

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 931 By: Justice of the Senate
3 and
4 Biggs of the House
5
6

7 An Act relating to liability for agritourism
8 activities; creating the Oklahoma Agritourism
9 Activities Liability Limitations Act; providing short
10 title; defining terms; limiting liability for certain
11 professional under certain circumstances; requiring
12 certain warning; prohibiting certain actions;
13 requiring certain plea under specified circumstances;
14 providing exceptions; requiring certain warning;
15 specifying contents of certain warning notice;
16 requiring certain warning notice in certain
17 contracts; providing for loss of immunity for certain
18 noncompliance; providing for codification; and
19 declaring an emergency.

20 AUTHOR: Add the following House Coauthor: Vaughan

21 AUTHOR: Add the following Senate Coauthor: Fields

22 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
23 and insert

24 "An Act relating to agriculture; amending 2 O.S.
2011, Section 16-71.1, which relates to the Oklahoma
Limitation of Liability for Farming and Ranching
Land Act; modifying definitions; and providing an
effective date.

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

2 SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-71.1, is
3 amended to read as follows:

4 Section 16-71.1 A. Sections ~~26~~ 16-71.1 through ~~32~~ 16-71.7 of
5 this ~~act~~ title shall be known and may be cited as the "Oklahoma
6 Limitation of Liability for Farming and Ranching Land Act".

7 B. 1. The purpose of the Oklahoma Limitation of Liability for
8 Farming and Ranching Land Act is to encourage owners of farming and
9 ranching lands to make such land available for recreational purposes
10 by limiting their liability to persons entering or using the farm
11 and ranch land and to third persons who may be damaged by the acts
12 or omissions of persons entering upon or using these lands.

13 2. The Oklahoma Limitation of Liability for Farming and
14 Ranching Land Act applies only to an owner of land who does not
15 charge more than Ten Dollars (\$10.00) per acre per year for that
16 land used for recreational purposes.

17 C. As used in the Oklahoma Limitation of Liability for Farming
18 and Ranching Land Act:

19 1. "Land" means land which is used for farming, ranching
20 activities and recreational purposes, as defined in this section,
21 including, but not limited to, roads, water, watercourses, private
22 ways, buildings, structures, and machinery or equipment when
23 attached to realty which is used primarily for farming or ranching
24 activities;

1 2. "Owner" means the possessor of a fee interest, a tenant,
2 lessee, occupant or person in control of the premises but shall not
3 include a tenant, lessee, occupant or person in control of the
4 premises who is engaging in any recreational purpose described in
5 paragraph 3 of this subsection;

6 3. "Recreational purpose" includes any of the following, or any
7 combination thereof: hunting, fishing, wildlife and ecological
8 viewing or photography, recreational farming and ranching
9 activities, swimming, boating, camping, picnicking, hiking, pleasure
10 driving, jogging, cycling, other similar events and activities,
11 nature study, water skiing, winter sports, jet skiing, ~~and~~ viewing
12 or enjoying historical, archaeological, scenic, or scientific sites
13 and aviation, including fly-ins at private airports; and

14 4. "Charge" means the admission price or fee asked in return
15 for invitation or permission to enter or use the land. The term
16 "charge" shall not include a license or permit fee imposed by a
17 governmental entity for the purpose of regulating the use of land, a
18 water or park area, or lake reservation; shall not include hunting,
19 fishing, boating, and other license and permit fees; shall not
20 include hunting or fishing leases; and shall not include donations
21 made at fly-ins at private airports.

22 D. The Oklahoma Limitation of Liability for Farming and
23 Ranching Land Act shall not apply to any land that is used for
24 purposes other than farming and ranching. Such land shall be

1 governed by Section ~~25~~ 10.1 of ~~this act~~ Title 76 of the Oklahoma
2 Statutes.

