

28 Section 1. Section **78B-4-512** is amended to read:

29 **78B-4-512. Definitions -- Participation in an agricultural tourism activity --**

30 **Limitations on civil liability.**

31 ~~[(1) As used in this section, "agri-tourism" means an activity that allows members of~~
 32 ~~the general public to view or enjoy agricultural related activities, including farming, ranching,~~
 33 ~~or historic, cultural, or natural attractions, for recreational, entertainment, or educational~~
 34 ~~purposes.]~~

35 ~~[(a) An activity may be an agri-tourism activity whether or not the participant pays to~~
 36 ~~participate in the activity.]~~

37 ~~[(b) An activity is not an agri-tourism activity if the participant is paid to participate in~~
 38 ~~the activity.]~~

39 (1) As used in this section:

40 (a) "Agricultural tourism activity" means an educational or recreational activity that:

41 (i) takes place on a farm or ranch or other commercial agricultural, aquacultural,

42 horticultural, or forestry operation; and

43 (ii) allows an individual to tour, explore, observe, learn about, participate in, or be
 44 entertained by an aspect of agricultural operations.

45 (b) "Agritourism" means the travel or visit by the general public to a working farm,

46 ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation for the

47 enjoyment of, education about, or participation in the activities of the farm, ranch, or other

48 commercial agricultural, aquacultural, horticultural, or forestry operation.

49 (c) "Inherent risk" means a danger, hazard, or condition which is an integral part of an
 50 agricultural tourism activity ~~It~~→ **and that cannot be eliminated by the exercise of reasonable**
 50a **care** ←~~It~~ , including:

51 (i) natural surface and subsurface conditions of land, vegetation, and water on the
 52 property;

53 (ii) unpredictable behavior of domesticated or farm animals on the property; or

54 (iii) reasonable dangers of structures or equipment ordinarily used where agricultural or

55 horticultural crops are grown or farm animals or farmed fish are raised.

56 (d) "Operator" means:

57 (i) a person who operates, provides, or demonstrates an agricultural tourism activity; or

58 (ii) an employee of a person described in Subsection (1)(d)(i).

59 (e) (i) "Participant" means an individual, other than a provider or operator, who
60 observes or participates in an agricultural tourism activity, regardless of whether the individual
61 paid to observe or participate in an agricultural tourism activity.

62 (ii) "Participant" does not mean an individual who is paid to participate in an
63 agricultural tourism activity.

64 (f) "Property" means the real property where an agricultural tourism activity takes place
65 and the buildings, structures, and improvements on that real property.

66 (2) A participant in an agricultural tourism activity may not make any claim against, or
67 recover damages from, any operator for injury ~~H~~→ primarily ←~~H~~ resulting from:

68 (a) an inherent risk of agritourism; or

69 (b) the participant's failure to:

70 (i) follow instructions given by the operator; or

71 (ii) exercise reasonable caution while engaged in an agricultural tourism activity.

72 (3) An operator shall post and maintain, in a clearly visible location at each entrance to
73 the property where an agricultural tourism activity takes place or at the location of each
74 agricultural tourism activity, a sign describing:

75 (a) the inherent risks of the activity; and

76 (b) the limitations on liability of the operators.

77 [(2)] (4) In any action for damages for personal injury, death, or property damage in
78 which an owner or operator of an [~~agri-tourism~~] agritourism activity is named as a defendant, ~~H~~→[~~it~~
79 ~~shall be an affirmative defense to liability that~~] the court shall undergo a comparative negligence
79a analysis and consider whether ←~~H~~ :

80 (a) the injured person deliberately disregarded conspicuously posted signs, verbal
81 instructions, or other warnings regarding safety measures during the activity; or

82 (b) any equipment, animals, or appliance used by the injured person during the activity
83 were used in a manner or for a purpose other than that for which a reasonable person should
84 have known they were intended.

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