

BILL ANALYSIS

Senate Research Center
84R7353 SCL-D

S.B. 610
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State Affairs
2/27/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is the potential for an agritourism entity, such as a Christmas tree farm, corn maze, or pumpkin patch, to be held liable for injury arising out of something other than negligent conduct, a dangerous condition existing on real property, a dangerous animal, or improper employee training, even if the entity provided proper warning to or obtained a written waiver from agritourism participants.

S.B. 610 eliminates the potential for an agritourism entity to be held liable for injury arising out of something other than negligent conduct, a dangerous condition existing on real property, a dangerous animal, or improper employee training, if the entity provided proper warning or obtained a written waiver.

As proposed, S.B. 610 amends current law relating to limited liability for an agritourism entity involved in an agritourism activity.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 75A, as follows:

CHAPTER 75A. LIMITED LIABILITY FOR AGRITOURISM ACTIVITIES

Sec. 75A.001. DEFINITIONS. Defines "agricultural land," "agritourism activity," "agritourism entity," "agritourism participant," "agritourism participant injury," "premises," and "recreation."

Sec. 75A.002. LIMITED LIABILITY. (a) Provides that, except as provided by Subsection (b), an agritourism entity is not liable to any person for an agritourism participant injury or damages arising out of the agritourism participant injury if:

(1) at the time of the agritourism activity from which the injury arises, the warning prescribed by Section 75A.003 was posted in accordance with that section; or

(2) the agritourism entity obtained in accordance with Section 75A.004 a written agreement and warning statement from the agritourism participant with respect to the agritourism activity from which the injury arises.

(b) Provides that this section does not limit liability for an injury:

(1) proximately caused by:

(A) the agritourism entity's negligence evidencing a disregard for the safety of the agritourism participant;

(B) one of the following dangers, of which the agritourism entity had actual knowledge or reasonably should have known:

(i) a dangerous condition on the land, facilities, or equipment used in the activity; or

(ii) the dangerous propensity, that is not disclosed to the agritourism participant, of a particular animal used in the activity; or

(C) the agritourism entity's failure to train or improper training of an employee of the agritourism entity actively involved in an agritourism activity; or

(2) intentionally caused by the agritourism entity.

(c) Provides that a limitation on liability provided by this section to an agritourism entity is in addition to other limitations of liability.

Sec. 75A.003. POSTED WARNING. Requires an agritourism entity to post and maintain a sign in a clearly visible location on or near any premises on which an agritourism activity is conducted for the purposes of limitation of liability under Section 75A.002(a)(1). Requires that the sign contain the language set forth in this section.

Sec. 75A.004. SIGNED AGREEMENT AND WARNING. Provides that, for the purposes of limitation of liability under Section 75A.002(a)(2), a written agreement and warning statement is considered effective and enforceable if it meets the requirements set forth in this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2015.