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Assemblywoman ALISON LITTELL MCHOSE
District 24 (Morris, Sussex and Warren)
Assemblyman PAUL D. MORIARTY
District 4 (Camden and Gloucester)

Co-Sponsored by:
Assemblyman Chivukula

SYNOPSIS
Extends “Right to Farm” protection to certain agricultural tourism activities and events; requires adoption of agricultural management practices therefor; permits special occasion events that promote agricultural tourism conducted at wineries under certain circumstances.

CURRENT VERSION OF TEXT
As reported by the Senate Economic Growth Committee on March 24, 2014, with amendments.

(Sponsorship Updated As Of: 3/28/2014)
AN ACT concerning 1 [special occasion events conducted on
preserved farmland that promote] 1 agricultural tourism
1 activities and events, and amending 1 and supplementing 1 [Title

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. (New section) The Legislature finds and declares that:

a. The promotion of agricultural tourism is in the best interest
of the citizens of, and visitors to, the State, and affirms and supports
the many cultural, economic, environmental, historical, and societal
benefits provided by one of the largest and most essential industries
in the Garden State:

b. The State needs to encourage the promotion of agricultural
heritage, education, preservation, and production through a positive
agricultural business climate that protects farmland, recognizes the
relation between farming and tourism and related events,
encourages people to explore the diversity of agricultural
opportunities, and supports the marketing of agricultural tourism to
bolster the agricultural economy in the Garden State;

c. At the same time, the Legislature recognizes that special
occasion events and activities can also have significant negative
impacts on communities, neighborhoods, and residents near special
occasion events, and it is the intention of this act to balance the
promotion of agricultural tourism and special occasion events with
the protection of public health and safety and the integrity of local
zoning, land use, and the State’s farmland preservation activities;

d. Wineries serve an important role in diversifying the
agricultural products and services offered by farms in the State, are
uniquely suited to cultivating growth in the State’s tourism industry,
and invite residents and visitors alike to experience a myriad of
offerings available in the Garden State year-round;

e. New Jersey farmers are innovating their way toward greater
economic, environmental, and social sustainability, and their
adaptability to changes, brought by technological innovations and
marketplace dynamics, has enabled them to embrace the rich palette
of agricultural tourism offerings and possibilities;

f. Establishing certain requirements for agricultural tourism
and for special occasion events conducted on agricultural lands and
at farms with wineries would provide a proper balance for those
who work in the agriculture industry and those who appreciate the
activities, events, and opportunities that farms and wineries
uniquely offer, while protecting and sustaining the agricultural

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
Senate SEG committee amendments adopted March 24, 2014.
output of the farm and maintaining the integrity and credibility of
the “Right to Farm Act” and other farmland protections, including
those for farmland that has been preserved with funds supported by
the taxpayers of the State as well as the rights of neighboring
properties and communities to protect their quiet enjoyment from
special occasion events;
g. Establishing a framework by which a winery can
demonstrate it functions as a farm first and foremost, and limiting
cumbersome bureaucratic red tape that would hinder a winery’s
ability to provide agricultural tourism activities and events, will
create a balance that best allows a winery to appeal to visitors as a
farm while synchronizing its agricultural business practices with the
high expectations and standards of all farms operating in the State;
and
h. It is therefore the intent of P.L. , c. (C. ) (pending
before the Legislature as this bill) to establish as the policy of the
State the encouragement of, and support for, agricultural tourism
activities, events, and opportunities and special occasion events
that: (1) offer and promote agricultural heritage, education, and
appreciation and diversify and grow agricultural output, (2)
complement the preservation, protection, and retention of
agricultural lands and primary agricultural uses of wineries, and (3)
protect the integrity and character of the local existing places.

2. (New section) As used in P.L. , c. (C. ) (pending
before the Legislature as this bill):
“Agricultural tourism” means affordable, recreational, and
educational activities, events, and opportunities to learn about the
production of food, agricultural and horticultural products, and the
State’s farming heritage while helping to encourage the
preservation and retention of agricultural lands. “Agricultural
tourism” may include, but need not be limited to, activities, events,
and opportunities such as agricultural fairs, corn mazes, farm
festivals, hayrides, horseback riding, petting zoos, school tours,
special occasion events, and winery tours.

“Special occasion event” means a wedding, lifetime milestone
event, or other cultural or social event as defined by the appropriate
county agriculture development board, and conducted pursuant to
the requirements set forth in subsection a. of section 3 of P.L. ,
c. (C. ) (pending before the Legislature as this bill).

“Winery” means a commercial farm where the owner or operator
of the commercial farm has been issued and is operating in
compliance with a plenary winery license or farm winery license
pursuant to R.S.33:1-10.

Notwithstanding any other law, or any rule or regulation adopted pursuant thereto, to the contrary,
a] A special occasion event may be conducted on preserved farmland at a winery, pursuant to subsection h. of section 6 of P.L.1983, c.31 (C.4:1C-9), provided that:

1. The gross income generated by the winery from all special occasion events conducted for the calendar year together account for less than 50% of the annual gross income of the preserved farmland winery, or less than 50 percent of the average of the annual gross income of the winery over the preceding three-year period;  

2. (2) The special occasion event conducted on the preserved farmland advances the agricultural output of the winery, to the maximum extent practicable, to promote agricultural tourism and advance the agricultural or horticultural output of the preserved farm and promotes agricultural tourism; and  

3. The special occasion event is conducted on a Friday, Saturday, Sunday, or federal or State holiday, except that a special occasion event may be conducted on any other day of the week with the approval of the State Agriculture Development Committee. The committee may delegate its authority in that regard to a county agriculture development board;  

4. (4) The special occasion event is conducted in: (a) a temporary structure, such as an enclosed or open canopy or tent or other portable structure or facility, and any temporary structure would be put in place for only the minimum amount of time reasonably necessary to accommodate the special occasion event; (b) an existing permanent agricultural building; (c) a farm or open air pavilion; or (d) another structure used in the normal course of winery operations and activities;  

5. (5) The special occasion event complies with applicable municipal ordinances, resolutions, or regulations concerning litter, solid waste, and traffic and the protection of public health and safety;  

6. (6) The winery shall be subject to a site plan review and any applicable development approvals as may be required under an ordinance adopted pursuant to the “Municipal Land Use Law,” P.L.1975, c.291 (C.40:55D-1 et seq.);  

7. The special occasion event is subject to the noise standards set forth pursuant to the “Noise Control Act,” P.L.1971, c.418 (C.13:1G-1 et seq.), and the rules and regulations adopted thereto;  

8. (8) The special occasion event complies with any applicable municipal ordinance that restricts performing or playing music to inside the winery’s buildings and structures;  

9. (9) The special occasion event ends at a specific time, if required pursuant to a curfew established by a municipal ordinance;  

10. (10) The special occasion event would not knowingly result in a significant and direct negative impact to any property adjacent to
the winery; and

(11) the winery hosting a special occasion event enforces State
and federal requirements concerning the legal drinking age.  

b. Each county agriculture development board, as part of its
annual inspections of preserved farms, shall monitor and confirm
compliance with the provisions of this act.

c. An owner or operator of preserved farmland engaged in
conducting special occasion events shall annually certify to the
county agriculture development board that the special occasion
events together account for less than 50% of the annual gross
income of the preserved farmland during each calendar year. A
county agriculture development board shall forward the certification
of annual gross income to the State Agriculture Development
Committee.

d. An owner or operator of preserved farmland who violates
subsection c. of this section, or who submits false information or a
false certification pursuant to subsection c. of this section, shall be
liable to a civil penalty of $500 for the first offense and $1,000 for
any subsequent offense, to be collected in a civil action commenced
by the State Agriculture Development Committee.

Any penalty imposed pursuant to this subsection may be
collected, with costs, in a summary proceeding pursuant to the
et seq.). The Superior Court and the municipal court shall have
jurisdiction to enforce the provisions of the "Penalty Enforcement
Law of 1999" in connection with this act.

e. As used in this section:

"Agricultural tourism" means affordable, recreational, and
educational activities, events and opportunities to learn about the
production of food, agricultural and horticultural products and the
State’s farming heritage while helping to encourage the
preservation of agricultural lands. “Agricultural tourism” may
include, but need not be limited to, activities, events and
opportunities such as agricultural fairs, corn mazes, farm festivals,
farm markets, hayrides, horseback riding, pick-your-own
operations, school tours, special occasion events, and winery tours.

“Preserved farmland” means land on which a development
easement was conveyed to, or retained by, the State Agriculture
Development Committee, a county agriculture development board,
a county, a municipality, or a qualifying tax exempt nonprofit
organization pursuant to the provisions of section 24 of P.L.1983,
c.32 (C.4:1C-31), section 5 of P.L.1988, c.4 (C.4:1C-31.1), section
1 of P.L.1989, c.28 (C.4:1C-38), section 1 of P.L.1999, c.180
(C.4:1C-43.1), sections 37 through 40 of P.L.1999, c.152 (C.13:8C-
37 through C.13:8C-40), or any other State law enacted for
farmland preservation purposes.
“Special occasion event” means a wedding, other lifetime milestone event, or other special event, as determined by a county agriculture development board, held on a date allowed pursuant to paragraph (3) of subsection a. of this section, and which advances the agricultural or horticultural output of the preserved farm and promotes agricultural tourism. In determining the annual gross income of a winery pursuant to this section, the gross income received from any special occasion event shall include, but need not be limited to, admission fees; rental fees; setup, breakdown, and cleaning fees; and all other revenue that is not directly related to the agricultural output of the winery but is received by the winery in conjunction with conducting a special occasion event.

4. (New section) a. (1) A county agriculture development board or the State Agriculture Development Committee may order, for cause, and specify the scope of, an audit of the owner or operator of any winery engaged in conducting special occasion events, for the purpose of determining compliance with section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill). The audit shall be conducted by an independent certified public accountant approved by the board or the committee, and the reasonable costs thereof shall be paid by the owner or operator of the winery. A county agriculture development board, or the committee, may establish a list of independent certified public accountants approved for the purposes of conducting an audit pursuant to this paragraph. Copies of the audit shall be submitted to the board and the committee.

(2) An owner or operator of a winery engaged in conducting special occasion events shall not be subject to an audit authorized pursuant to this section more than once during a three-year period without good cause demonstrated by the applicable board or the committee.

b. An owner or operator of a winery engaged in conducting special occasion events shall annually certify to the county agriculture development board that the special occasion events together account for less than 50 percent of the annual gross income of the winery during the prior calendar year, or less than 50 percent of the average annual gross income of the winery over the preceding three-year period, pursuant to paragraph (1) of subsection a. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill). The board shall forward the certification of annual gross income to the committee.

c. In conjunction with an audit ordered pursuant to subsection a. of this section, a board or the committee may request, and the winery shall then submit, additional documentation as may be necessary for the board or committee to verify compliance with
paragraph (1) of subsection a. of section 3 of P.L. , c. (C. ).
(pending before the Legislature as this bill).¹

¹. (New section) a. An owner or operator of a winery who
violates P.L. , c. (C. ) (pending before the Legislature as
this bill) shall be liable to a civil penalty of up to $1,000 for the first
offense, up to $2,000 for the second offense, or up to $3,000 for a
subsequent offense, to be collected in a civil action commenced by
the State Agriculture Development Committee.

b. In addition to the penalties established pursuant to
subsection a. of this section:

   (1) for a second offense, the committee shall, after a hearing,
suspend the owner or operator of a winery from conducting special
occasion events for a period of up to six months;

   (2) for a third offense, the committee shall, after a hearing,
suspend the owner or operator of a winery from conducting special
occasion events for a period of at least six months but not more than
one year; and

   (3) for a fourth or subsequent offense, the committee shall, after
a hearing, suspend the owner or operator of a winery from
conducting special occasion events for a period of at least one year
but not more than two years.

Any penalty imposed pursuant to this section may be
collected, with costs, in a summary proceeding pursuant to the
et seq.). The Superior Court and the municipal court shall have
jurisdiction to enforce the provisions of the "Penalty Enforcement
Law of 1999" in connection with P.L. , c. (C. ) (pending
before the Legislature as this bill).¹

¹. Section 6 of P.L.1983, c.31 (C.4:1C-9) is amended to read as
follows:

6. Notwithstanding the provisions of any municipal or county
ordinance, resolution, or regulation to the contrary, the owner or
operator of a commercial farm, located in an area in which, as of
December 31, 1997 or thereafter, agriculture is a permitted use
under the municipal zoning ordinance and is consistent with the
municipal master plan, or which commercial farm is in operation as
of the effective date of P.L.1998, c.48 (C.4:1C-10.1 et al.), and the
operation of which conforms to agricultural management practices
recommended by the committee and adopted pursuant to the
(C.52:14B-1 et seq.), or whose specific operation or practice has
been determined by the appropriate county board, or in a county
where no county board exists, the committee, to constitute a
generally accepted agricultural operation or practice, and all
relevant federal or State statutes or rules and regulations adopted
pursuant thereto, and which does not pose a direct threat to public health and safety may:

a. Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing, and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System;

b. Process and package the agricultural output of the commercial farm;

c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards;

d. Replenish soil nutrients and improve soil tilth;

e. Control pests, predators, and diseases of plants and animals;

f. Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas;

g. Conduct on-site disposal of organic agricultural wastes;

h. Except as provided pursuant to paragraph (6) of subsection a. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), conduct agriculture-related educational and farm-based recreational activities, including agricultural tourism activities and events, provided that the activities and events are related to marketing and advancing the agricultural or horticultural output of the commercial farm;

i. Engage in the generation of power or heat from biomass, solar, or wind energy, provided that the energy generation is consistent with the provisions of P.L.2009, c.213 (C.4:1C-32.4 et al.), as applicable, and the rules and regulations adopted therefor and pursuant to section 3 of P.L.2009, c.213 (C.4:1C-9.2); and

j. Engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

7. (New section) a. The committee shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary for the implementation of P.L. , c. (C. ) (pending before the Legislature as this bill).

b. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, within two years after the date of enactment of P.L. , c. (C. ) (pending before the
Legislature as this bill), the committee shall adopt, immediately
upon filing with the Office of Administrative Law, agricultural
management practices for agricultural tourism activities and events
on commercial farms, which shall be effective for a period not to
exceed two years following the date of enactment of P.L.____,
c. (C.) (pending before the Legislature as this bill) and shall
thereafter be amended, adopted, or readopted by the committee in
accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
et seq.). During the two year period after the date of enactment of
P.L., c. (C.) (pending before the Legislature as this bill) and
prior to the filing and adoption of the agricultural management
practices pursuant to this subsection, a commercial farm shall be
permitted to continue planning and conducting agricultural tourism
activities and events.

For the purposes of this section and subsection h. of section
6 of P.L.1983, c.31 (C.4:1C-9), an agricultural tourism event
includes a “special occasion event” as defined pursuant to section 2
of P.L., c. (C.) (pending before the Legislature as this
bill). ¹

¹This act shall take effect immediately.