

By: Perry
(Murr)

S.B. No. 610

Substitute the following for S.B. No. 610:

By: González

C.S.S.B. No. 610

A BILL TO BE ENTITLED

AN ACT

relating to limited liability for an agritourism entity involved in an agritourism activity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 75A to read as follows:

CHAPTER 75A. LIMITED LIABILITY FOR AGRITOURISM ACTIVITIES

Sec. 75A.001. DEFINITIONS. In this chapter:

(1) "Agricultural land" means land that is located in this state and that is suitable for:

(A) use in production of plants and fruits grown for human or animal consumption, or plants grown for the production of fibers, floriculture, viticulture, horticulture, or planting seed; or

(B) domestic or native farm or ranch animals kept for use or profit.

(2) "Agritourism activity" means an activity on agricultural land for recreational or educational purposes of participants, without regard to compensation.

(3) "Agritourism entity" means a person engaged in the business of providing an agritourism activity, without regard to compensation, including a person who displays exotic animals to the public on agricultural land.

(4) "Agritourism participant" means an individual,

1 other than an employee of an agritourism entity, who engages in an
2 agritourism activity.

3 (5) "Agritourism participant injury" means an injury
4 sustained by an agritourism participant, including bodily injury,
5 emotional distress, death, property damage, or any other loss
6 arising from the person's participation in an agritourism activity.

7 (6) "Premises" has the meaning assigned by Section
8 75.001.

9 (7) "Recreation" has the meaning assigned by Section
10 75.001.

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

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

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

22 (b) This section does not limit liability for an injury:

23 (1) proximately caused by:

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

27 (B) one of the following dangers, of which the

1 agritourism entity had actual knowledge or reasonably should have
2 known:

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

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

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

11 (2) intentionally caused by the agritourism entity.

12 (c) A limitation on liability provided by this section to an
13 agritourism entity is in addition to other limitations of
14 liability.

15 Sec. 75A.003. POSTED WARNING. For the purposes of
16 limitation of liability under Section 75A.002(a)(1), an
17 agritourism entity must post and maintain a sign in a clearly
18 visible location on or near any premises on which an agritourism
19 activity is conducted. The sign must contain the following
20 language:

21 WARNING

22 UNDER TEXAS LAW (CHAPTER 75A, CIVIL
23 PRACTICE AND REMEDIES CODE), AN AGRITOURISM
24 ENTITY IS NOT LIABLE FOR ANY INJURY TO OR
25 DEATH OF AN AGRITOURISM PARTICIPANT
26 RESULTING FROM AN AGRITOURISM ACTIVITY.

27 Sec. 75A.004. SIGNED AGREEMENT AND WARNING. For the

1 purposes of limitation of liability under Section 75A.002(a)(2), a
2 written agreement and warning statement is considered effective and
3 enforceable if it:

4 (1) is signed before the agritourism participant
5 participates in an agritourism activity;

6 (2) is signed by the agritourism participant or, if
7 the agritourism participant is a minor, the agritourism
8 participant's parent, managing conservator, or guardian;

9 (3) is in a document separate from any other agreement
10 between the agritourism participant and the agritourism entity
11 other than a different warning, consent, or assumption of risk
12 statement;

13 (4) is printed in not less than 10-point bold type; and

14 (5) contains the following language:

15 AGREEMENT AND WARNING

16 I UNDERSTAND AND ACKNOWLEDGE THAT AN
17 AGRITOURISM ENTITY IS NOT LIABLE FOR ANY
18 INJURY TO OR DEATH OF AN AGRITOURISM
19 PARTICIPANT RESULTING FROM AGRITOURISM
20 ACTIVITIES. I UNDERSTAND THAT I HAVE
21 ACCEPTED ALL RISK OF INJURY, DEATH,
22 PROPERTY DAMAGE, AND OTHER LOSS THAT MAY
23 RESULT FROM AGRITOURISM ACTIVITIES.

24 SECTION 2. The change in law made by this Act applies only
25 to a cause of action that accrues on or after the effective date of
26 this Act. A cause of action that accrues before the effective date
27 of this Act is governed by the law in effect immediately before the

1 effective date of this Act, and that law is continued in effect for
2 that purpose.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2015.