

By: Perry

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.

(4) "Agritourism participant" means an individual, other than an employee of an agritourism entity, who engages in an

1 agritourism activity.

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

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

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

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

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

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

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

22 (1) proximately caused by:

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

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

1 known:

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

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

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

10 (2) intentionally caused by the agritourism entity.

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

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

20 WARNING

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

26 Sec. 75A.004. SIGNED AGREEMENT AND WARNING. For the
27 purposes of limitation of liability under Section 75A.002(a)(2), a

1 written agreement and warning statement is considered effective and
2 enforceable if it:

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

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

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

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

13 (5) contains the following language:

14 AGREEMENT AND WARNING

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

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

1 that purpose.

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