

Senator Scott D. Sandall proposes the following substitute bill:

AGRITOURISM AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses agritourism activities.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ expands agricultural nuisance liability protections in relation to an agritourism activity;
- ▶ provides that an agricultural protection area may include an agritourism activity;
- ▶ requires the Department of Agriculture and Food to maintain an agritourism registry and describes requirements relating to the registry;
- ▶ includes additional risks inherent to participating in an agritourism activity;
- ▶ requires an agritourism operator to post signage regarding the inherent risks of participating in an agritourism activity;
- ▶ expands civil liability protections for an operator of an agritourism activity; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 [4-44-102](#), as enacted by Laws of Utah 2019, Chapter 81

30 [17-41-301](#), as last amended by Laws of Utah 2019, Chapter 227

31 [26B-7-401](#), as renumbered and amended by Laws of Utah 2023, Chapter 308

32 [78B-4-512](#), as last amended by Laws of Utah 2015, Chapter 63

33 ENACTS:

34 [4-2-1001](#), Utah Code Annotated 1953

35 [4-2-1002](#), Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **4-2-1001** is enacted to read:

39 **Part 10. Agritourism Registry**

40 **4-2-1001. Definitions.**

41 As used in this part:

42 (1) "Agricultural enterprise" means the same as that term is defined in Section
43 [78B-4-512](#).

44 (2) "Agritourism activity" means the same as that term is defined in Section
45 [78B-4-512](#).

46 (3) "Registry" means the voluntary agritourism registry described in Section [4-2-1002](#).

47 Section 2. Section **4-2-1002** is enacted to read:

48 **4-2-1002. Agritourism registry.**

49 (1) The department shall maintain a voluntary agritourism registry.

50 (2) The purpose of the registry is to provide public notice of locations where
51 individuals may participate in an agritourism activity.

52 (3) The owner of an agricultural enterprise that provides an agritourism activity in Utah
53 may voluntarily place the agritourism activity on the registry by providing the following
54 information to the department:

55 (a) the name and location of the agricultural enterprise;

56 (b) a description of the agritourism activity; and

57 (c) details relating to participation in the agritourism activity, including cost, hours of
58 operation, and other relevant information.

59 (4) The owner of an agricultural enterprise with an agritourism activity on the registry
60 shall notify the department of any changes to the information described in Subsection (3).

61 (5) The department:

62 (a) shall post the information on the registry to the department's website in a location
63 where the public may conveniently access the information;

64 (b) may publicize the availability of the registry to the public; and

65 (c) may not charge a fee to be listed on, or to use, the registry.

66 (6) A registration under this section is in effect for five years, unless the owner requests
67 removal at an earlier time.

68 Section 3. Section **4-44-102** is amended to read:

69 **4-44-102. Definitions.**

70 As used in this chapter:

71 (1) (a) "Agricultural operation" means [~~an activity engaged in the production for~~
72 ~~commercial purposes~~] the commercial production of crops, orchards, livestock, poultry,
73 aquaculture, livestock products, or poultry products [~~and the facilities, equipment, and property~~
74 ~~used to facilitate the activity~~].

75 (b) "Agricultural operation" includes:

76 (i) the real property where the commercial production described in Subsection (1)(a)
77 occurs;

78 (ii) a facility, a property, or equipment used to facilitate the commercial production
79 described in Subsection (1)(a);

80 (iii) an agritourism activity, as defined in Section [78B-4-512](#); or

81 (iv) an agricultural protection area established under Title 17, Chapter 41, Agriculture,
82 Industrial, or Critical Infrastructure Materials Protection Areas.

83 (2) "Fundamental change to the operation" does not include:

84 (a) a change in ownership or size;

85 (b) an interruption of farming for a period of no more than three years;

86 (c) participation in a government-sponsored agricultural program;

87 (d) employment of new technology; or

88 (e) a change in the type of agricultural product produced.

89 (3) "Nuisance" means anything that is injurious to health, indecent, offensive to the
90 senses, or an obstruction to the free use of property, so as to interfere with the comfortable
91 enjoyment of life or property.

92 Section 4. Section **17-41-301** is amended to read:

93 **17-41-301. Proposal for creation of a protection area.**

94 (1) (a) A proposal to create an agriculture protection area, an industrial protection area,
95 or critical infrastructure materials protection area may be filed with:

96 (i) the legislative body of the county in which the area is located, if the area is within
97 the unincorporated part of a county; or

98 (ii) the legislative body of the city or town in which the area is located, if the area is
99 within a city or town.

100 (b) A proposal to create a critical infrastructure protection area can only be initiated by
101 the legislative body of the municipality or county. Creation of a critical infrastructure materials
102 protection area is a legislative act.

103 (c) (i) To be accepted for processing by the applicable legislative body, a proposal
104 under Subsection (1)(a) shall be signed by a majority in number of all owners of real property
105 and the owners of a majority of the land area in agricultural production, industrial use, or
106 critical infrastructure materials operations within the proposed relevant protection area.

107 (ii) For purposes of Subsection (1)(c)(i), the owners of real property shall be
108 determined by the records of the county recorder.

109 (2) The proposal shall identify:

110 (a) the boundaries of the land proposed to become part of the relevant protection area;

111 (b) any limits on the types of agriculture production, industrial use, or critical
112 infrastructure materials operations to be allowed within the relevant protection area; and

113 (c) for each parcel of land:

114 (i) the names of the owners of record of the land proposed to be included within the
115 relevant protection area;

116 (ii) the tax parcel number or account number identifying each parcel; and

117 (iii) the number of acres of each parcel.

118 (3) An agriculture protection area, industrial protection area, or critical infrastructure

119 materials protection area may include within its boundaries land used for a roadway, dwelling
120 site, park, or other nonagricultural use, in the case of an industrial protection area, nonindustrial
121 use, or in the case of a critical infrastructure materials protection area, use unrelated to critical
122 infrastructure materials operations, if that land constitutes a minority of the total acreage within
123 the [the] relevant protection area.

124 (4) An agricultural protection area may include within the boundaries of the
125 agricultural protection area an agritourism activity, as defined in Section 78B-4-512.

126 [(4)] (5) A county or municipal legislative body may establish:

127 (a) the manner and form for submission of proposals; and

128 (b) reasonable fees for accepting and processing the proposal.

129 [(5)] (6) A county and municipal legislative body shall establish the minimum number
130 of continuous acres that shall be included in an agriculture protection area, industrial protection
131 area, or critical infrastructure materials protection area.

132 Section 5. Section **26B-7-401** is amended to read:

133 **26B-7-401. Definitions.**

134 As used in this part:

135 [(1)] "~~Agricultural tourism activity~~" means the same as that term is defined in Section
136 ~~78B-4-512.~~]

137 [(2)] (1) "Agritourism" means the same as that term is defined in Section 78B-4-512.

138 (2) "Agritourism activity" means the same as that term is defined in Section
139 78B-4-512.

140 (3) "Agritourism food establishment" means a non-commercial kitchen facility where
141 food is handled, stored, or prepared to be offered for sale on a farm in connection with an
142 [~~agricultural tourism~~] agritourism activity.

143 (4) "Agritourism food establishment permit" means a permit issued by a local health
144 department to the operator for the purpose of operating an agritourism food establishment.

145 (5) "Back country food service establishment" means a federal or state licensed back
146 country guiding or outfitting business that:

147 (a) provides food services; and

148 (b) meets department recognized federal or state food service safety regulations for
149 food handlers.

150 (6) "Certified food safety manager" means a manager of a food service establishment
151 who:

152 (a) passes successfully a department-approved examination;

153 (b) successfully completes, every three years, renewal requirements established by
154 department rule consistent with original certification requirements; and

155 (c) submits to the appropriate local health department the documentation required by
156 Section [26B-7-412](#).

157 (7) "Farm" means a working farm, ranch, or other commercial agricultural,
158 aquacultural, horticultural, or forestry operation.

159 (8) "Food" means:

160 (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or
161 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

162 (b) chewing gum.

