

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Agriculture and Forestry to which was referred House
3 Bill No. 794 entitled “An act relating to limiting liability for agritourism”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 3. 12 V.S.A. chapter 212 is added to read:

8 CHAPTER 212. LIMITATION ON LIABILITY FOR AGRITOURISM

9 ACTIVITY

10 § 5871. DEFINITIONS

11 As used in this chapter:

12 (1)(A) “Agritourism activity” means an interactive or passive activity
13 that is:

14 (i) carried out with or without payment to an agritourism host on a
15 farm regulated under 6 V.S.A. chapter 215, related to farming, food
16 production, historic tradition, or nature watching; and

17 (ii) conducted by an agritourism host for the education,
18 entertainment, or recreation of participants.

19 (B) “Agritourism activity” includes a farming activity; the viewing of
20 a historic, cultural, or natural attraction; a pick-your-own activity; nature
21 watching; and an activity involving an animal exhibition at an agricultural fair.

1 (C) “Agritourism activity” does not include a roadside farm stand or
2 operation exclusively devoted to the sale of merchandise or food at retail.

3 (2) “Agritourism host” means a person who provides the facilities and
4 equipment necessary to participate in an agritourism activity.

5 (3) “Farm” means a parcel or parcels of land owned, leased, or managed
6 by a person and devoted primarily to farming that meets the threshold criteria
7 established by the Required Agricultural Practices.

8 (4) “Farming” has the same meaning as in 10 V.S.A. § 6001.

9 (5) “Inherent risk” means any danger or condition that is an integral part
10 of, or arises from, an agritourism activity, including:

11 (A) the propensity of a wild animal or domestic animal to behave in
12 ways that may result in injury or death to persons on or near the wild animal or
13 domestic animal;

14 (B) a hazard such as a surface or subsurface condition;

15 (C) a natural condition of land, vegetation, or waters;

16 (D) the ordinary dangers of structures or equipment used in farming;

17 and

18 (E) the potential of a participant to act in a negligent way that may
19 contribute to injury or death to the participant or others, such as failing to
20 follow safety procedures or failing to act with reasonable caution while
21 engaging in an agritourism activity.

1 (6) “Participant” means any person who is invited onto the farm for the
2 purpose of participating in an agritourism activity.

3 § 5872. LIMITATION ON DUTY TO PROTECT

4 (a) Except as provided in subsection (b) of this section, an agritourism host
5 shall not have a legal duty to protect a participant from the inherent risks of an
6 agritourism activity and shall not be liable for injury to or death of a participant
7 resulting from the inherent risks of an agritourism activity, provided that the
8 agritourism host posts the warning required under section 5873 of this title.

9 (b) Nothing in subsection (a) of this section shall limit the liability of an
10 agritourism host who:

11 (1) commits an act or omission of negligence concerning the safety of a
12 participant that proximately causes injury or death to the participant;

13 (2) has actual knowledge of:

14 (A) a dangerous condition on the land, facilities, or equipment used
15 in the activity, or

16 (B) the dangerous propensity of an animal used in the activity, which
17 proximately causes injury or death to the participant, and does not make that
18 danger known to the participant;

19 (3) intentionally injures a participant; or

1 (4) commits any other act, error, or omission that constitutes willful or
2 wanton misconduct, negligence, or criminal conduct that proximately causes
3 injury or death to the participant.

4 (c) Any limitation on liability afforded by this section to an agritourism
5 host is in addition to any other limitations on liability otherwise provided by
6 law.

7 § 5873. WARNING NOTICE; POSTING; CONTRACTS

8 (a) To qualify for the limitation on liability under section 5872 of this title:

9 (1) an agritourism host shall post and maintain a sign in a clearly visible
10 location at or near the main entrance to each agritourism activity and in black
11 letters at least one inch in height containing the warning notice specified in
12 subsection (b) of this section; and

13 (2) every written contract entered into between an agritourism host and a
14 participant for goods or services related to an agritourism activity shall contain
15 in clearly visible print the warning notice specified in subsection (b) of this
16 section.

17 (b) The warning notice required under subsection (a) of this section shall
18 read: “WARNING: Under Vermont law, an agritourism host is not liable for
19 the injury or death of a participant in an agritourism activity resulting from the
20 inherent risk of the agritourism activity. Inherent risks include the risk of
21 animals, weather, land conditions, and the potential for you as a participant to

1 act in a negligent way that may contribute to your own injury or death. You
2 are assuming the risk of participating in this agritourism activity.”

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9 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE