

SSB 5808 - S AMD 127  
By Senator Warnick

ADOPTED 03/08/2017

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

19 (1) "Agritourism activity" means any activity carried out on a  
20 farm or ranch whose primary business activity is agriculture or  
21 ranching and that allows members of the general public, for  
22 recreational, entertainment, or educational purposes, to view or  
23 enjoy rural activities including, but not limited to: Farming;  
24 ranching; historic, cultural, and on-site educational programs;  
25 recreational farming programs that may include on-site hospitality  
26 services; guided and self-guided tours; bed and breakfast  
27 accommodations; petting zoos; farm festivals; corn mazes; harvest-  
28 your-own operations; hayrides; barn parties; horseback riding;  
29 fishing; and camping.

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

1 (3) "Inherent risks of agritourism activity" means those dangers  
2 or conditions that are an integral part of an agritourism activity  
3 including certain hazards, such as surface and subsurface conditions,  
4 natural conditions of land, vegetation, waters, the behavior of wild  
5 or domestic animals, and ordinary dangers of structures or equipment  
6 ordinarily used in farming and ranching operations. Inherent risks of  
7 agritourism activity also include the potential of a participant to  
8 act in a negligent manner that may contribute to injury to the  
9 participant or others, including failing to follow instructions given  
10 by the agritourism professional or failing to exercise reasonable  
11 caution while engaging in the agritourism activity, unless the  
12 participant acting in a negligent manner is a minor or is under the  
13 influence of alcohol or drugs.

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

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

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

23 (b) Except as provided in subsection (2) of this section, no  
24 participant or participant's representative may pursue an action or  
25 recover from an agritourism professional for injury, loss, damage, or  
26 death of the participant resulting exclusively from any of the  
27 inherent risks of agritourism activities.

28 (c) In any action for damages against an agritourism professional  
29 for agritourism activity, the agritourism professional must plead the  
30 affirmative defense of assumption of the risk of agritourism activity  
31 by the participant.

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

35 (a) Commits an act or omission that is grossly negligent or  
36 constitutes willful or wanton disregard for the safety of the  
37 participant and that act or omission proximately causes injury,  
38 damage, or death to the participant.

1 (b) Has actual knowledge or reasonably should have known of an  
2 existing dangerous condition on the land, facilities, or equipment  
3 used in the activity or the dangerous propensity of a particular  
4 animal used in such an activity and does not make the danger known to  
5 the participant and the danger proximately causes injury, damage, or  
6 death to the participant.

7 (c) Permits minor participants to use facilities or engage in  
8 agritourism activities that are not reasonably appropriate for their  
9 age.

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

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

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

17 NEW SECTION. **Sec. 4.** (1) Every agritourism professional must  
18 post and maintain signs that contain the warning notice specified in  
19 subsection (2) of this section. The sign must be placed in a clearly  
20 visible location at the entrance to the agritourism location and at  
21 the site of the agritourism activity. The warning notice must consist  
22 of a sign in black letters, with each letter to be a minimum of one  
23 inch in height. Every written contract entered into by an agritourism  
24 professional for the providing of professional services, instruction,  
25 or the rental of equipment to a participant, whether or not the  
26 contract involves agritourism activities on or off the location or at  
27 the site of the agritourism activity, must contain in clearly  
28 readable print the warning notice specified in subsection (2) of this  
29 section.

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

32 "WARNING

33 Under Washington state law, there is limited liability for an  
34 injury to or death of a participant in an agritourism  
35 activity conducted at this agritourism location if such an  
36 injury or death results exclusively from the inherent risks  
37 of the agritourism activity. Inherent risks of agritourism  
38 activities include, among others, risks of injury inherent to  
39 land, equipment, and animals, as well as the potential for

1 you to act in a negligent manner that may contribute to your  
2 injury or death. We are required to ensure that in any  
3 activity involving minor children, only age-appropriate  
4 access to activities, equipment, and animals is permitted.  
5 You are assuming the risk of participating in this  
6 agritourism activity."

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

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

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14 On page 1, line 1 of the title, after "agritourism;" strike the  
15 remainder of the title and insert "and adding new sections to chapter  
16 4.24 RCW."

EFFECT: Further defines agritourism activity to mean any activity carried out on a farm or ranch whose primary business activity is agriculture or ranching. Provides that an agritourism professional is not liable for loss or damage, as well as injury or death of a participant resulting exclusively from any of the inherent risks of agritourism. Provides that liability may not be prevented or limited if an agritourism professional permits minor participants to use facilities or engage in agritourism activities that are not reasonably appropriate for their age or knowingly permits participants to use facilities or engage in agritourism activities while under the influence of alcohol or drugs. Establishes that the warning sign must also contain provisions requiring that agritourism professionals are required to ensure that in any activity involving minor children, only age-appropriate access to activities, equipment, and animals is permitted.

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