

1 **SENATE FLOOR VERSION**

2 February 14, 2017

3 SENATE BILL NO. 616

By: Fields of the Senate

4 and

5 Pfeiffer of the House

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

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

15 SECTION 1. AMENDATORY Section 2, Chapter 27, O.S.L. 2013  
16 (2 O.S. Supp. 2016, Section 5-15), is amended to read as follows:

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

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

1           2. "Agritourism professional" means any person who is engaged  
2 in the business of providing one or more agritourism activities,  
3 whether or not for compensation and ~~whose agritourism activity is~~  
4 ~~registered with the Oklahoma Department of Agriculture, Food, and~~  
5 ~~Forestry;~~

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

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

20           SECTION 2.           AMENDATORY           Section 3, Chapter 27, O.S.L. 2013  
21 (2 O.S. Supp. 2016, Section 5-16), is amended to read as follows:

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

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

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

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

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

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

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;

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE  
19 February 14, 2017 - DO PASS  
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