

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

H.P. 1214 - L.D. 1605

An Act To Promote Agricultural Activity in Maine by Limiting the Liability
for Agritourism Activities

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA c. 8-E is enacted to read:

CHAPTER 8-E

AGRITOURISM ACTIVITIES

§251. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agritourism activity. "Agritourism activity" means any agricultural activity carried out on a farm or ranch that members of the general public are allowed to view or participate in, including farming, ranching, historical and cultural activities, harvest-your-own activities and attractions related to farming or ranching. An activity is an agritourism activity whether or not the participant pays to view or participate in the activity.

2. Agritourism professional. "Agritourism professional" means a person who is engaged in the business of farming or ranching and provides one or more agritourism activities, whether or not for compensation.

3. Farm or ranch. "Farm" or "ranch" means the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.

4. Farming or ranching. "Farming" or "ranching" means primarily engaging in the commercial production of agricultural products as a livelihood and includes dairy farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm or ranch that are incident to or in conjunction with these farming operations.

5. Inherent risks of agritourism activity. "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity, including but not limited to:

A. Certain hazards including surface and subsurface conditions and natural conditions of land, vegetation and waters;

B. The behavior of wild and domestic animals, including but not limited to the depositing of manure;

C. Ordinary dangers of structures or equipment ordinarily used in farming and ranching; and

D. The potential for injury to a participant or others if the participant acts in a negligent manner, including failing to follow instructions given by an agritourism professional or failing to exercise reasonable caution while engaging in an agritourism activity.

6. Participant. "Participant" means any person, other than the agritourism professional, who engages in an agritourism activity, whether or not a fee is paid to view or participate in the agritourism activity.

§252. Liability

1. No liability. Except as provided in subsection 2, an agritourism professional is not liable for any property damage or damages arising from the personal injury of a participant resulting from the inherent risks of agritourism activities. Except as provided in subsection 2, a participant or participant's representative may not make any claim or recover from an agritourism professional for property damage or damages for personal injury resulting from the inherent risks of agritourism activities. A participant expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury that results from the inherent risk of agritourism activities. A participant has the sole responsibility for knowing the range of that person's ability to participate in an agritourism activity. It is the duty of a participant to act within the limits of the participant's own ability, to heed all warnings and refrain from acting in a manner that may cause or contribute to the injury of any person or damage to any property.

2. Exceptions. Nothing in subsection 1 prevents or limits the liability of an agritourism professional if the agritourism professional:

A. Commits an act or omission that constitutes negligence or reckless disregard for the safety of others, and that act or omission causes an injury. For purposes of this section, "reckless" has the same meaning as "recklessly," as defined in Title 17-A, section 35, subsection 3, paragraph A;

B. Has actual knowledge or reasonably should have known of a dangerous condition of the land, facilities or equipment used in an agritourism activity or the dangerous propensity of a particular animal used in the agritourism activity and does not make the danger known to a participant, and the danger causes an injury; or

C. Intentionally injures a participant.

3. Assumption of risk. In a personal injury action against an agritourism professional, a defense or immunity described in subsection 1 may be asserted only if the participant injured in the course of an agritourism activity had been notified of the inherent risks of an agritourism activity and the limitations of liability.

For purposes of this subsection, notice of the inherent risks of agritourism activities may be satisfied either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agritourism activities take place. The statement or sign must contain the following information.

"WARNING

Under Maine law, there is no liability for injury to a participant in an agritourism activity conducted at this agritourism location if such injury results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment and animals, as well as the potential for injury if you act in a negligent manner. You are assuming the risk of participating in this agritourism activity."

The message on the sign must be in black letters at least one inch in height and the sign or signs must be placed in a clearly visible location on or near the places where the agritourism professional conducts agritourism activities.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor