

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1348 Session of
2019

INTRODUCED BY GLEIM, GREINER, CAUSER, PYLE, ECKER, M. K. KELLER,
BERNSTINE, ZIMMERMAN, GILLESPIE, PICKETT, GROVE, KAUFFMAN,
JOZWIAK, OWLETT, MENTZER, HERSHEY, STRUZZI, PASHINSKI, HAHN,
RYAN, IRVIN, MILLARD, BURGOS, BOROWICZ, LAWRENCE, SNYDER,
GREGORY, KLUNK, WARNER, OBERLANDER, RADER, KAIL, GAYDOS,
METCALFE, ROTHMAN, REESE, RIGBY, MOUL, TOPPER, KEEFER, JONES,
DUSH, DUNBAR, EVERETT, HICKERNELL, MUSTELLO, SCHLEGEL CULVER,
GILLEN, ROWE, SCHEMEL, JAMES, MACKENZIE AND POLINCHOCK,
MAY 1, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
DECEMBER 17, 2019

AN ACT

1 Providing for limited civil liability for agritourism activity
2 providers, for notice of limited civil liability and for
3 acknowledgment of limited civil liability.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Agritourism
8 Activity Protection Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Agritourism activity." As follows:

14 (1) A farm-related tourism or farm-related entertainment

1 activity that takes place on agricultural land and allows
2 members of the general public, whether or not for a fee, to
3 tour, explore, observe, learn about, participate in or be
4 entertained by an aspect of agricultural production,
5 harvesting, husbandry or rural lifestyle that occurs on the
6 farm.

7 (2) The term shall not include overnight accommodations,
8 weddings, concerts or provisions for food and beverage
9 services.

10 "Agritourism activity provider." A person who owns,
11 operates, provides or sponsors an agritourism activity, whether
12 or not for a fee, or an employee of such a person.

13 "Dangerous condition." A condition that creates an imminent
14 and substantial risk of injury or damages to a participant.

15 "Participant." An individual, other than an employee of an
16 agritourism activity provider, who engages in an agritourism
17 activity.

18 Section 3. Limited civil liability for agritourism activity
19 providers.

20 (a) Liability.--Except as otherwise provided by subsection
21 (b), an agritourism activity provider shall not be civilly
22 liable for injury or damages to a participant if:

23 (1) at the time of the agritourism activity from which
24 the injury or damages occurred, a warning sign was posted in
25 accordance with section 4; and

26 (2) the agritourism activity provider entered into a
27 written agreement with the participant in accordance with
28 section 5 with respect to the agritourism activity from which
29 the injury or damages occurred.

30 (b) Exceptions.--An agritourism activity provider shall not

1 be immune from civil liability for injury or damages if any of
2 the following apply:

3 (1) The agritourism activity provider ~~acts with a~~ <--
4 ~~willful or wanton disregard for the safety of the~~
5 ~~participant.~~ PERFORMS AN ACT IN A GROSSLY NEGLIGENT MANNER <--
6 AND CAUSES INJURY OR DAMAGES TO A PARTICIPANT.

7 (2) The agritourism activity provider purposefully
8 causes the injury or damages to a participant.

9 (3) The agritourism activity provider's action or
10 inaction constitutes criminal conduct and causes the injury
11 or damages to a participant.

12 (4) ~~The agritourism activity provider has or should have~~ <--
13 ~~had actual knowledge of a dangerous condition of the land,~~
14 ~~facilities or equipment used in the agritourism activity,~~
15 ~~does not repair or make the dangerous condition known to the~~
16 ~~participant and the dangerous condition causes injury or~~
17 ~~damages to a participant.~~ THE AGRITOURISM ACTIVITY PROVIDER <--
18 RECKLESSLY FAILS TO WARN OR GUARD AGAINST A DANGEROUS
19 CONDITION THAT CAUSES INJURY OR DAMAGES TO A PARTICIPANT.

20 Section 4. Notice of limited civil liability.

21 (a) Notice.--For the purpose of providing notice of the
22 limited liability under section 3, an agritourism activity
23 provider shall post and maintain a sign with a warning notice in
24 accordance with subsection (b). The agritourism activity
25 provider shall post the sign in a clearly visible location at or
26 near each entrance to the farm or at the site of each
27 agritourism activity.

28 (b) Contents.--The warning notice shall consist of a sign
29 that is at least three feet by two feet in dimension and states
30 the following:

1 "WARNING: Read your written agreement or the back of
2 your ticket. Under Pennsylvania law, except for limited
3 circumstances, an agritourism activity provider is not
4 liable for any injury to or death of a participant
5 resulting from an agritourism activity. Do not
6 participate in the activity if you do not wish to waive
7 liability."

8 Section 5. Acknowledgment of limited civil liability.

9 For the purpose of enforcing the limited liability under
10 section 3, a written agreement between an agritourism activity
11 provider and a participant shall be enforceable if the written
12 agreement meets all the following criteria:

13 (1) The written agreement is signed before the
14 participant engages in an agritourism activity.

15 (2) The written agreement is signed by the participant
16 or, if the participant is a minor or care dependent person,
17 the participant's parent or guardian.

18 (3) The written agreement is in a document separate from
19 any other agreement between the participant and the
20 agritourism activity provider, except for a document that
21 includes a different warning, consent or assumption of risk
22 statement.

23 (4) The written agreement is printed in not less than
24 10-point bold type.

25 (5) The written agreement contains the following
26 language:

27 "AGREEMENT AND WARNING: I understand and acknowledge
28 that, except for limited circumstances listed below,
29 an agritourism activity provider is not liable for
30 any injury to or death of a participant resulting

1 from an agritourism activity. I understand that I
2 have accepted all risk of injury, death, property
3 damage and other loss that may result from an
4 agritourism activity. I understand that an
5 agritourism activity provider is not protected from
6 liability if the provider:

7 (1) ~~Acts with a willful or wanton disregard for~~ <--
8 ~~a participant's safety.~~ PERFORMS AN ACT IN A GROSSLY <--
9 NEGLIGENT MANNER AND CAUSES INJURY OR DAMAGES TO A
10 PARTICIPANT.

11 (2) Purposefully causes a participant's injury.

12 (3) Acts or fails to act in a way that
13 constitutes criminal conduct.

14 (4) ~~Has or should have had actual knowledge of a~~ <--
15 ~~dangerous condition of the land, facilities or~~
16 ~~equipment used in the agritourism activity and does~~
17 ~~not repair or make the dangerous condition known to~~
18 ~~the participant.~~ RECKLESSLY FAILS TO WARN OR GUARD <--
19 AGAINST A DANGEROUS CONDITION THAT CAUSES INJURY OR
20 DAMAGES TO A PARTICIPANT. A dangerous condition is a
21 condition that creates an imminent and substantial
22 risk of injury or damages to a participant."

23 (6) Notwithstanding paragraphs (1), (2), (3) and (4), a
24 written agreement that contains substantially the same
25 language under paragraph (5) may be printed on a ticket
26 required for access to an agritourism activity.

27 Section 6. Applicability.

28 This act shall apply to any cause of action that arises on or
29 after the effective date of this section.

30 Section 7. Effective date.

1 This act shall take effect in 60 days.