



Ohio Legislative Service Commission

Bill Analysis

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S.B. 75

131st General Assembly
(As Introduced)

Sens. Jones and Peterson, Gardner, Beagle, Balderson, LaRose, Manning, Eklund, Patton, Cafaro, Gentile

BILL SUMMARY

- States that an agritourism provider generally is immune from liability in a civil action for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in an agritourism activity, and defines those terms.
 - Specifies circumstances when an agritourism provider is not immune from liability in a civil action.
 - Requires an agritourism operator to post and maintain signs that contain a specified warning notice.
 - Generally states that county and township zoning laws confer no authority to prohibit the use of any land for agritourism, but allows a board of county commissioners or a board of township trustees to regulate certain factors pertaining to agritourism such as size of parking areas and egress or ingress.
 - Revises the definition of "land devoted exclusively to agricultural use" for purposes of the statutes that govern current agricultural use valuation of real property for real property tax assessment to include land devoted exclusively to agritourism under specified circumstances.
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CONTENT AND OPERATION

Agritourism overview

Under the bill, agritourism is an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick

operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity. An agritourism provider is a person who owns, operates, provides, or sponsors an agritourism activity or an employee of such a person who engages in or provides agritourism activities whether or not for a fee. A participant is an individual, other than an agritourism provider, who observes or participates in an agritourism activity.

Additionally, a risk inherent in an agritourism activity is a danger or condition that is an integral part of an agritourism activity, including all of the following:

- (1) The surface and subsurface conditions of land;
- (2) The behavior or actions of wild animals not kept by or under the control of an agritourism provider;
- (3) The behavior or actions of domestic animals;
- (4) The ordinary dangers associated with structures or equipment ordinarily used in farming or ranching operations;
- (5) The possibility of contracting illness resulting from physical contact with animals, animal feed, animal waste, or surfaces contaminated by animal waste; and
- (6) The possibility that a participant may act in a negligent manner, including by failing to follow instructions given by the agritourism provider or by failing to exercise reasonable caution while engaging in the agritourism activity that may contribute to injury to that participant or another participant.¹

Immunity from liability in a civil action

Under the bill, an agritourism provider is immune from liability in a civil action for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in an agritourism activity.² However, an agritourism provider is not immune from civil liability for harm sustained by a participant if either of the following applies:

- (1) The agritourism provider acts with a willful or wanton disregard for the safety of the participant and proximately causes harm to the participant; or

¹ R.C. 901.80(A).

² R.C. 901.80(B).

(2) The agritourism provider purposefully causes harm to the participant.³

The bill requires an agritourism operator to post and maintain signs that contain the following warning notice:

WARNING: Under Ohio law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if that injury or death results from the inherent risks of that agritourism activity. Inherent risks of agritourism activities include, but are not limited to, the risk of injury inherent to land, equipment, and animals, as well as the potential for you as a participant 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.

Each letter of the notice must be in black and be a minimum of one inch in height. The operator must place a sign in a clearly visible location at the site of the agritourism activity.⁴

County and township zoning for agritourism

The bill states that the County Rural Zoning and Township Zoning Laws confer no power on a board of county commissioners, county rural zoning commission, board of zoning appeals, township zoning commission, or board of township trustees, as applicable, to prohibit the use of any land for agritourism in a district zoned for agricultural, industrial, residential, or commercial uses. However, the bill authorizes a board of county commissioners or a board of township trustees, as applicable, to regulate such factors pertaining to agritourism as size of a structure, size of parking areas that may be required, setback building lines, and egress or ingress where such regulation is necessary to protect public health and safety.⁵

Current agricultural use valuation

For purposes of the statutes that govern current agricultural use valuation (CAUV) of real property for real property tax assessment, current law defines "land devoted exclusively to agricultural use" to mean land devoted exclusively to specified activities or devoted to and qualified for payments or other compensation under a land

³ R.C. 901.80(C).

⁴ R.C. 901.80(D).

⁵ R.C. 303.21(C)(4) and 519.21(C)(4).



retirement or conservation program under an agreement with an agency of the federal government. The bill adds agritourism to the specified activities in the definition if tracts, lots, or parcels of land totaling not less than ten acres were devoted exclusively to agritourism, during the three calendar years prior to the year in which application is filed for CAUV and through the last day of May of that year, if the land on which the agritourism is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use.⁶

HISTORY

ACTION	DATE
Introduced	02-23-15

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⁶ R.C. 5713.30(A).

