

1 HB459  
2 139927-4  
3 By Representatives Chesteen, Jones, Jackson, Lee, Grimsley,  
4 Faust, Baker and Clouse  
5 RFD: Judiciary  
6 First Read: 01-MAR-12

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ENROLLED, An Act,

Relating to agritourism; to limit the liability of an agritourism professional under certain circumstances; to provide exceptions; and to require certain warning notices to be posted.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this act, the following terms shall have the following meanings:

(1) AGRICULTURAL. As defined in Section 41-14-51, Code of Alabama 1975.

(2) AGRITOURISM ACTIVITY. Any of the following, whether or not a participant provides monetary or other valuable compensation to participate in, view, or enjoy:

a. An activity at an agricultural operation, which is not already addressed under Sections 6-5-337 or 35-15-40, Code of Alabama 1975, including, but not limited to, farming, ranching, historic and cultural agricultural activities, self-pick farms, or farmers' markets, provided the agritourism professional is selling his or her own product at a location provided to, leased to, rented to, or owned by the agritourism professional for the purpose of selling his or her own product.

b. An activity involving an animal exhibition, show, or competition at an agricultural fair or youth livestock

1 show, which is not already addressed under Section 6-5-337,  
2 Code of Alabama 1975, including, but not limited to, FFA, 4-H,  
3 group, club, or other association shows or expositions.

4 (3) AGRITOURISM PROFESSIONAL. A person who is  
5 engaged in the business of providing agritourism activities  
6 including employees or authorized agents who offer or conduct  
7 agritourism activities on behalf of an agritourism  
8 professional.

9 (4) INHERENT RISKS OF AGRITOURISM ACTIVITIES. Those  
10 conditions, dangers, or hazards that are an integral part of  
11 an agritourism activity, including any of the following:

12 a. Surface and subsurface conditions and natural  
13 conditions of land, vegetation, and waters.

14 b. The behavior of wild animals or insects.

15 c. The behavior of domestic animals or insects as  
16 to:

17 1. The propensity of a domestic animal or insect to  
18 behave in ways that may result in sickness, injury, harm, or  
19 death to persons on or around them.

20 2. The unpredictability of the reaction of a  
21 domestic animal or insect to sounds, sudden movement, and  
22 unfamiliar objects, persons, or other animals.

23 d. The ordinary dangers of structures or equipment  
24 ordinarily used on a working agricultural operation, excluding  
25 a dangerous condition on structures or equipment ordinarily

1 used on a working agricultural operation that is actually  
 2 known by an agritourism professional, not open and obvious,  
 3 not made known to the participant, and the dangerous condition  
 4 proximately causes injury, sickness, damage, or death to the  
 5 participant.

6 e. The negligent acts of a participant that may  
 7 contribute to injury to the participant or others, including  
 8 failing to follow instructions given by an agritourism  
 9 professional, failing to exercise reasonable caution while  
 10 engaging in the agritourism activity, or failing to obey  
 11 written or oral warnings or postings on the premises of the  
 12 agritourism operation.

13 (5) PARTICIPANT. Any person, other than an  
 14 agritourism professional, who engages in an agritourism  
 15 activity.

16 (6) PERSON. An individual, governmental entity,  
 17 corporation, limited liability company, partnership,  
 18 unincorporated association, group, club, or other legal or  
 19 commercial entity.

20 Section 2. (a) Except as provided in Section 3, an  
 21 agritourism professional has no duty of care to inspect for an  
 22 inherent risk of agritourism activity and may not be liable  
 23 for an injury, sickness, or damage to a participant or the  
 24 death of a participant resulting from an inherent risk of an  
 25 agritourism activity. An agritourism professional does not

1 confer upon any participant the legal status of invitee or  
2 licensee.

3 (b) Except as provided in Section 3, a participant  
4 or a representative of a participant may not make a claim  
5 against, maintain an action against, or recover from an  
6 agritourism professional for injury, sickness, damage, or  
7 death of a participant resulting from an inherent risk of an  
8 agritourism activity.

9 Section 3. (a) Section 2 may not prevent or limit  
10 the liability of an agritourism professional who:

11 (1) Has actual knowledge of a dangerous condition on  
12 the land, facilities, or equipment that is not open and  
13 obvious or actual knowledge of the dangerous propensity of a  
14 particular animal that is not open and obvious, does not make  
15 the danger known to the participant, and the danger  
16 proximately causes injury, sickness, damage, or death to the  
17 participant.

18 (2) Fails to properly train or improperly or  
19 inadequately trains an employee who is actively involved in  
20 the agritourism activity and an act or omission of the  
21 employee proximately causes injury, sickness, damage, or death  
22 of the participant.

23 (3) Intentionally or willfully injures the  
24 participant.

1           (4) Fails to vaccinate, or quarantine sick domestic  
2 or domesticated animals in accordance with applicable animal  
3 health statutes and regulations.

4           Section 4. (a) This act does not apply unless an  
5 agritourism professional posts and maintains a warning notice  
6 printed in black letters, with each letter being at least one  
7 inch in height.

8           (b) The warning notice required under subsection (a)  
9 shall be placed in a clearly visible location at the main  
10 point of entrance to or the place of payment of monetary or  
11 other valuable compensation for the agritourism activity.

12           (c) The warning notice required under subsection (a)  
13 shall read as follows:

14           "WARNING.

15           "Under Alabama law, an agritourism professional is  
16 not liable for injury, sickness, or damage to, or the death  
17 of, a participant in an agritourism activity at this location  
18 if the injury, sickness, damage, or death results from the  
19 inherent risks of the agritourism activity.

20           "Inherent risks of an agritourism activity include  
21 risks of injury, sickness, damage, or death inherent to land,  
22 equipment, and animals as well as the potential for you to act  
23 in a negligent manner that may contribute to your injury,  
24 sickness, damage, or death, or for another participant to act

1 in a manner that may cause your injury, sickness, damage or  
2 death.

3 "You are assuming the risk of participating in this  
4 agritourism activity."

5 Section 5. This act does not enlarge or diminish the  
6 open and obvious doctrine.

7 Section 6. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 12-APR-12, as amended.

Greg Pappas  
Clerk

Senate

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16-MAY-12  
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Passed