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**SUBSTITUTE SENATE BILL 5808**

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**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)

AN ACT Relating to agritourism; and adding a new chapter to Title 15 RCW.

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 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 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.**  The definitions in this section apply throughout this chapter 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, cultural, and 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; 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 certain hazards, such as surface and subsurface conditions, natural conditions of land, vegetation, waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to 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.**  (1)(a) Except as provided in subsection (2) of this section, an agritourism professional is not liable for injury or death of a participant resulting from the inherent risks of agritourism activities, as long as the warning contained in section 4 of this act is posted as required.

(b) Except as provided in subsection (2) of this section, no participant or participant's representative may pursue 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.

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

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

(a) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission proximately causes injury, damage, or death to the participant.

(b) 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 such an activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant.

(3) 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.

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

(2) The sign and contracts described in subsection (1) of 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 an 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."

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

NEW SECTION. **Sec.**  Sections 1 through 4 of this act constitute a new chapter in Title 15 RCW.

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