

1                                   A bill to be entitled  
 2           An act relating to agritourism; amending s. 570.96,  
 3           F.S.; providing legislative intent; restricting a  
 4           local government's ability to regulate agritourism  
 5           activity on agricultural land; amending s. 570.961,  
 6           F.S.; revising definitions and providing a definition;  
 7           creating s. 570.963, F.S.; limiting the liability of  
 8           an agritourism operator, his or her employer or  
 9           employee, or the owner of the underlying land on which  
 10          the agritourism activity occurs if certain conditions  
 11          are met; creating s. 570.964, F.S.; requiring that  
 12          signs and contracts notify participants of certain  
 13          inherent risks and the assumption of that risk;  
 14          providing notice requirements; preventing an  
 15          agritourism operator, his or her employer, and any  
 16          employee, and the owner of the underlying land from  
 17          invoking the privileges of immunity if certain  
 18          conditions are not met; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

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 22           Section 1. Section 570.96, Florida Statutes, is amended to  
 23 read:

24           570.96 Agritourism.—

25           (1) It is the intent of the Legislature to eliminate  
 26 duplication of regulatory authority over agritourism as  
 27 expressed in this section. Except as otherwise provided for in  
 28 this section, and notwithstanding any other provision of law, a

29 | local government may not adopt an ordinance, regulation, rule,  
 30 | or policy that prohibits, restricts, regulates, or otherwise  
 31 | limits an agritourism activity on land classified as  
 32 | agricultural land under s. 193.461. This subsection does not  
 33 | limit the powers and duties of a local government to address an  
 34 | emergency as provided in chapter 252.

35 |       (2) The Department of Agriculture and Consumer Services  
 36 | may provide marketing advice, technical expertise, promotional  
 37 | support, and product development related to agritourism to  
 38 | assist the following in their agritourism initiatives:  
 39 | Enterprise Florida, Inc.; convention and visitor bureaus;  
 40 | tourist development councils; economic development  
 41 | organizations; and local governments. In carrying out this  
 42 | responsibility, the department shall focus its agritourism  
 43 | efforts on rural and urban communities.

44 |       Section 2. Section 570.961, Florida Statutes, is amended  
 45 | to read:

46 |       570.961 Definitions.—As used in ss. 570.96-570.964 ~~570.96-~~  
 47 | ~~570.962~~, the term:

48 |       (1) "Agritourism activity" means any agriculture-related  
 49 | activity consistent with a bona fide ~~carried out on a farm, or~~  
 50 | ~~ranch, or in a~~ working forest that allows members of the general  
 51 | public, for recreational, entertainment, or educational  
 52 | purposes, to view or enjoy ~~rural~~ activities, including farming,  
 53 | ranching, historical, cultural, or ~~harvest-your-own, or nature-~~  
 54 | ~~based~~ activities and attractions. The term does not include the  
 55 | construction of new or additional structures or facilities  
 56 | intended primarily to house, shelter, transport, or otherwise

57 | accommodate members of the general public. An activity is an  
 58 | agritourism activity whether or not the participant paid to  
 59 | participate in the activity.

60 | (2) "Agritourism operator ~~professional~~" means any person  
 61 | who is engaged in the business of providing one or more  
 62 | agritourism activities, whether or not for compensation.

63 | (3) "Farm" means the land, buildings, support facilities,  
 64 | machinery, and other appurtenances used in the production of  
 65 | farm or aquaculture products, including land used to display  
 66 | plants, animals, farm products, or farm equipment to the public.

67 | (4) "Farm operation" has the same meaning as defined in s.  
 68 | 823.14.

69 | (5) "Inherent risks of agritourism activity" means those  
 70 | dangers or conditions that are an integral part of an  
 71 | agritourism activity including certain hazards, such as surface  
 72 | and subsurface conditions, natural conditions of land,  
 73 | vegetation, and waters; the behavior of wild or domestic  
 74 | animals; and the ordinary dangers of structures or equipment  
 75 | ordinarily used in farming and ranching operations. The term  
 76 | also includes the potential of a participant to act in a  
 77 | negligent manner that may contribute to the injury of the  
 78 | participant or others, including failing to follow the  
 79 | instructions given by the agritourism operator or failing to  
 80 | exercise reasonable caution while engaging in the agritourism  
 81 | activity.

