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States' Agritourism Statutes

State of South Dakota

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States' Agritourism Statutes

STATE OF SOUTH DAKOTA

SDCL § 20-9-12 to § 20-9-18

Current through the 2010 Regular Session and Supreme Court Rule 10-03

20-9-12. Definition of terms

Terms used in §§ 20-9-12 to 20-9-18, inclusive, mean:

- (1) "Charge," the admission price or fee asked in return for invitation or permission to enter or go upon the land. Any nonmonetary gift to an owner that is less than one hundred dollars in value may not be construed to be a charge;
- (2) "Land," land, trails, water, watercourses, private ways and agricultural structures, and machinery or equipment if attached to the realty;
- (3) "Outdoor recreational purpose," includes, but is not limited to, any of the following activities, or any combination thereof: hunting, fishing, swimming other than in a swimming pool, boating, canoeing, camping, picnicking, hiking, biking, off-road driving, nature study, water skiing, winter sports, snowmobiling, viewing, or enjoying historical, archaeological, scenic, or scientific sites;
- (4) "Agritourism activity," any activity carried out on a farm, on a ranch, in a forest, or on an agribusiness operation that allows members of the general public, for recreational, entertainment, or educational purposes, to view or participate in agricultural activities, including farming, ranching, historical, cultural, harvest-your-own, or nature-based activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity. An activity is not an agritourism activity if the participant is paid to participate in the activity;
- (5) "Owner," the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises.

20-9-13. Landowner not obligated to keep land safe for use by others for outdoor recreational purposes or to give warning--Exception

Except as provided in § 20-9-16, an owner of land owes no duty of care to keep the land safe for entry or use by others for outdoor recreational purposes or agritourism activities, or to give any warning of a dangerous condition, use, structure, or activity on his land to persons entering for outdoor recreational purposes.

20-9-14. Liability of landowner for invitation to use property for outdoor recreation or agritourism--Exception

Except as provided in § 20-9-16, an owner of land who either directly or indirectly invites or permits without charge any person to use his property for outdoor recreational purposes or agritourism activities, including any person who is on the property pursuant to § 41-9-8, does not thereby:

- (1) Extend any assurance that the land is safe for any purpose;
- (2) Confer upon any person the legal status of an invitee or licensee to whom a duty of care is owed; or
- (3) Assume responsibility for, or incur liability for, any injury to persons or property caused by an act of omission of the owner as to maintenance of the land.

20-9-15. Landowner liability for land leased to state or its political subdivisions for outdoor recreation or agritourism

Unless otherwise agreed in writing, the provisions of §§ 20-9-13 and 20-9-14 apply to the duties and liability of an owner of land leased to the state or any political subdivision thereof for outdoor recreational purposes or agritourism activities.

20-9-16. Liability of landowner for gross negligence or injury suffered where consideration charged or law violated

Nothing in §§ 20-9-12 to 20-9-18, inclusive, limits in any way any liability which otherwise exists:

- (1) For gross negligence or willful or wanton misconduct of the owner;
- (2) For injury suffered in any case where the owner of land charges any person who enters or goes on the land for the outdoor recreational use of the land or for agritourism activity, except that in the case of land leased to the state or a political subdivision of the state, any consideration received by the owner for the lease may not be deemed a charge within the meaning of this section nor may any incentive payment paid to the owner by the state or federal government to promote public access for outdoor recreational purposes or agritourism activities be considered a charge; or

(3) For injury suffered in any case where the owner has violated a county or municipal ordinance or state law which violation is a proximate cause of the injury.

20-9-17. Liability for injury to persons or property or failure to exercise care in use of land for outdoor recreation or agritourism

Sections 20-9-12 to 20-9-18, inclusive, may not be construed to create a duty of care or ground of liability for injury to persons or property, or relieve any person using the land of another for outdoor recreational purposes or agritourism activities from any obligation which he may have in the absence of §§ 20-9-12 to 20-9-18, inclusive, to exercise care in his use of such land and in his activities thereon, or from the legal consequences of failure to employ such care.

20-9-18. Doctrine of attractive nuisance not affected

Sections 20-9-12 to 20-9-18, inclusive, does not affect the doctrine of attractive nuisance or other legal doctrines relating to liability arising from artificial conditions highly dangerous to children.