

By the Committees on Rules; and Agriculture; and Senator Hays

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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 the definition of the term "agritourism
7 activity," changing the term "agritourism
8 professional" to "agritourism operator," and adding a
9 definition of the term "inherent risks of agritourism
10 activity"; creating s. 570.963, F.S.; limiting the
11 liability of an agritourism operator, his or her
12 employer or employee, or the owner of the underlying
13 land on which the agritourism activity occurs if
14 certain conditions are met; creating s. 570.964, F.S.;
15 requiring that signs and contracts notify participants
16 of certain inherent risks and the assumption of that
17 risk; preventing an agritourism operator, his or her
18 employer, and any employee, and the owner of the
19 underlying land from invoking the privileges of
20 immunity if certain conditions are not met; providing
21 criteria for the notice; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 570.96, Florida Statutes, is amended to
26 read:

27 570.96 Agritourism.—

28 (1) It is the intent of the Legislature to eliminate
29 duplication of regulatory authority over agritourism as

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30 expressed in this section. Except as otherwise provided for in
31 this section, and notwithstanding any other provision of law, a
32 local government may not adopt an ordinance, regulation, rule,
33 or policy that prohibits, restricts, regulates, or otherwise
34 limits an agritourism activity on land classified as
35 agricultural land under s. 193.461. This subsection does not
36 limit the powers and duties of a local government to address an
37 emergency as provided in chapter 252.

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

47 Section 2. Section 570.961, Florida Statutes, is amended to
48 read:

49 570.961 Definitions.—As used in ss. 570.96-570.964 ~~570.96-~~
50 ~~570.962~~, the term:

51 (1) "Agritourism activity" means any agricultural related
52 activity consistent with a bona fide ~~carried out on a~~ farm or
53 ranch or in a working forest which ~~that~~ allows members of the
54 general public, for recreational, entertainment, or educational
55 purposes, to view or enjoy ~~rural~~ activities, including farming,
56 ranching, historical, cultural, or ~~harvest-your-own, or nature-~~
57 ~~based~~ activities and attractions. An agritourism activity does
58 not include the construction of new or additional structures or

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59 facilities intended primarily to house, shelter, transport, or
60 otherwise accommodate members of the general public. An activity
61 is an agritourism activity whether or not the participant paid
62 to participate in the activity.

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

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

70 (4) "Farm operation" has the same meaning as defined in s.
71 823.14.

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

85 Section 3. Section 570.963, Florida Statutes, is created to
86 read:

87 570.963 Liability.—

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

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

107 (a) Commits an act or omission that constitutes gross
108 negligence or willful or wanton disregard for the safety of the
109 participant, and that act or omission proximately causes injury,
110 damage, or death to the participant; or

111 (b) Intentionally injures the participant.

112 (3) The limitation on legal liability afforded by this
113 section to an agritourism operator or his or her employer or
114 employee or the owner of the underlying land on which the
115 agritourism occurs is in addition to any limitations of legal
116 liability otherwise provided by law.

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117 Section 4. Section 570.964, Florida Statutes, is created to
118 read:

119 570.964 Posting and notification.-

120 (1) (a) Each agritourism operator shall post and maintain
121 signs that contain the notice of inherent risk specified in
122 subsection (2). A sign shall be placed in a clearly visible
123 location at the entrance to the agritourism location and at the
124 site of the agritourism activity. The notice of inherent risk
125 must consist of a sign in black letters, with each letter a
126 minimum of 1 inch in height, with sufficient color contrast to
127 be clearly visible.

128 (b) Each written contract entered into by an agritourism
129 operator for the provision of professional services,
130 instruction, or the rental of equipment to a participant,
131 regardless of whether the contract involves agritourism
132 activities on or off the location or at the site of the
133 agritourism activity, must contain in clearly readable print the
134 notice of inherent risk specified in subsection (2).

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

137

138 WARNING

139

140 Under Florida law, an agritourism operator is not
141 liable for injury or death of, or damage or loss to, a
142 participant in an agritourism activity conducted at
143 this agritourism location if such injury, death,
144 damage, or loss results from the inherent risks of the
145 agritourism activity. Inherent risks of agritourism

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146 activities include, among others, risks of injury
147 inherent to land, equipment, and animals, as well as
148 the potential for you to act in a negligent manner
149 that may contribute to your injury, death, damage, or
150 loss. You are assuming the risk of participating in
151 this agritourism activity.

152
153 (3) Failure to comply with the requirements of this
154 subsection prevents an agritourism operator, his or her employer
155 or employee, or the owner of the underlying land on which the
156 agritourism occurs from invoking the privileges of immunity
157 provided by this section.

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