 an agritourism activity, including any of the following:

16 a. Surface and subsurface conditions and natural
17 conditions of land, vegetation, and waters.

18 b. The behavior of wild animals or insects.

19 c. The behavior of domestic animals or insects as
20 to:

21 1. The propensity of a domestic animal or insect to
22 behave in ways that may result in sickness, injury, harm, or
23 death to persons on or around them.

24 2. The unpredictability of the reaction of a
25 domestic animal or insect to sounds, sudden movement, and
26 unfamiliar objects, persons, or other animals.

1 d. The ordinary dangers of structures or equipment
2 ordinarily used on a working agricultural operation, excluding
3 a dangerous condition on structures or equipment ordinarily
4 used on a working agricultural operation that is actually
5 known by an agritourism professional, not open and obvious,
6 not made known to the participant, and the dangerous condition
7 proximately causes injury, sickness, damage, or death to the
8 participant.

9 e. The negligent acts of a participant that may
10 contribute to injury to the participant or others, including
11 failing to follow instructions given by an agritourism
12 professional, failing to exercise reasonable caution while
13 engaging in the agritourism activity, or failing to obey
14 written or oral warnings or postings on the premises of the
15 agritourism operation.

16 (5) PARTICIPANT. Any person, other than an
17 agritourism professional, who engages in an agritourism
18 activity.

19 (6) PERSON. An individual, governmental entity,
20 corporation, limited liability company, partnership,
21 unincorporated association, group, club, or other legal or
22 commercial entity.

23 Section 2. (a) Except as provided in Section 3, an
24 agritourism professional has no duty of care to inspect for an
25 inherent risk of agritourism activity and may not be liable
26 for an injury, sickness, or damage to a participant or the
27 death of a participant resulting from an inherent risk of an

1 agritourism activity. An agritourism professional does not
2 confer upon any participant the legal status of invitee or
3 licensee.

4 (b) Except as provided in Section 3, a participant
5 or a representative of a participant may not make a claim
6 against, maintain an action against, or recover from an
7 agritourism professional for injury, sickness, damage, or
8 death of a participant resulting from an inherent risk of an
9 agritourism activity.

10 Section 3. (a) Section 2 may not prevent or limit
11 the liability of an agritourism professional who:

12 (1) Has actual knowledge of a dangerous condition on
13 the land, facilities, or equipment that is not open and
14 obvious or actual knowledge of the dangerous propensity of a
15 particular animal that is not open and obvious, does not make
16 the danger known to the participant, and the danger
17 proximately causes injury, sickness, damage, or death to the
18 participant.

19 (2) Fails to properly train or improperly or
20 inadequately trains an employee who is actively involved in
21 the agritourism activity and an act or omission of the
22 employee proximately causes injury, sickness, damage, or death
23 of the participant.

24 (3) Intentionally or willfully injures the
25 participant.

1 (4) Fails to vaccinate, or quarantine sick domestic
2 or domesticated animals in accordance with applicable animal
3 health statutes and regulations.

4 Section 4. (a) This act does not apply unless an
5 agritourism professional posts and maintains a warning notice
6 printed in black letters, with each letter being at least one
7 inch in height.

8 (b) The warning notice required under subsection (a)
9 shall be placed in a clearly visible location at the main
10 point of entrance to or the place of payment of monetary or
11 other valuable compensation for the agritourism activity.

12 (c) The warning notice required under subsection (a)
13 shall read as follows:

14 "WARNING.

15 "Under Alabama law, an agritourism professional is
16 not liable for injury, sickness, or damage to, or the death
17 of, a participant in an agritourism activity at this location
18 if the injury, sickness, damage, or death results from the
19 inherent risks of the agritourism activity.

20 "Inherent risks of an agritourism activity include
21 risks of injury, sickness, damage, or death inherent to land,
22 equipment, and animals as well as the potential for you to act
23 in a negligent manner that may contribute to your injury,
24 sickness, damage, or death, or for another participant to act
25 in a manner that may cause your injury, sickness, damage or
26 death.

1 "You are assuming the risk of participating in this
2 agritourism activity."

3 Section 5. This act does not enlarge or diminish the
4 open and obvious doctrine.

5 Section 6. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

House of Representatives

Read for the first time and re-ferred to the House of Representatives committee on Judiciary 01-MAR-12

Read for the second time and placed on the calendar with 1 substitute and..... 05-APR-12

Read for the third time and passed as amended..... 12-APR-12

Yeas 93, Nays 0, Abstains 0

Greg Pappas
Clerk