

1 ENGROSSED SENATE
2 BILL NO. 616

By: Fields of the Senate

3 and

4 Pfeiffer of the House

5
6 An Act relating to agritourism; amending Sections 2
7 and 3, Chapter 27, O.S.L. 2013 (2 O.S. Supp. 2016,
8 Sections 5-15 and 5-16), which relate to the Oklahoma
9 Agritourism Activities Liability Limitations Act;
10 modifying definition; requiring agreement; and
11 providing an effective date.

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

13 SECTION 1. AMENDATORY Section 2, Chapter 27, O.S.L. 2013
14 (2 O.S. Supp. 2016, Section 5-15), is amended to read as follows:

15 Section 5-15. As used in the Oklahoma Agritourism Activities
16 Liability Limitations Act:

17 1. "Agritourism activity" means any activity carried out on a
18 farm or ranch that allows members of the general public, for
19 recreational, entertainment, or educational purposes, to view or
20 enjoy rural activities, including farming, ranching, historic,
21 cultural, harvest-your-own activities, or natural activities and
22 attractions. An activity is an agritourism activity whether or not
23 the participant paid to participate in the activity;

24 2. "Agritourism professional" means any person who is engaged
in the business of providing one or more agritourism activities,

1 whether or not for compensation and whose agritourism activity is
2 registered with the Oklahoma Department of Agriculture, Food, and
3 Forestry;

4 3. "Inherent risks of agritourism activity" means those dangers
5 or conditions that are an integral part of an agritourism activity
6 including certain hazards, surface and subsurface conditions,
7 natural conditions of land, vegetation, and waters, the behavior of
8 wild or domestic animals, and ordinary dangers of structures or
9 equipment ordinarily used in farming and ranching operations.
10 Inherent risks of agritourism activity also include the potential of
11 a participant to act in a negligent manner that may contribute to
12 injury to the participant or others, including failing to follow
13 instructions given by the agritourism professional or failing to
14 exercise reasonable caution while engaging in the agritourism
15 activity; and

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

18 SECTION 2. AMENDATORY Section 3, Chapter 27, O.S.L. 2013
19 (2 O.S. Supp. 2016, Section 5-16), is amended to read as follows:

20 Section 5-16. A. Except as provided in subsection B of this
21 section, an agritourism professional is not liable for injury to or
22 death of a participant resulting from the inherent risks of
23 agritourism activities, so long as:

24

1 1. the The warning contained in Section ~~4~~ 5-17 of this ~~act~~
2 title is posted as required ~~and, except;~~ and

3 2. There exists written agreement signed by the participant or
4 parent or legal guardian, if the participant is under the age of
5 eighteen (18) years. The agreement shall contain the following
6 language:

7 I UNDERSTAND AND ACKNOWLEDGE THAT AN AGRITOURISM PROFESSIONAL IS
8 NOT LIABLE FOR ANY INJURY TO OR DEATH OF AN AGRITOURISM PARTICIPANT
9 RESULTING FROM AGRITOURISM ACTIVITIES. I UNDERSTAND THAT I HAVE
10 ACCEPTED ALL RISK OF INJURY, DEATH, PROPERTY DAMAGE AND OTHER LOSS
11 THAT MAY RESULT FROM AGRITOURISM ACTIVITIES.

12 B. Except as provided in subsection ~~B~~ C of this section, no
13 participant or participant's representative can maintain an action
14 against or recover from an agritourism professional for injury,
15 loss, damage, or death of the participant resulting exclusively from
16 any of the inherent risks of agritourism activities. In any action
17 for damages against an agritourism professional for agritourism
18 activity, the agritourism professional must plead the affirmative
19 defense of assumption of the risk of agritourism activity by the
20 participant.

21 ~~B. C.~~ C. Nothing in ~~subsection~~ subsections A and B of this section
22 prevents or limits the liability of an agritourism professional if
23 the agritourism professional does any one or more of the following:
24

1 1. Commits an act or omission that constitutes negligence or
2 willful or wanton disregard for the safety of the participant, and
3 that act or omission proximately causes injury, damage, or death to
4 the participant;

5 2. Has actual knowledge or reasonably should have known of a
6 dangerous condition on the land, facilities, or equipment used in
7 the activity or the dangerous propensity of a particular animal used
8 in such activity and does not make the danger known to the
9 participant, and the danger proximately causes injury, damage, or
10 death to the participant.

11 ~~E.~~ D. Any limitation on legal liability afforded by this
12 section to an agritourism professional is in addition to any other
13 limitations of legal liability otherwise provided by law.

14 SECTION 3. This act shall become effective November 1, 2017.

15 Passed the Senate the 7th day of March, 2017.

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Presiding Officer of the Senate

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19 Passed the House of Representatives the ____ day of _____,

20 2017.

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Presiding Officer of the House
of Representatives

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