

AGRICULTURAL TOURISM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Scott D. Sandall

LONG TITLE

Committee Note:

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 5 absent

General Description:

This bill addresses agritourism activities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ expands agricultural nuisance liability protections in relation to an agritourism activity;
- ▶ provides that an agricultural protection area may include an agritourism activity;
- ▶ requires the Department of Agriculture and Food to maintain an agritourism registry and describes requirements relating to the registry;
- ▶ modifies civil liability limitations in relation to an agricultural tourism activity; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 [4-44-102](#), as enacted by Laws of Utah 2019, Chapter 81

31 [17-41-301](#), as last amended by Laws of Utah 2019, Chapter 227

32 [26B-7-401](#), as renumbered and amended by Laws of Utah 2023, Chapter 308

33 [78B-4-512](#), as last amended by Laws of Utah 2015, Chapter 63

34 ENACTS:

35 [4-2-1001](#), Utah Code Annotated 1953

36 [4-2-1002](#), Utah Code Annotated 1953



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

39 Section 1. Section [4-2-1001](#) is enacted to read:

40 **Part 10. Agritourism Registry**

41 **[4-2-1001](#). Definitions.**

42 As used in this part:

43 (1) "Agricultural enterprise" means the same as that term is defined in Section

44 [78B-4-512](#).

45 (2) "Agritourism activity" means the same as that term is defined in Section

46 [78B-4-512](#).

47 (3) "Registry" means the voluntary agritourism registry described in Section [4-2-1002](#).

48 Section 2. Section [4-2-1002](#) is enacted to read:

49 **[4-2-1002](#). Agritourism registry.**

50 (1) The department shall maintain a voluntary agritourism registry.

51 (2) The purpose of the registry is to provide public notice of locations where

52 individuals may participate in an agritourism activity.

53 (3) The owner of an agricultural enterprise that provides an agritourism activity in Utah

54 may voluntarily place the agritourism activity on the registry by providing the following

55 information to the department:

56 (a) the name and location of the agricultural enterprise;

57 (b) a description of the agritourism activity; and

58 (c) details relating to participation in the agritourism activity, including cost, hours of

59 operation, and other relevant information.

60 (4) The owner of an agricultural enterprise with an agritourism activity on the registry
61 shall notify the department of any changes to the information described in Subsection (3).

62 (5) The department:

63 (a) shall post the information on the registry to the department's website in a location
64 where the public may conveniently access the information;

65 (b) may publicize the availability of the registry to the public; and

66 (c) may not charge a fee to be listed on, or to use, the registry.

67 (6) A registration under this section is in effect for five years, unless the owner requests
68 removal at an earlier time.

69 Section 3. Section **4-44-102** is amended to read:

70 **4-44-102. Definitions.**

71 As used in this chapter:

72 (1) (a) "Agricultural operation" means [~~an activity engaged in the production for~~
73 ~~commercial purposes]~~ the commercial production of crops, orchards, livestock, poultry,
74 aquaculture, livestock products, or poultry products [~~and the facilities, equipment, and property~~
75 ~~used to facilitate the activity]~~.

76 (b) "Agricultural operation" includes:

77 (i) the real property where the commercial production described in Subsection (1)(a)
78 occurs;

79 (ii) a facility, a property, or equipment used to facilitate the commercial production
80 described in Subsection (1)(a);

81 (iii) an agritourism activity, as defined in Section [78B-4-512](#); or

82 (iv) an agricultural protection area established under Title 17, Chapter 41, Agriculture,
83 Industrial, or Critical Infrastructure Materials Protection Areas.

84 (2) "Fundamental change to the operation" does not include:

85 (a) a change in ownership or size;

86 (b) an interruption of farming for a period of no more than three years;

87 (c) participation in a government-sponsored agricultural program;

88 (d) employment of new technology; [~~or~~]

89 (e) a change in the type of agricultural product produced[~~-~~]; or

90 (f) the addition of an agritourism activity, as defined in Section [78B-4-512](#).

91 (3) "Nuisance" means anything that is injurious to health, indecent, offensive to the
92 senses, or an obstruction to the free use of property, so as to interfere with the comfortable
93 enjoyment of life or property.

94 Section 4. Section **17-41-301** is amended to read:

95 **17-41-301. Proposal for creation of a protection area.**

96 (1) (a) A proposal to create an agriculture protection area, an industrial protection area,
97 or critical infrastructure materials protection area may be filed with:

98 (i) the legislative body of the county in which the area is located, if the area is within
99 the unincorporated part of a county; or

100 (ii) the legislative body of the city or town in which the area is located, if the area is
101 within a city or town.

102 (b) A proposal to create a critical infrastructure protection area can only be initiated by
103 the legislative body of the municipality or county. Creation of a critical infrastructure materials
104 protection area is a legislative act.

105 (c) (i) To be accepted for processing by the applicable legislative body, a proposal
106 under Subsection (1)(a) shall be signed by a majority in number of all owners of real property
107 and the owners of a majority of the land area in agricultural production, industrial use, or
108 critical infrastructure materials operations within the proposed relevant protection area.

