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Act No. 31 (H.89). Agriculture; court procedure; agritourism; limitation on liability

An act relating to limiting liability for agritourism

This act establishes a limitation on liability for agritourism hosts. An agritourism host shall not have a legal duty to protect a participant from the inherent risks of an agritourism activity and shall not be liable for injury to or death of a participant, or damage to the property of a participant, resulting from the inherent risks of an agritourism activity, provided that the agritourism host posts a required warning. “Agritourism activity” means an interactive or passive activity carried out for recreational, entertainment, or educational purposes on a farm and includes farming, food production, historical, cultural, pick-your-own, and nature-based activities. “Agritourism activity” does not include lodging at a farm or shopping at a roadside farm stand or operation exclusively devoted to the sale of merchandise or food at retail.

The limitation on liability for an agritourism activity does not apply to an agritourism host who:

- commits a negligent act or omission concerning the safety of a participant that proximately causes injury or death to the participant;
- has actual knowledge of a dangerous condition on the land, facilities, or equipment used in the activity or has actual knowledge of the dangerous propensity of an animal used in the activity, which proximately causes injury or death to the participant, and does not make that danger known to the participant
- intentionally injures a participant or intentionally damages a participant’s property
- commits any other act, error, or omission that constitutes willful or wanton misconduct or criminal conduct that proximately causes injury or death to the participant
- fails to post the required warning

The act also prescribes the warning notice an agritourism host must post and include in written contracts in order to qualify for the limitation on liability.

Effective Date: July 1, 2021