3 SECTION 2. This act shall become effective November 1, 2013."

4 Passed the House of Representatives the 22nd day of April, 2013.

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6 Presiding Officer of the House of
7 Representatives

8 Passed the Senate the ____ day of _____, 2013.

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10 Presiding Officer of the Senate

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1 ENGROSSED SENATE
2 BILL NO. 931

By: Justice of the Senate

3 and

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17 requiring certain warning notice in certain
18 contracts; providing for loss of immunity for certain
19 noncompliance; providing for codification; and
20 declaring an emergency.

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

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5-14 of Title 2, unless there is
24 created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma
Agritourism Activities Liability Limitations Act".

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5-15 of Title 2, unless there is
3 created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Agritourism Activities Liability
5 Limitations Act:

6 1. "Agritourism activity" means any activity carried out on a
7 farm or ranch that allows members of the general public for
8 recreational, entertainment, or educational purposes, to view or
9 enjoy rural activities, including farming, ranching, historic,
10 cultural, harvest-your-own activities, or natural activities and
11 attractions. An activity is an agritourism activity whether or not
12 the participant paid to participate in the activity;

13 2. "Agritourism professional" means any person who is engaged
14 in the business of providing one or more agritourism activities,
15 whether or not for compensation and whose agritourism activity is
16 registered with the Oklahoma Department of Agriculture, Food, and
17 Forestry;

18 3. "Inherent risks of agritourism activity" means those dangers
19 or conditions that are an integral part of an agritourism activity
20 involving certain hazards including, but not limited to, surface and
21 subsurface conditions, natural conditions of land, vegetation, and
22 waters, the behavior of wild or domestic animals, and ordinary
23 dangers of structures or equipment ordinarily used in farming and
24 ranching operations. Inherent risks of agritourism activity also

1 include the potential of a participant to act in a negligent manner
2 that may contribute to injury to the participant or others,
3 including failing to follow instructions given by the agritourism
4 professional or failing to exercise reasonable caution while
5 engaging in the agritourism activity; and

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

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 5-16 of Title 2, unless there is
10 created a duplication in numbering, reads as follows:

11 A. Except as provided in subsection B of this section, an
12 agritourism professional is not liable for injury to or death of a
13 participant resulting from the inherent risks of agritourism
14 activities as long as the warning contained in Section 4 of this act
15 is posted as required. Except as provided in subsection B of this
16 section, no participant or participant's representative can maintain
17 an action against or recover from an agritourism professional for
18 injury, loss, damage or death of the participant resulting
19 exclusively from any of the inherent risks of agritourism
20 activities. Assumption of risk shall be an affirmative defense
21 against any claim for damages against an agritourism professional
22 for agritourism activity.

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1 B. Nothing in subsection A of this section prevents or limits
2 the liability of an agritourism professional if the agritourism
3 professional:

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; or

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

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 5-17 of Title 2, unless there is
19 created a duplication in numbering, reads as follows:

20 A. Every agritourism professional shall post and maintain signs
21 that contain the warning notice specified in subsection B of this
22 section. The sign shall be placed in a conspicuous location at the
23 entrance to the agritourism location and at the site of the
24 agritourism activity. The warning notice shall consist of a sign in

1 black letters, with each letter to be a minimum of one inch in
2 height. Every written contract entered into by an agritourism
3 professional for the provision of professional services, instruction
4 or the rental of equipment to a participant, whether the contract
5 involves agritourism activities on or off the location or at the
6 site of the agritourism activity, shall contain in clearly readable
7 print the warning notice specified in subsection B of this section.

8 B. The signs and contracts described in subsection A of this
9 section shall contain the following notice of warning:

10 "WARNING

11 Under Oklahoma law, there is no liability for an injury to or
12 death of a participant in an agritourism activity conducted at this
13 agritourism location if such injury or death results from the
14 inherent risks of the agritourism activity. Inherent risks of
15 agritourism activities include, but are not limited to, risks of
16 injury inherent to land, equipment and animals, as well as the
17 potential for you to act in a negligent manner that may contribute
18 to your injury or death. You are assuming the risk by participating
19 in this agritourism activity."

20 C. Failure to comply with the requirements concerning warning
21 signs and notices provided in this subsection shall prevent an
22 agritourism professional from asserting an affirmative defense
23 provided by this act.

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