

1-1 By: Perry S.B. No. 610
1-2 (In the Senate - Filed February 17, 2015; February 23, 2015,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 16, 2015, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 16, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Ellis	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Estes	X		
1-13	Fraser	X		
1-14	Nelson	X		
1-15	Schwertner	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to limited liability for an agritourism entity involved in
1-20 an agritourism activity.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Title 4, Civil Practice and Remedies Code, is
1-23 amended by adding Chapter 75A to read as follows:

1-24 CHAPTER 75A. LIMITED LIABILITY FOR AGRITOURISM ACTIVITIES

1-25 Sec. 75A.001. DEFINITIONS. In this chapter:

1-26 (1) "Agricultural land" means land that is located in
1-27 this state and that is suitable for:

1-28 (A) use in production of plants and fruits grown
1-29 for human or animal consumption, or plants grown for the production
1-30 of fibers, floriculture, viticulture, horticulture, or planting
1-31 seed; or

1-32 (B) domestic or native farm or ranch animals kept
1-33 for use or profit.

1-34 (2) "Agritourism activity" means an activity on
1-35 agricultural land for recreational or educational purposes of
1-36 participants, without regard to compensation.

1-37 (3) "Agritourism entity" means a person engaged in the
1-38 business of providing an agritourism activity, without regard to
1-39 compensation.

1-40 (4) "Agritourism participant" means an individual,
1-41 other than an employee of an agritourism entity, who engages in an
1-42 agritourism activity.

1-43 (5) "Agritourism participant injury" means an injury
1-44 sustained by an agritourism participant, including bodily injury,
1-45 emotional distress, death, property damage, or any other loss
1-46 arising from the person's participation in an agritourism activity.

1-47 (6) "Premises" has the meaning assigned by Section
1-48 75.001.

1-49 (7) "Recreation" has the meaning assigned by Section
1-50 75.001.

1-51 Sec. 75A.002. LIMITED LIABILITY. (a) Except as provided
1-52 by Subsection (b), an agritourism entity is not liable to any person
1-53 for an agritourism participant injury or damages arising out of the
1-54 agritourism participant injury if:

1-55 (1) at the time of the agritourism activity from which
1-56 the injury arises, the warning prescribed by Section 75A.003 was
1-57 posted in accordance with that section; or

1-58 (2) the agritourism entity obtained in accordance with
1-59 Section 75A.004 a written agreement and warning statement from the
1-60 agritourism participant with respect to the agritourism activity
1-61 from which the injury arises.

(b) 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) 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. For the purposes of limitation of liability under Section 75A.002(a)(1), an agritourism entity must post and maintain a sign in a clearly visible location on or near any premises on which an agritourism activity is conducted. The sign must contain the following language:

WARNING

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

Sec. 75A.004. SIGNED AGREEMENT AND WARNING. 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:

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

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

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

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

(5) contains the following language:

AGREEMENT AND WARNING

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

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

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

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