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HOUSE BILL 2020

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Manweller and Irwin

Read first time 02/08/17. Referred to Committee on Judiciary.

1 AN ACT Relating to limitations on liability for agritourism  
2 activities; adding new sections to chapter 4.24 RCW; and creating a  
3 new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that agriculture  
6 plays a substantial role in the economy, culture, and history of  
7 Washington state. As an increasing number of Washington's citizens  
8 are removed from day-to-day agricultural experiences, agritourism  
9 provides a valuable opportunity for the general public to interact  
10 with, experience, and understand agriculture. In addition,  
11 agritourism opportunities provide valuable options for agricultural  
12 producers and rural residents to maintain their operations and  
13 continue a traditional rural lifestyle. Agritourism also provides an  
14 important economic development opportunity in rural areas. Inherent  
15 risks exist on farms and ranches, the elimination of which would  
16 diminish the agritourism experience. Uncertainty of potential  
17 liability associated with inherent risks has a negative impact on the  
18 establishment and success of agritourism operations.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW  
20 to read as follows:

1 The definitions in this section apply throughout this section and  
2 section 3 of this act unless the context clearly requires otherwise.

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

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

16 (3) "Inherent risks of agritourism activity" means those dangers  
17 or conditions that are an integral part of an agritourism activity,  
18 including:

19 (a) Certain hazards such as surface and subsurface conditions,  
20 natural conditions of land, vegetation, and waters, and the behavior  
21 of wild or domestic animals;

22 (b) Ordinary dangers of structure or equipment ordinarily used in  
23 farming and ranching operations; and

24 (c) The potential of a participant to act in a negligent manner  
25 that may contribute to the injury of the participant or others,  
26 including failing to follow instructions given by the agritourism  
27 professional or failing to exercise reasonable caution while engaging  
28 in the agritourism activity.

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

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

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 4.24 RCW  
35 to read as follows:

36 (1) Except as provided in subsection (4) of this section, as long  
37 as the warning contained in subsection (6) of this section is posted  
38 or placed in a contract as required, an agritourism professional is  
39 not liable for injury or death of a participant resulting from the

1 inherent risks of agritourism activities, and no participant or  
2 participant's representative can maintain an action or recover from  
3 an agritourism professional for injury, loss, damage, or death of the  
4 participant resulting exclusively from any of the inherent risks of  
5 agritourism activities.

6 (2) In any action for recovery against an agritourism  
7 professional related to injury or damage resulting from an  
8 agritourism activity, the agritourism professional may plead the  
9 affirmative defense of assumption of the risk of an agritourism  
10 activity by the participant.

11 (3) Failure to comply with the requirements concerning warning  
12 signs and notices provided in this section prevents an agritourism  
13 professional from invoking the privilege of immunity provided by this  
14 section.

15 (4) Nothing in this section prevents or limits the liability of  
16 an agritourism professional if the agritourism professional does any  
17 one or more of the following:

18 (a)(i) Commits an act or omission that constitutes willful or  
19 wanton disregard for the safety of the participant; and

20 (ii) That act or omission proximately causes injury, damage, or  
21 death to the participant; or

22 (b)(i) Has actual knowledge or reasonably should have known of an  
23 existing dangerous condition on the land, facilities, or equipment  
24 used in the activity, or the dangerous propensity of a particular  
25 animal used in the activity;

26 (ii) Does not make the danger known to the participant; and

27 (iii) The danger proximately causes injury, damage, or death to  
28 the participant.

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

32 (6)(a) In order to invoke the privilege of immunity provided by  
33 this section, every agritourism professional must post and maintain  
34 signs that contain the warning notice specified in (c) of this  
35 subsection. The signs must be placed in a clearly visible location at  
36 the entrance to the agritourism location and at the site of the  
37 agritourism activity. The warning notice on these signs must be in  
38 black letters, with each letter a minimum of one inch in height.

39 (b) In order to invoke the privilege of immunity provided by this  
40 section, every written contract entered into by an agritourism

1 professional to provide professional services, instruction, or the  
2 rental of equipment to a participant must contain in clearly readable  
3 print the warning notice specified in (c) of this subsection, whether  
4 or not the contract involves agritourism activities located on or off  
5 the location or at the site of the agritourism activity.

6 (c) The sign and contracts described in this section must contain  
7 the following notice of warning:

8 **WARNING**

9 Under Washington state law, there is no liability for an injury to or  
10 death of a participant in an agritourism activity conducted at this  
11 agritourism location if such injury or death results from the  
12 inherent risks of the agritourism activity. Inherent risks of  
13 agritourism activities include, among others, risks of injury  
14 inherent to land, equipment, and animals, as well as the potential  
15 for you to act in a negligent manner that may contribute to your  
16 injury or death. You are assuming the risk of participating in this  
17 agritourism activity.

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