163 (9) "Food service establishment" means any place or area within a business or
164 organization where potentially hazardous foods, as defined by the department under Section
165 [26B-7-410](#), are prepared and intended for individual portion service and consumption by the
166 general public, whether the consumption is on or off the premises, and whether or not a fee is
167 charged for the food.

168 (10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility
169 located in a private home and operated by a resident of the home where ready-to-eat food is
170 handled, stored, prepared, or offered for sale.

171 (b) "Microenterprise home kitchen" does not include:

172 (i) a catering operation;

173 (ii) a cottage food operation;

174 (iii) a food truck;

175 (iv) an agritourism food establishment;

176 (v) a bed and breakfast; or

177 (vi) a residence-based group care facility.

178 (11) "Microenterprise home kitchen permit" means a permit issued by a local health
179 department to the operator for the purpose of operating a microenterprise home kitchen.

180 (12) "Ready-to-eat" means:

- 181 (a) raw animal food that is cooked;
- 182 (b) raw fruits and vegetables that are washed;
- 183 (c) fruits and vegetables that are cooked for hot holding;
- 184 (d) a time or temperature control food that is cooked to the temperature and time
- 185 required for the specific food in accordance with rules made by the department in accordance
- 186 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
- 187 (e) a bakery item for which further cooking is not required for food safety.

188 (13) "Time or temperature control food" means food that requires time or temperature
 189 controls for safety to limit pathogenic microorganism growth or toxin formation.

190 Section 6. Section **78B-4-512** is amended to read:

191 **78B-4-512. Definitions -- Participation in an agritourism activity -- Limitations**
 192 **on civil liability.**

193 (1) As used in this section:

194 [~~(a) "Agricultural tourism activity" means an educational or recreational activity that:~~]

195 [~~(i) takes place on a farm or ranch or other commercial agricultural, aquacultural,~~
 196 ~~horticultural, or forestry operation; and]~~

197 [~~(ii) allows an individual to tour, explore, observe, learn about, participate in, or be~~
 198 ~~entertained by an aspect of agricultural operations.].~~

199 [~~(b) "Agritourism" means the travel or visit by the general public to a working farm,~~
 200 ~~ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation for the~~
 201 ~~enjoyment of, education about, or participation in the activities of the farm, ranch, or other~~
 202 ~~commercial agricultural, aquacultural, horticultural, or forestry operation.].~~

203 (a) "Agricultural enterprise" means a farm, ranch, or other agricultural, aquacultural,
 204 horticultural, or forestry operation.

205 (b) "Agritourism" means the combination of agricultural production with tourism to
 206 attract participants from the general public to an agricultural enterprise for the entertainment,
 207 recreation, or education of the participants.

208 (c) "Agritourism activity" means an activity at an agricultural enterprise that a
 209 participant engages in or observes for recreation, education, or entertainment.

210 [~~(c)~~] (d) "Inherent risk of an agritourism activity" means a danger, hazard, or condition
 211 [which is an integral] that is part of an [agricultural tourism] agritourism activity [and that

212 cannot be eliminated by the exercise of reasonable care], including:

213 (i) ~~[natural]~~ surface and subsurface conditions of land, vegetation, ~~[and]~~ or water on the
214 property;

215 (ii) unpredictable behavior of domesticated or farm animals on the property; ~~[or]~~

216 (iii) reasonable dangers of structures or equipment ordinarily used where agricultural or
217 horticultural crops are grown or farm animals or farmed fish are raised~~[-]~~;

218 (iv) behavior of insects or wildlife not owned or kept by the operator of the property;

219 (v) exposure to pathogens from animals, animal feed, animal waste, or other sources;

220 or

221 (vi) negligent behavior by an individual other than the operator.

222 ~~[(d)]~~ (e) "Operator" means:

223 (i) a person who ~~[operates, provides, or demonstrates an agricultural tourism activity;~~
224 ~~or]~~ owns or manages an agricultural enterprise where a participant engages in or observes an
225 agritourism activity;

226 (ii) a person who provides an agritourism activity at an agricultural enterprise; or

227 ~~[(ii)]~~ (iii) an employee of a person described in Subsection ~~[(1)(d)(i)]~~ (1)(e)(i) or (ii).

