

1 **AGRICULTURAL TOURISM AMENDMENTS**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Lee B. Perry**

5 Senate Sponsor: Ralph Okerlund

7 **LONG TITLE**

8 **General Description:**

9 This bill regulates agricultural tourism activities.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ states that a participant in an agricultural tourism activity may not make a claim
- 14 against, or recover damages from, an operator for injury resulting from:
 - 15 • an inherent risk of an agricultural tourism activity; or
 - 16 • the participant's failure to follow instructions or exercise reasonable care; and
- 17 ▶ requires an operator of an agricultural tourism activity to post signs describing the
- 18 inherent risks of an activity and the limited liability of the operator.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **78B-4-512**, as enacted by Laws of Utah 2008, Chapter 132

27 *Be it enacted by the Legislature of the state of Utah:*

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 and that cannot be eliminated by the exercise of reasonable care,
51 including:

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

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

55 (iii) reasonable dangers of structures or equipment ordinarily used where agricultural or
56 horticultural crops are grown or farm animals or farmed fish are raised.

57 (d) "Operator" means:

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

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

60 (e) (i) "Participant" means an individual, other than a provider or operator, who

61 observes or participates in an agricultural tourism activity, regardless of whether the individual

62 paid to observe or participate in an agricultural tourism activity.

63 (ii) "Participant" does not mean an individual who is paid to participate in an

64 agricultural tourism activity.

65 (f) "Property" means the real property where an agricultural tourism activity takes place

66 and the buildings, structures, and improvements on that real property.

67 (2) A participant in an agricultural tourism activity may not make any claim against, or

68 recover damages from, any operator for injury primarily resulting from:

69 (a) an inherent risk of agritourism; or

70 (b) the participant's failure to:

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

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

73 (3) An operator shall post and maintain, in a clearly visible location at each entrance to

74 the property where an agricultural tourism activity takes place or at the location of each

75 agricultural tourism activity, a sign describing:

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

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

78 ~~[(2)]~~ (4) In any action for damages for personal injury, death, or property damage in

79 which an owner or operator of an ~~[agri-tourism]~~ agritourism activity is named as a defendant,

80 ~~[it shall be an affirmative defense to liability that]~~ the court shall undergo a comparative

81 negligence analysis and consider whether:

82 (a) the injured person deliberately disregarded conspicuously posted signs, verbal

83 instructions, or other warnings regarding safety measures during the activity; or

84 (b) any equipment, animals, or appliance used by the injured person during the activity

85 were used in a manner or for a purpose other than that for which a reasonable person should

86 have known they were intended.