

AGRITOURISM



With less than two percent of Americans living on a farm, the public is becoming more and more removed from farming practices and agricultural production. Consumers are more interested than ever in learning where their food comes from, and the technological advancements behind producing that food. Agritourism provides an excellent opportunity to open meaningful connections between agriculture and the public. The vast majority of farms depend on outside income to stay in business, and any additional revenue agritourism could provide a farm might significantly increase its economic viability.



Issue

In 2013, the Florida Legislature passed SB 1106, a bill that protects and strengthens agritourism opportunities for Florida’s farmers and ranchers.

Agritourism combines Florida’s two largest industries – tourism and agriculture – and allows farmers to open their agricultural land to the general public for education and entertainment as long as the activity relates directly to agricultural production.

Unfortunately, before this legislation became law in 2013, Florida’s farmers and ranchers were faced with several challenges and barriers that prevented them from taking advantage of the opportunity agritourism could provide. Agritourism owners and operators faced increasing regulation at the local level and a heavy burden of liability, keeping farmers from inviting the public on their land and finding other beneficial uses of their agricultural land.

Definition of Agritourism

The intent of SB 1106 was to break down those barriers of local regulation and liability for agritourism operators. But in order to do that, the definition of agritourism had to be changed to ensure a direct linkage between agritourism and actual agricultural production. As a result of the legislation, Florida Statute 570.86, defines an agritourism activity as “any agricultural related activity consistent with a bona fide farm or ranch or in a working forest which allows members of the general public to view or enjoy activities related to farming, ranching, historical, cultural or harvest-your-own attractions for recreational, entertainment or educational purposes.”

This definition clearly indicates that in order to receive any of the protection provided by the statute, a agritourism activity must be directly linked to a farm,

ranch or forest that is actually in production and that it must be an activity that is related to agriculture.

Protection from Liability

Florida Statute 570.88, provides limited liability protection for agritourism owners, operators and their employer or employees against injury, death or damage to participants unless the agritourism operator commits an act that constitutes gross negligence or willful or wanton disregard for the safety of the participant.

This liability protection should not be considered a total substitute for insurance protection. However, in most instances agritourism owners and operators who use diligence in considering the well-being of their guests will be protected from frivolous lawsuits.

Protection from Local Government Overregulation

Florida Statute 570.85, eliminates the duplication of regulatory authority over agritourism. In essence, this means that local governments may not create new ordinances, rules, etc. that limit agritourism activities on land that has an agricultural classification pursuant to Florida Statute 193.461. This primarily pertains to ordinances that would restrict hours of operation, number of participants, parking regulations, etc., when the facilities are used for agritourism activities.

It is important to note that this exemption does **not** prohibit the enactment of new local governmental ordinances related to the construction of new or additional structures intended primarily to accommodate members of the general public. If you build or use a building primarily for accommodating the public, you must abide by all building and zoning regulations.

Posting and Notification (Florida Statute 570.89)

In order to receive the protection offered under this legislation, agritourism operators must post and maintain signs that are visible at the entrance of the

agritourism location and at the site of the agritourism activity. The sign must include the following language and consist of clearly visible black letters, at least 1 inch in height:

WARNING

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





For further information contact:

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