

1 HB459  
2 138230-2  
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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8 SYNOPSIS: Under existing law, an agritourism  
9 professional operating an agritourism activity may  
10 be held liable for injury or death to a person  
11 participating in the agritourism activity.

12 This bill would limit the liability of an  
13 agritourism professional to a participant in an  
14 agritourism activity if the cause of the injury or  
15 death is an inherent risk of the agritourism  
16 activity and would provide exceptions.

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18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 Relating to agritourism; to limit the liability of  
23 an agritourism professional under certain circumstances; to  
24 provide exceptions.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

6 a. An activity at an agricultural operation, which  
7 is not already addressed under Sections 6-5-337 or 35-15-40,  
8 Code of Alabama 1975, including, but not limited to, farming,  
9 ranching, historic and cultural agricultural activities,  
10 self-pick farms, or farmers' markets.

11 b. An activity involving an animal exhibition, show,  
12 or competition at an agricultural fair or youth livestock  
13 show, which is not already addressed under Section 6-5-337,  
14 Code of Alabama 1975, including, but not limited to, FFA, 4-H,  
15 group, club, or other association shows or expositions.

16 (3) AGRITOURISM PROFESSIONAL. A person who is  
17 engaged in the business of providing agritourism activities  
18 including employees or authorized agents who offer or conduct  
19 agritourism activities on behalf of an agritourism  
20 professional.

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

24 a. Surface and subsurface conditions and natural  
25 conditions of land, vegetation, and waters.

26 b. The behavior of wild or domestic animals or  
27 insects.

1 c. The ordinary dangers of structures or equipment  
2 ordinarily used on a working agricultural operation.

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

10 (5) PARTICIPANT. Any person, other than an  
11 agritourism professional, who engages in an agritourism  
12 activity.

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

17 Section 2. (a) Except as provided in Section 3, an  
18 agritourism professional has no duty of care to inspect for an  
19 inherent risk of agritourism activity and may not be liable  
20 for an injury to a participant or the death of a participant  
21 resulting from an inherent risk of an agritourism activity. An  
22 agritourism professional does not confer upon any participant  
23 the legal status of invitee or licensee.

24 (b) Except as provided in Section 3, a participant  
25 or a representative of a participant may not make a claim  
26 against, maintain an action against, or recover from an  
27 agritourism professional for injury, loss, damage, or death of

1 a participant resulting from an inherent risk of an  
2 agritourism activity.

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

5 (1) Has actual knowledge of a dangerous condition on  
6 the land, facilities, or equipment that is not open and  
7 obvious or actual knowledge of the dangerous propensity of a  
8 particular animal that is not open and obvious, does not make  
9 the danger known to the participant, and the danger  
10 proximately causes injury, damage, or death to the  
11 participant.

12 (2) Fails to properly train or improperly or  
13 inadequately trains an employee who is actively involved in  
14 the agritourism activity and an act or omission of the  
15 employee proximately causes injury, damage, or death of the  
16 participant.

17 (3) Intentionally or willfully injures the  
18 participant.

19 Section 4. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.