

2016 -- S 2598

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO AGRICULTURE AND FORESTRY

Introduced By: Senators Sosnowski, Felag, Archambault, and DiPalma

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 2 of the General Laws entitled "AGRICULTURE AND FORESTRY"

2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 23.3

4 EXEMPTION FROM LIABILITY ARISING FROM AGRITOURISM ACTIVITIES

5 **2-23.3-1. Definitions.** -- For the purposes of this chapter, the following words or phrases  
6 shall have the following meanings:

7 (1) "Agritourism activity" means an agricultural related activity consistent with a farm in  
8 a working forest which allows members of the general public, for recreational, entertainment, or  
9 educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural,  
10 harvest-your-own or nature-based activities and attractions. An agritourism activity does not  
11 include the construction of new or additional structures or facilities intended primarily to house,  
12 shelter, transport or otherwise accommodate members of the general public. An activity is an  
13 agritourism activity whether or not the participant paid to participate in the activity.

14 (2) "Agritourism activity sponsor" means an individual, group, club, partnership, or  
15 corporation engaged in the business of providing one or more agritourism activities, whether or  
16 not for compensation.

17 (3) "Farm" means the land, buildings, support facilities, machinery and other  
18 appurtenances used in the production of farm or aquaculture products, including land used to  
19 display plants, animals, farm products or farm equipment to the public.

1 (4) "Farm operation" has the same meaning as the definition provided for "agricultural  
2 operations" in §2-23-4.

3 (5) "Inherent risks of agritourism activity" means those dangers or conditions which are  
4 in integral part of agritourism activities, including, but not limited to:

5 (i) Certain hazards, such as surface and subsurface conditions;

6 (ii) Natural conditions of land, vegetation and waters;

7 (iii) The behavior of wild or domestic animals;

8 (iv) The ordinary dangers of structures or equipment ordinarily used in farming  
9 operations; or

10 (v) The potential of a participant to act in a negligent manner that may contribute to the  
11 injury of the participant or others, including failing to follow the instructions given by the  
12 agritourism activity sponsor or failing to exercise reasonable caution while engaging in the  
13 agritourism activity.

14 (6) "Participant" means any person, whether amateur or professional, who engages in an  
15 agritourism activity, whether or not a fee is paid to participate in the agritourism activity.

16 **2-23.3-2. General provisions. --** (1) An agritourism activity sponsor, agritourism  
17 professional, or any other person or entity, shall not be liable for an injury to or the death of a  
18 participant resulting from the inherent risks of agritourism activities unless the agritourism  
19 activity sponsor, professional or other person or entity are demonstrated to have failed to exercise  
20 due care under the circumstances towards the participant and no participant nor any participant's  
21 representative shall make any claim against, maintain an action against, or recover from an  
22 agritourism activity sponsor, agritourism professional, or any other person or entity for injury,  
23 loss, damage, or death of the participant resulting from any of the inherent risks of agritourism  
24 activities unless this agritourism activity sponsor, professional or other person or entity shall be  
25 demonstrated to have failed to exercise due care under the circumstances towards the participant.

26 (2) In the event of the injury or death of, or damage or loss to, and agritourism  
27 participant, subsection (1) of this section does not prevent or limit the liability of an agritourism  
28 activity sponsor, agritourism professional, the owner of the underlying land on which the  
29 agritourism occurs or any other person or entity, if they or it:

30 (i) Commits an act of omission that constitutes gross negligence or willful or wanton  
31 disregard for the safety of the participant and that act or omission proximately causes injury,  
32 damage or death to the participant; or

33 (ii) Intentionally injures the participant.

34 **2-23.3-3. Posting and notification. --** (1) Every agritourism activity sponsor shall post

1 and maintain signs which contain warning notices. These signs shall be placed in a clearly visible  
2 location in the proximity of the agritourism activity. The warning notice shall appear on the sign  
3 in black letters, with each letter to be a minimum of one inch in height. Every written contract  
4 entered into by an agritourism activity sponsor for the providing of professional services,  
5 instruction, or the rental of equipment to a participant, whether or not the contract involves  
6 agritourism activities on or off the location or site of the agritourism professional's business, shall  
7 contain in clearly readable print the warning notice.

8 (2) The signs and contracts described in subsection (1) of this section shall contain the  
9 following warning notice:

10 "WARNING

11 Under Rhode Island law, chapter 2-23.3, an agritourism professional, unless they can be  
12 shown to have failed to be in the exercise of due care, is not liable for an injury to, or the death of,  
13 a participant in agritourism activities resulting from the inherent risks of agritourism activities."

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO AGRICULTURE AND FORESTRY

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1           This act would limit liability arising from agritourism activities, unless it can be  
2   demonstrated that there was a failure to exercise due care, gross negligence, or willful or  
3   intentional misconduct.

4           This act would take effect upon passage.

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