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S.269

Introduced by Senators Lyons, Baruth, McCormack, Pearson and Pollina

Referred to Committee on

Date:

Subject: Court procedure; immunity from liability; agritourism

Statement of purpose of bill as introduced: This bill proposes to make providers of agritourism activities immune from civil liability if a participant is injured as a result of risks inherent in the activity and the provider has posted a warning about those risks.

An act relating to immunity from liability for agritourism activities

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 12 V.S.A. § 5785 is added to read:

§ 5785. AGRITOURISM ACTIVITIES

(a) Except as provided in subsections (b) and (c) of this section, an agritourism provider shall not be subject to civil liability for harm sustained by a participant in the provider's agritoursim activities if the participant is harmed as a result of a risk inherent in the agricultural activity.

(b) This section shall not apply to gross negligence, recklessness, or intentional misconduct on the part of the agritourism provider.

1           (c) This section shall not apply unless the agritourism provider posts the  
2           following warning, written in black letters at least one inch in height, at a  
3           prominent location at the place where the agritourism activity takes place:

4   WARNING

5           Under Vermont law, an agritourism operation is not liable for any  
6           injury or harm to a participant in an agritourism activity conducted at this  
7           agritourism location if the injury or harm results from the inherent risks of the  
8           agritourism activity. Inherent risks of agritourism activities include, among  
9           others, risks of injury inherent to land, equipment, and animals, as well as the  
10          potential for injury if you act in a negligent manner. You are assuming the risk  
11          by participating in this agritourism activity.

12          (d) As used in this section:

13                  (1) "Agritourism activity" means any agriculturally related activity  
14                  conducted on a farm that allows or invites members of the public to observe or  
15                  participate in the activity, including farming, ranching, educational,  
16                  entertainment, historical, cultural, and recreational activities; pick-your-own  
17                  operations; and farm markets. An activity is an agritourism activity whether or  
18                  not the participant pays to observe or participate.

19                  (2) "Agritourism provider" means a person who is engaged in the  
20                  business of providing agritourism activities, whether or not for compensation.

1           (3) “Risk inherent in an agritourism activity” means a danger or  
2           condition that is an integral part of an agritourism activity, including:  
3                   (A) surface and subsurface conditions, and natural conditions of land,  
4           vegetation, and waters;  
5                   (B) the behavior of wild and domestic animals;  
6                   (C) the ordinary dangers of structures or equipment ordinarily used in  
7           farming or ranching; and  
8                   (D) the potential for injury to a participant or others if the participant  
9           acts in a negligent manner, including failing to follow instructions given by an  
10           agritourism provider or failing to exercise reasonable caution while engaging  
11           in an agritourism activity.

12           Sec. 2. EFFECTIVE DATE

13           This act shall take effect on passage.