82 | Section 3. Section 570.963, Florida Statutes, is created  
 83 | to read:

84 | 570.963 Liability.—

85        (1) Except as provided in subsection (2), an agritourism  
86 operator, his or her employer or employee, or the owner of the  
87 underlying land on which the agritourism occurs are not liable  
88 for injury or death of, or damage or loss to, a participant  
89 resulting from the inherent risks of agritourism activities if  
90 the notice of risk required under s. 570.964 is posted as  
91 required. Except as provided in subsection (2), a participant,  
92 or a participant's representative, may not maintain an action  
93 against or recover from an agritourism operator, his or her  
94 employer or employee, and the owner of the underlying land on  
95 which the agritourism occurs for the injury or death of, or  
96 damage or loss to, an agritourism participant resulting  
97 exclusively from any of the inherent risks of agritourism  
98 activities. In any action for damages against an agritourism  
99 operator, his or her employer or employee, and the owner of the  
100 underlying land on which the agritourism occurs for agritourism  
101 activity, the agritourism operator, his or her employer or  
102 employee, and the owner of the underlying land on which the  
103 agritourism occurs must plead the affirmative defense of  
104 assumption of the risk of agritourism activity by the  
105 participant.

106        (2) In the event of the injury or death of, or damage or  
107 loss to, an agritourism participant, subsection (1) does not  
108 prevent or limit the liability of an agritourism operator or his  
109 or her employer or employee or the owner of the underlying land  
110 on which the agritourism occurs if he or she:

111        (a) Commits an act or omission that constitutes negligence  
112 or willful or wanton disregard for the safety of the

113 participant, and that act or omission proximately causes injury,  
114 damage, or death to the participant;

115 (b) Has actual knowledge of, or reasonably should have  
116 known of, a dangerous condition on the land or in the facilities  
117 or with the equipment used in the activity or the dangerous  
118 propensity of a particular animal used in the activity, and does  
119 not make the danger known to the participant and the danger  
120 proximately causes injury, damage, or death to the participant;  
121 or

122 (c) Intentionally injures the participant.

123 (3) The limitation on legal liability afforded by this  
124 section to an agritourism operator or his or her employer or  
125 employee or the owner of the underlying land on which the  
126 agritourism occurs is in addition to any limitations of legal  
127 liability otherwise provided by law.

128 Section 4. Section 570.964, Florida Statutes, is created  
129 to read:

130 570.964 Posting and notification.—

131 (1) (a) Each agritourism operator shall post and maintain  
132 signs that contain the notice of inherent risk specified in  
133 subsection (2). A sign shall be placed in a clearly visible  
134 location at the entrance to the agritourism location and at the  
135 site of the agritourism activity. The notice of inherent risk  
136 must consist of a sign in black letters, with each letter a  
137 minimum of 1 inch in height, with sufficient color contrast to  
138 be clearly visible.

139 (b) Each written contract entered into by an agritourism  
140 operator for the providing of professional services,

141 instruction, or the rental of equipment to a participant,  
142 regardless of whether the contract involves agritourism  
143 activities on or off the location or at the site of the  
144 agritourism activity, must contain in clearly readable print the  
145 notice of inherent risk specified in subsection (2).

146 (2) The sign and contract required under subsection (1)  
147 must contain the following notice of inherent risk:

148  
149 Warning

150  
151 Under Florida law, an agritourism operator is not liable  
152 for injury or death of, or damage or loss to, a participant in  
153 an agritourism activity conducted at this agritourism location  
154 if such injury, death, damage, or loss results from the inherent  
155 risks of the agritourism activity. Inherent risks of agritourism  
156 activities include, among others, risks of injury inherent to  
157 land, equipment, and animals, as well as the potential for you  
158 to act in a negligent manner that may contribute to your injury,  
159 death, damage, or loss. You are assuming the risk of  
160 participating in this agritourism activity.

161  
162 (3) Failure to comply with the requirements of this  
163 subsection prevents an agritourism operator, his or her employer  
164 or employee, or the owner of the underlying land on which the  
165 agritourism occurs from invoking the privileges of immunity  
166 provided by this section.

167 Section 5. This act shall take effect July 1, 2013.