

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5808

65th Legislature
2017 Regular Session

Passed by the Senate April 17, 2017
Yeas 45 Nays 3

President of the Senate

Passed by the House April 7, 2017
Yeas 96 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5808** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5808

AS AMENDED BY THE HOUSE

Passed Legislature - 2017 Regular Session

State of Washington **65th Legislature** **2017 Regular Session**

By Senate Agriculture, Water, Trade & Economic Development
(originally sponsored by Senators Warnick, Chase, Walsh, Brown,
Becker, Short, and Bailey)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to agritourism; and adding new sections to
2 chapter 4.24 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that agriculture
5 plays a substantial role in the economy, culture, and history of
6 Washington state. As an increasing number of Washington's citizens
7 are removed from day-to-day agricultural experiences, agritourism
8 provides a valuable opportunity for the public to interact with,
9 experience, and understand agriculture. In addition, agritourism
10 opportunities provide valuable options for farmers and ranchers and
11 rural residents to maintain their operations and continue a
12 traditional economic development opportunity in rural areas. Inherent
13 risks exist on farms and ranches, some of which cannot be reasonably
14 eliminated. Uncertainty of potential liability associated with
15 inherent risks has a negative impact on the establishment and success
16 of agritourism operations.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires
19 otherwise.

1 (1) "Agritourism activity" means any activity carried out on a
2 farm or ranch whose primary business activity is agriculture or
3 ranching and that allows members of the general public, for
4 recreational, entertainment, or educational purposes, to view or
5 enjoy rural activities including, but not limited to: Farming;
6 ranching; historic, cultural, and on-site educational programs;
7 recreational farming programs that may include on-site hospitality
8 services; guided and self-guided tours; petting zoos; farm festivals;
9 corn mazes; harvest-your-own operations; hayrides; barn parties;
10 horseback riding; fishing; and camping.

11 (2) "Agritourism professional" means any person in the business
12 of providing one or more agritourism activities, whether or not for
13 compensation.

14 (3) "Inherent risks of agritourism activity" means those dangers
15 or conditions that are an integral part of an agritourism activity
16 including certain hazards, such as surface and subsurface conditions,
17 natural conditions of land, vegetation, waters, the behavior of wild
18 or domestic animals, and ordinary dangers of structures or equipment
19 ordinarily used in farming and ranching operations. Inherent risks of
20 agritourism activity also include the potential of a participant to
21 act in a negligent manner that may contribute to injury to the
22 participant or others, including failing to follow instructions given
23 by the agritourism professional or failing to exercise reasonable
24 caution while engaging in the agritourism activity, unless the
25 participant acting in a negligent manner is a minor or is under the
26 influence of alcohol or drugs.

27 (4) "Participant" means any person, other than the agritourism
28 professional, who engages in an agritourism activity.

29 (5) "Person" means an individual, fiduciary, firm, association,
30 partnership, limited liability company, corporation, unit of
31 government, or any other group acting as a unit.

32 NEW SECTION. **Sec. 3.** (1)(a) Except as provided in subsection
33 (2) of this section, an agritourism professional is not liable for
34 injury, loss, damage, or death of a participant resulting exclusively
35 from any of the inherent risks of agritourism activities.

36 (b) Except as provided in subsection (2) of this section, no
37 participant or participant's representative may pursue an action or
38 recover from an agritourism professional for injury, loss, damage, or

1 death of the participant resulting exclusively from any of the
2 inherent risks of agritourism activities.

3 (c) In any action for damages against an agritourism professional
4 for agritourism activity, the agritourism professional must plead the
5 affirmative defense of assumption of the risk of agritourism activity
6 by the participant.

7 (2) Nothing in subsection (1) of this section prevents or limits
8 the liability of an agritourism professional if the agritourism
9 professional does any one or more of the following:

10 (a) Commits an act or omission that is grossly negligent or
11 constitutes willful or wanton disregard for the safety of the
12 participant and that act or omission proximately causes injury,
13 damage, or death to the participant.

14 (b) Has actual knowledge or reasonably should have known of an
15 existing dangerous condition on the land, facilities, or equipment
16 used in the activity or the dangerous propensity of a particular
17 animal used in such an activity and does not make the danger known to
18 the participant and the danger proximately causes injury, damage, or
19 death to the participant.

20 (c) Permits minor participants to use facilities or engage in
21 agritourism activities that are not reasonably appropriate for their
22 age. This provision shall not be interpreted to relieve a parent or
23 guardian of a minor participant of the duty to reasonably supervise
24 the minor's participation in agritourism activities, including
25 assessing whether the minor's participation in an agritourism
26 activity is reasonably appropriate for his or her age.

27 (d) Knowingly permits participants to use facilities or engage in
28 agritourism activities while under the influence of alcohol or drugs.

29 (e) Fails to warn participants as required by section 4 of this
30 act.

31 (3) Any limitation on legal liability afforded by this section to
32 an agritourism professional is in addition to any other limitations
33 of legal liability otherwise provided by law.

34 NEW SECTION. **Sec. 4.** (1) Every agritourism professional must
35 post and maintain signs that contain the warning notice specified in
36 subsection (2) of this section. The sign must be placed in a clearly
37 visible location at the entrance to the agritourism location and at
38 the site of the agritourism activity. The warning notice must consist
39 of a sign in black letters, with each letter to be a minimum of one

1 inch in height. Every written contract entered into by an agritourism
2 professional for the providing of professional services, instruction,
3 or the rental of equipment to a participant, whether or not the
4 contract involves agritourism activities on or off the location or at
5 the site of the agritourism activity, must contain in clearly
6 readable print the warning notice specified in subsection (2) of this
7 section.

8 (2) The sign and contracts described in subsection (1) of this
9 section must contain the following notice of warning:

10 "WARNING

11 Under Washington state law, there is limited liability for an
12 injury to or death of a participant in an agritourism
13 activity conducted at this agritourism location if such an
14 injury or death results exclusively from the inherent risks
15 of the agritourism activity. Inherent risks of agritourism
16 activities include, among others, risks of injury inherent to
17 land, equipment, and animals, as well as the potential for
18 you to act in a negligent manner that may contribute to your
19 injury or death. We are required to ensure that in any
20 activity involving minor children, only age-appropriate
21 access to activities, equipment, and animals is permitted.
22 You are assuming the risk of participating in this
23 agritourism activity."

24 (3) Failure to comply with the requirements concerning warning
25 signs and notices provided in this section prohibits an agritourism
26 professional from invoking the privilege of immunity provided by this
27 section and sections 1 through 3 of this act and may be introduced as
28 evidence in any claim for damages.

29 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act are each
30 added to chapter 4.24 RCW.

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