

The National Agricultural
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States' Agritourism Statutes

State of Louisiana

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States' Agritourism Statutes

STATE OF LOUISIANA

Current through the 2008 Legislative Session.

§ 9:2795.5. Limitation of liability; agritourism activities; definitions; exceptions; required warning

- A. As used in this Section, the following terms shall have the following meanings, unless the context requires otherwise:
- (1) "Agritourism" means the travel or visit by the general public to, or the practice of inviting the general public to travel to or visit, a working farm, ranch, or other commercial agricultural, aquacultural, horticultural or forestry operation for the purpose of enjoyment, education, or participation in the activities of the farm, ranch, or other agricultural, aquacultural, horticultural, or forestry operation
 - (2) "Agritourism activities" means those activities related to agritourism as defined in rules and regulations adopted by the commissioner of agriculture and forestry in accordance with the Administrative Procedure Act, and which the conduct of any such activity is set forth in a plan of operation approved by the director of the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center or his designee.
 - (3) "Agritourism professional" means any person and his employees or authorized agents who offers or conducts one or more agritourism activities or agritourism purposes.
 - (4) "Inherent risks of agritourism activity" means those conditions, dangers, or hazards that are an integral part of an agritourism activity, including surface and subsurface conditions of the land and water; natural conditions of vegetation; the behavior of wild or domestic animals; those arising from the form or use of structures or equipment ordinarily used on a working far, ranch or other commercial agricultural, aquacultural, horticultural, or forestry operation; and the mistakes or negligent acts of a participant that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.
 - (5) "Participant" means any person, other than an agritourism professional, who engages in an agritourism activity, even if that person did not pay to participate in the agritourism activity.
- B. (1) Except as provided in Paragraph (2) of this Subsection, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in Subsection C of this Section is posted as required and, except as provided in Paragraph (2) of this Subsection, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage or death of the participant resulting exclusively from any of the inherent

risks of agritourism activities. In any action for damages arising out of an agritourism activity against an agritourism professional, the agritourism professional shall plead the provisions of this Section as an affirmative defense.

(2) Nothing contained in Paragraph (1) of this Subsection prevents or limits the liability of an agritourism professional, if the agritourism professional does any one or more of the following:

- (a) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission caused injury, damage, or death to the participant.
- (b) Intentionally injures the participant.
- (c) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facility upon which the participant sustained injuries because of a dangerous latent condition, including but not limited to the dangerous propensity of a particular animal used in such activity, which was known or should have been known to the agritourism professional and for which warning signs have not been conspicuously posted.
- (d) Any limitation on liability provided by Paragraph (1) of this Subsection shall prevent or limit the liability of an agritourism professional is in addition to any other limitation of liability otherwise provided by law.

(3) Nothing contained in Paragraph (1) of this Subsection shall prevent or limit the liability of an agritourism professional under liability provisions set forth in the Louisiana Products Liability Act, R.S. 9:2800.51 through 2800.60.

C. (1) Every agritourism professional shall post and maintain signs that contain the warning notice specified in Paragraph (2) of this Subsection and shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the warning notice specified in Paragraph (2) of this Subsection.

(2) The signs and contracts described in Paragraph (1) of this Subsection shall contain the following notice of warning:

WARNING

Under Louisiana law, R.S. 9:2795.5, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, the risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death.

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

(3) Failure to comply with the requirements concerning warning signs and notices provided in this Subsection shall prevent an agritourism professional from invoking the limitation of liability provided by this Section.