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H.794

Introduced by Representatives Yantachka of Charlotte, Anthony of Barre City,
Austin of Colchester, Bancroft of Westford, Bock of Chester,
Brumsted of Shelburne, Campbell of St. Johnsbury, Chesnut-
Tangerman of Middletown Springs, Christensen of
Weathersfield, Colston of Winooski, Cordes of Lincoln,
Demrow of Corinth, Dolan of Waitsfield, Fegard of Berkshire,
Gannon of Wilmington, Goslant of Northfield, Gregoire of
Fairfield, Hango of Berkshire, Harrison of Chittenden, Hooper
of Burlington, Jerome of Brandon, Kimbell of Woodstock,
Lefebvre of Newark, Leffler of Enosburgh, Morgan of Milton,
Nicoll of Ludlow, Redmond of Essex, Reed of Braintree,
Scheuermann of Stowe, Sibia of Dover, Smith of New Haven,
Strong of Albany, Troiano of Stannard, and Wood of Waterbury

Referred to Committee on

Date:

Subject: Agritourism; court procedure; immunity from liability;

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.

1 An act relating to limiting liability for agritourism

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

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

4 § 5785. AGRITOURISM ACTIVITIES

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

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

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

14 WARNING

15 Under Vermont law, an agritourism operation is not liable for any
16 injury or harm to a participant in an agritourism activity conducted at this
17 agritourism location if the injury or harm results from the inherent risks of the
18 agritourism activity. Inherent risks of agritourism activities include, among
19 others, risks of injury inherent to land, equipment, and animals, as well as the
20 potential for injury if you act in a negligent manner. You are assuming the risk
21 by participating in this agritourism activity.

1 (d) As used in this section:

2 (1) “Agritourism activity” means any agriculturally related activity
3 conducted on a farm that allows or invites members of the public to observe or
4 participate in the activity, including farming, ranching, educational,
5 entertainment, historical, cultural, and recreational activities; pick-your-own
6 operations; and farm markets. An activity is an agritourism activity whether or
7 not the participant pays to observe or participate.

8 (2) “Agritourism provider” means a person who is engaged in the
9 business of providing agritourism activities, whether or not for compensation.

10 (3) “Risk inherent in an agritourism activity” means a danger or
11 condition that is an integral part of an agritourism activity, including:

12 (A) surface and subsurface conditions, and natural conditions of land,
13 vegetation, and waters;

14 (B) the behavior of wild and domestic animals;

15 (C) the ordinary dangers of structures or equipment ordinarily used in
16 farming or ranching; and

17 (D) the potential for injury to a participant or others if the participant
18 acts in a negligent manner, including failing to follow instructions given by an
19 agritourism provider or failing to exercise reasonable caution while engaging
20 in an agritourism activity.

- 1 Sec. 2. EFFECTIVE DATE
- 2 This act shall take effect on passage.