109 (ii) For purposes of Subsection (1)(c)(i), the owners of real property shall be
110 determined by the records of the county recorder.

111 (2) The proposal shall identify:

112 (a) the boundaries of the land proposed to become part of the relevant protection area;

113 (b) any limits on the types of agriculture production, industrial use, or critical
114 infrastructure materials operations to be allowed within the relevant protection area; and

115 (c) for each parcel of land:

116 (i) the names of the owners of record of the land proposed to be included within the
117 relevant protection area;

118 (ii) the tax parcel number or account number identifying each parcel; and

119 (iii) the number of acres of each parcel.

120 (3) An agriculture protection area, industrial protection area, or critical infrastructure

121 materials protection area may include within its boundaries land used for a roadway, dwelling
 122 site, park, or other nonagricultural use, in the case of an industrial protection area, nonindustrial
 123 use, or in the case of a critical infrastructure materials protection area, use unrelated to critical
 124 infrastructure materials operations, if that land constitutes a minority of the total acreage within
 125 the ~~the~~ relevant protection area.

126 (4) An agricultural protection area may include within the boundaries of the
 127 agricultural protection area an agritourism activity, as defined in Section 78B-4-512.

128 ~~[(4)]~~ (5) A county or municipal legislative body may establish:

129 (a) the manner and form for submission of proposals; and

130 (b) reasonable fees for accepting and processing the proposal.

131 ~~[(5)]~~ (6) A county and municipal legislative body shall establish the minimum number
 132 of continuous acres that shall be included in an agriculture protection area, industrial protection
 133 area, or critical infrastructure materials protection area.

134 Section 5. Section **26B-7-401** is amended to read:

135 **26B-7-401. Definitions.**

136 As used in this part:

137 ~~[(1) "Agricultural tourism activity" means the same as that term is defined in Section~~
 138 ~~78B-4-512.]~~

139 ~~[(2)]~~ (1) "Agritourism" means the same as that term is defined in Section 78B-4-512.

140 (2) "Agritourism activity" means the same as that term is defined in Section
 141 78B-4-512.

142 (3) "Agritourism food establishment" means a non-commercial kitchen facility where
 143 food is handled, stored, or prepared to be offered for sale on a farm in connection with an
 144 ~~[agricultural tourism]~~ agritourism activity.

145 (4) "Agritourism food establishment permit" means a permit issued by a local health
 146 department to the operator for the purpose of operating an agritourism food establishment.

147 (5) "Back country food service establishment" means a federal or state licensed back
 148 country guiding or outfitting business that:

149 (a) provides food services; and

150 (b) meets department recognized federal or state food service safety regulations for
 151 food handlers.

152 (6) "Certified food safety manager" means a manager of a food service establishment
153 who:

- 154 (a) passes successfully a department-approved examination;
- 155 (b) successfully completes, every three years, renewal requirements established by
156 department rule consistent with original certification requirements; and
- 157 (c) submits to the appropriate local health department the documentation required by
158 Section [26B-7-412](#).

159 (7) "Farm" means a working farm, ranch, or other commercial agricultural,
160 aquacultural, horticultural, or forestry operation.

161 (8) "Food" means:

- 162 (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or
163 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or
- 164 (b) chewing gum.

165 (9) "Food service establishment" means any place or area within a business or
166 organization where potentially hazardous foods, as defined by the department under Section
167 [26B-7-410](#), are prepared and intended for individual portion service and consumption by the
168 general public, whether the consumption is on or off the premises, and whether or not a fee is
169 charged for the food.

170 (10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility
171 located in a private home and operated by a resident of the home where ready-to-eat food is
172 handled, stored, prepared, or offered for sale.

173 (b) "Microenterprise home kitchen" does not include:

- 174 (i) a catering operation;
- 175 (ii) a cottage food operation;
- 176 (iii) a food truck;
- 177 (iv) an agritourism food establishment;
- 178 (v) a bed and breakfast; or
- 179 (vi) a residence-based group care facility.

180 (11) "Microenterprise home kitchen permit" means a permit issued by a local health
181 department to the operator for the purpose of operating a microenterprise home kitchen.

182 (12) "Ready-to-eat" means:

- 183 (a) raw animal food that is cooked;
 184 (b) raw fruits and vegetables that are washed;
 185 (c) fruits and vegetables that are cooked for hot holding;
 186 (d) a time or temperature control food that is cooked to the temperature and time
 187 required for the specific food in accordance with rules made by the department in accordance
 188 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 189 (e) a bakery item for which further cooking is not required for food safety.

190 (13) "Time or temperature control food" means food that requires time or temperature
 191 controls for safety to limit pathogenic microorganism growth or toxin formation.

