H-1492.1

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**HOUSE BILL 2020**

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

**By** Representatives Manweller and Irwin

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Except as provided in subsection (4) of this section, as long as the warning contained in subsection (6) of this section is posted or placed in a contract as required, an agritourism professional is not liable for injury or death of a participant resulting from the inherent risks of agritourism activities, and no participant or participant's representative can maintain an action or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities.

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

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

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

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

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

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

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

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

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

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

(b) In order to invoke the privilege of immunity provided by this section, every written contract entered into by an agritourism professional to provide professional services, instruction, or the rental of equipment to a participant must contain in clearly readable print the warning notice specified in (c) of this subsection, whether or not the contract involves agritourism activities located on or off the location or at the site of the agritourism activity.

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

WARNING

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

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