



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3333

by Rep. Norine Hammond

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Agritourism Limitation of Liability Act. Defines terms. Provides that a registered agritourism operator is not liable for injury to or death of a participant resulting from the inherent risks of a registered agritourism activity so long as warning signage is posted as required, and no participant or participant's representative may maintain an action against or recover from a registered agritourism operator for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of the registered activity. Provides that nothing in the new Act prevents or limits liability if the operator: (1) injures the participant by willful or wanton conduct; (2) has actual knowledge or should have known of a dangerous condition in the facilities or equipment used in the registered agritourism activity and does not make the dangerous condition known to a participant and the dangerous condition causes the participant to sustain injuries; or (3) fails to use that degree of care that an ordinarily careful and prudent person would use under the same or similar circumstances. Provides that in actions arising from the operation of a registered tourism activity in which an owner or operator is named as a defendant, it shall be an affirmative defense to that liability that: (1) the injured person assumed the risk; (2) the injured person deliberately disregarded conspicuously posted signs, verbal instructions, or other warnings regarding safety measures during the activity; or (3) any equipment, animals, or appliances used by the injured person during the activity were used in a manner or for a purpose other than that for which a reasonable person should have known they were intended. Directs the Department of Agriculture to adopt rules to implement the new Act.

LRB098 08831 HEP 38957 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Agritourism Limitation of Liability Act.

6 Section 5. Definitions. As used in this Act:

7 "Agritourism activity" means any activity which allows  
8 members of the general public, for recreational,  
9 entertainment, or educational purposes, to view or enjoy rural  
10 activities, including but not limited to farming activities,  
11 ranching activities, or historic, cultural, or natural  
12 attractions. An activity may be an agritourism activity whether  
13 or not the participant pays to participate in the activity. An  
14 activity is not an agritourism activity if the participant is  
15 paid to participate in the activity.

16 "Department" means the Illinois Department of Agriculture.

17 "Inherent risks of a registered agritourism activity"  
18 means those dangers or conditions which are an integral part of  
19 an agritourism activity, including but not limited to hazards  
20 such as surface and subsurface conditions; natural conditions  
21 of land, vegetation, and water; the behavior of wild or  
22 domestic animals; and ordinary dangers of structures or  
23 equipment ordinarily used in farming or ranching operations.

1 "Inherent risks of a registered agritourism activity" includes  
2 the potential of a participant to act in a negligent manner  
3 that may contribute to injury to the participant or others,  
4 such as failing to follow instructions given by the registered  
5 agritourism operator or failing to exercise reasonable caution  
6 while engaging in the registered agritourism activity.

7 "Participant" means any person who engages in a registered  
8 agritourism activity.

9 "Registered agritourism activity" means any agritourism  
10 activity that is registered under this Act with the  
11 Department's Bureau of Marketing and Promotion.

12 "Registered agritourism location" means a specific parcel  
13 of land which is registered under this Act with the  
14 Department's Bureau of Marketing and Promotion and where a  
15 registered agritourism operator engages in registered  
16 agritourism activities.

17 "Registered agritourism operator" means any person who is  
18 engaged in the business of providing one or more agritourism  
19 activities and is registered under this Act with the Department  
20 of Agriculture's Bureau of Marketing and Promotion.

21 Section 10. Signage requirements.

22 (a) At every registered agritourism location, the  
23 registered agritourism operator shall post and maintain  
24 signage which contains the warning notice specified in  
25 subsection (c) of this Section. The requirements of this

1 Section shall be deemed satisfied if the signage is placed in a  
2 clearly visible location at or near the registered agritourism  
3 location. The warning notice shall appear on the sign in black  
4 letters, with each letter at least one inch in height.

5 (b) Every written contract entered into by a registered  
6 agritourism operator for the providing of a registered  
7 agritourism activity shall contain in clearly readable print  
8 the warning notice and language specified in sub-section (c) of  
9 this Section.

10 (c) The required signage under this Section shall contain  
11 the following warning notice:

12 "WARNING: Under Illinois law, there is no liability for an  
13 injury or death of a participant in a registered agritourism  
14 activity conducted at this registered agritourism location if  
15 the injury or death results from the inherent risks of the  
16 agritourism activity. Inherent risks of agritourism activities  
17 include, but are not limited to, the potential of you as a  
18 participant to act in a negligent manner that may contribute to  
19 your injury or death and the potential of another participant  
20 to act in a negligent manner that may contribute to your injury  
21 or death. You are assuming the risk of participating in this  
22 registered agritourism activity."

23 (d) Upon request, the registered agritourism operator  
24 shall provide to any participant a written description of the  
25 registered agritourism activity, as that term is defined in  
26 Section 5 of this Act, for which this Act limits the registered

1 agritourism operator's liability at the registered agritourism  
2 location.

3 Section 15. Limitation of Liability.

4 (a) Except as provided in subsection (b) of this Section, a  
5 registered agritourism operator is not liable for injury to or  
6 death of a participant resulting from the inherent risks of a  
7 registered agritourism activity so long as the warning  
8 contained in Section 10 of this Act is posted as required, and,  
9 except as provided in subsection (b) of this Section, no  
10 participant or participant's representative may maintain an  
11 action against or recover from a registered agritourism  
12 operator for injury, loss, damage, or death of the participant  
13 resulting exclusively from any of the inherent risks of a  
14 registered agritourism activity.

15 (b) Nothing in this Act prevents or limits the liability of  
16 a registered agritourism operator if the registered  
17 agritourism operator:

18 (1) injures the participant by willful or wanton  
19 conduct;

20 (2) has actual knowledge or should have known of a  
21 dangerous condition in the facilities or equipment used in  
22 the registered agritourism activity and does not make the  
23 dangerous condition known to a participant and the  
24 dangerous condition causes the participant to sustain  
25 injuries; or

1           (3) fails to use that degree of care that an ordinarily  
2           careful and prudent person would use under the same or  
3           similar circumstances.

4           (c) In any action for damages for personal injury, death,  
5           or property damage arising from the operation of a registered  
6           tourism activity in which an owner or operator is named as a  
7           defendant, it shall be an affirmative defense to that liability  
8           that:

9           (1) the injured person assumed the risk;

10          (2) the injured person deliberately disregarded  
11          conspicuously posted signs, verbal instructions, or other  
12          warnings regarding safety measures during the activity; or

13          (3) any equipment, animals, or appliances used by the  
14          injured person during the activity were used in a manner or  
15          for a purpose other than that for which a reasonable person  
16          should have known they were intended.

17          Section 20. Rulemaking authority. The Department shall  
18          adopt rules to implement this Act.