192 Section 6. Section **78B-4-512** is amended to read:

193 **78B-4-512. Definitions -- Participation in an agritourism activity -- Limitations**
 194 **on civil liability.**

195 (1) As used in this section:

196 [~~(a) "Agricultural tourism activity" means an educational or recreational activity that:~~]

197 [~~(i) takes place on a farm or ranch or other commercial agricultural, aquacultural,~~
 198 ~~horticultural, or forestry operation; and]~~

199 [~~(ii) allows an individual to tour, explore, observe, learn about, participate in, or be~~
 200 ~~entertained by an aspect of agricultural operations:]~~

201 [~~(b) "Agritourism" means the travel or visit by the general public to a working farm,~~
 202 ~~ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation for the~~
 203 ~~enjoyment of, education about, or participation in the activities of the farm, ranch, or other~~
 204 ~~commercial agricultural, aquacultural, horticultural, or forestry operation:]~~

205 (a) "Agricultural enterprise" means a farm, ranch, or other agricultural, aquacultural,
 206 horticultural, or forestry operation.

207 (b) "Agritourism" means the combination of agricultural production with tourism to
 208 attract participants from the general public to an agricultural enterprise for the entertainment,
 209 recreation, or education of the participants.

210 (c) "Agritourism activity" means an activity at an agricultural enterprise that a
 211 participant engages in or observes for recreation, education, or entertainment.

212 [~~(c)~~] (d) "Inherent risk of an agritourism activity" means a danger, hazard, or condition
 213 [which is an integral] that is part of an [agricultural tourism] agritourism activity [and that

214 cannot be eliminated by the exercise of reasonable care], including:

215 (i) ~~[natural]~~ surface and subsurface conditions of land, vegetation, ~~[and]~~ or water on the
216 property;

217 (ii) unpredictable behavior of domesticated or farm animals on the property; ~~[or]~~

218 (iii) reasonable dangers of structures or equipment ordinarily used where agricultural or
219 horticultural crops are grown or farm animals or farmed fish are raised~~[-]~~;

220 (iv) behavior of insects or wildlife not owned or kept by the operator of the property; or

221 (v) exposure to pathogens from animals, animal feed, animal waste, or other sources.

222 ~~[(d)]~~ (e) "Operator" means:

223 (i) a person who ~~[operates, provides, or demonstrates an agricultural tourism activity]~~
224 owns or manages an agricultural enterprise where a participant engages in or observes an
225 agritourism activity; [or]

226 (ii) a person who provides an agritourism activity at an agricultural enterprise; or

227 ~~[(f)]~~ (iii) an employee of a person described in Subsection ~~[(1)(d)(i)]~~ (1)(e)(i) or (ii).

228 ~~[(e)]~~ (f) (i) "Participant" means an individual, other than ~~[a provider or operator, who~~
229 observes or participates in an agricultural tourism] an operator, who engages in or observes an
230 agritourism activity, regardless of whether the individual ~~[paid to observe or participate in an~~
231 agricultural tourism] pays to engage in or observe the agritourism activity.

232 (ii) "Participant" does not mean an individual who is paid to participate in an
233 ~~[agricultural tourism]~~ agritourism activity.

234 ~~[(f)]~~ (g) "Property" means the real property where an ~~[agricultural tourism]~~ agritourism
235 activity takes place ~~[and the buildings, structures, and improvements on that real property].~~

236 (2) A participant ~~[in an agricultural tourism activity]~~ may not make ~~[any]~~ a claim
237 against, or recover damages from, ~~[any operator for injury primarily resulting]~~ an operator for
238 injury, illness, death, or personal property damage that primarily results from:

239 (a) an inherent risk of ~~[agritourism]~~ an agritourism activity; or

240 (b) the participant's failure to:

241 (i) follow instructions given by ~~[the]~~ an operator; or

242 (ii) exercise reasonable caution while engaged in or observing an ~~[agricultural tourism]~~
243 agritourism activity.

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

245 the property where an ~~[agricultural tourism]~~ agritourism activity takes place or at the location
246 of each ~~[agricultural tourism]~~ agritourism activity, a sign ~~[describing]~~ that:

247 ~~[(a) the inherent risks of the activity; and]~~

248 ~~[(b) the limitations on liability of the operators.]~~

249 (a) is printed in black letters, that are a minimum of one inch in height, on a white
250 background; and

251 (b) states, "WARNING: Under Utah law, an operator of an agritourism activity or the
252 property where the activity takes place is not liable for the injury, illness, death, or damage to
253 personal property of a participant that primarily results from the inherent risks of the activity or
254 a participant's failure to follow instructions or exercise reasonable caution. You are assuming
255 the risk of participating in or observing an agritourism activity."

256 ~~[(4) In any action for damages for personal injury, death, or property damage in which~~
257 ~~an owner or operator of an agritourism activity is named as a defendant, the court shall undergo~~
258 ~~a comparative negligence analysis and consider whether:]~~

259 ~~[(a) the injured person deliberately disregarded conspicuously posted signs, verbal~~
260 ~~instructions, or other warnings regarding safety measures during the activity; or]~~

261 ~~[(b) any equipment, animals, or appliance used by the injured person during the activity~~
262 ~~were used in a manner or for a purpose other than that for which a reasonable person should~~
263 ~~have known they were intended:]~~

264 Section 7. **Effective date.**

265 This bill takes effect on May 1, 2024.