

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

21
 22 Be It Enacted by the Legislature of the State of Florida:

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

26 570.96 Agritourism.—

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

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

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

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

48 | 570.961 Definitions.—As used in ss. 570.96-570.964 ~~570.96-~~
 49 | ~~570.962~~, the term:

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

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57 activity is an agritourism activity whether or not the
58 participant paid to participate in the activity.

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

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

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

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

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

83 570.963 Liability.—

84 (1) Except as provided in subsection (2), an agritourism

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

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

110 (a) Commits an act or omission that constitutes negligence
111 or willful or wanton disregard for the safety of the
112 participant, and that act or omission proximately causes injury,

113 damage, or death to the participant;

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

121 (c) Intentionally injures the participant.

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

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

129 570.964 Posting and notification.—

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

138 (b) Each written contract entered into by an agritourism
139 professional for the providing of professional services,
140 instruction, or the rental of equipment to a participant,

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

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

147
148 Warning

149
150 Under Florida law, an agritourism professional is not
151 liable for injury or death of, or damage or loss to, a
152 participant in an agritourism activity conducted at this
153 agritourism location if such injury, death, damage, or loss
154 results from the inherent risks of the agritourism activity.
155 Inherent risks of agritourism activities include, among others,
156 risks of injury inherent to land, equipment, and animals, as
157 well as the potential for you to act in a negligent manner that
158 may contribute to your injury, death, damage, or loss. You are
159 assuming the risk of participating in this agritourism activity.

160
161 (3) Failure to comply with the requirements of this
162 subsection prevents an agritourism professional, his or her
163 employer or employee, or the owner of the underlying land on
164 which the agritourism occurs from invoking the privileges of
165 immunity provided by this section.

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