228 ~~[(e)]~~ (f) (i) "Participant" means an individual, other than ~~[a provider or operator, who~~
229 ~~observes or participates in an agricultural tourism]~~ an operator, who engages in or observes an
230 agritourism activity, regardless of whether the individual ~~[paid to observe or participate in an~~
231 agricultural tourism] pays to engage in or observe the agritourism activity.

232 (ii) "Participant" does not mean an individual who is paid to participate in an
233 ~~[agricultural tourism]~~ agritourism activity.

234 ~~[(f)]~~ (g) "Property" means the real property where an ~~[agricultural tourism]~~ agritourism
235 activity takes place ~~[and the buildings, structures, and improvements on that real property].~~

236 ~~[(2) A participant in an agricultural tourism activity may not make any claim against,~~
237 ~~or recover damages from, any operator for injury primarily resulting from:]~~

238 ~~[(a) an inherent risk of agritourism; or]~~

239 ~~[(b) the participant's failure to:]~~

240 ~~[(i) follow instructions given by the operator; or]~~

241 ~~[(ii) exercise reasonable caution while engaged in an agricultural tourism activity.]~~

242 (2) (a) Except as provided in Subsection (3), an operator may not be liable for an

243 injury, illness, death, or damage to personal property of a participant that results from an
 244 inherent risk of an agritourism activity if the operator posts the signage described in Subsection
 245 (5).

246 (b) An operator is not required to eliminate an inherent risk of an agritourism activity
 247 at the operator's agritourism activity.

248 (3) Nothing in Subsection (2):

249 (a) limits the liability of an operator if the operator:

250 (i) acts or omits an act in willful or wanton disregard for the safety of a participant that
 251 proximately causes injury, illness, death, or damage to personal property of a participant;

252 (ii) has actual knowledge of a dangerous condition on the land, facilities, or equipment
 253 used in the agritourism activity that proximately causes injury, illness, death, or damage to
 254 personal property of a participant;

255 (iii) has actual knowledge of the dangerous propensity of an animal used in an
 256 agritourism activity and does not make the danger known to the participant, and the danger
 257 proximately causes injury, illness, death, or damage to personal property of a participant; or

258 (iv) intentionally injures the participant;

259 (b) prevents or limits the liability of an operator under a product liability law; or

260 (c) negates assumption of risk as an affirmative defense.

261 (4) A limitation on legal liability afforded to an operator under Subsection (2) is in
 262 addition to any limitation of legal liability otherwise provided by law.

263 ~~[(3)]~~ (5) An operator shall post and maintain, in a clearly visible location at each
 264 entrance to the property where an [agricultural tourism] agritourism activity takes place or at
 265 the location of each [agricultural tourism] agritourism activity, a sign [describing] that:

266 ~~[(a) the inherent risks of the activity, and]~~

267 ~~[(b) the limitations on liability of the operators.]~~

268 (a) is printed in black letters, that are a minimum of one inch in height, on a white
 269 background; and

270 (b) states, "WARNING: Under Utah law, an operator of an agritourism activity or the
 271 property where the activity takes place is not liable for the injury, illness, death, or damage to
 272 personal property of a participant that primarily results from the inherent risks of the activity or
 273 a participant's failure to follow instructions or exercise reasonable caution. You are assuming

274 the risk of participating in or observing an agritourism activity."

275 ~~[(4) In any action for damages for personal injury, death, or property damage in which~~
276 ~~an owner or operator of an agritourism activity is named as a defendant, the court shall undergo~~
277 ~~a comparative negligence analysis and consider whether:]~~

278 ~~[(a) the injured person deliberately disregarded conspicuously posted signs, verbal~~
279 ~~instructions, or other warnings regarding safety measures during the activity; or]~~

280 ~~[(b) any equipment, animals, or appliance used by the injured person during the activity~~
281 ~~were used in a manner or for a purpose other than that for which a reasonable person should~~
282 ~~have known they were intended:]~~

283 Section 7. **Effective date.**

284 This bill takes effect on May 1, 2024.