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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:

None

Utah Code Sections Affected:

AMENDS:

- 4-44-102**, as enacted by Laws of Utah 2019, Chapter 81
- 17-41-301**, as last amended by Laws of Utah 2019, Chapter 227
- 26B-7-401**, as renumbered and amended by Laws of Utah 2023, Chapter 308
- 78B-4-512**, as last amended by Laws of Utah 2015, Chapter 63

28 ENACTS:

29 **4-2-1001**, as Utah Code Annotated 1953

30 **4-2-1002**, as Utah Code Annotated 1953

31

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

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

34

Part 10. Agritourism Registry

35 **4-2-1001 . Definitions.**

36 As used in this part:

37 (1) "Agricultural enterprise" means the same as that term is defined in Section 78B-4-512.

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

39 (3) "Registry" means the voluntary agritourism registry described in Section 4-2-1002.

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

41 **4-2-1002 . Agritourism registry.**

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

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

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

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

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

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

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

54 (5) The department:

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

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

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

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

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

62 **4-44-102 . Definitions.**

63 As used in this chapter:

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

68 (b) "Agricultural operation" includes[-] :

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

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

73 (iii) an agritourism activity, as defined in Section 78B-4-512; or

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

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

77 (a) a change in ownership or size;

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

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

80 (d) employment of new technology; or

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

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

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

86 **17-41-301 . Proposal for creation of a protection area.**

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

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

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

93 (b) A proposal to create a critical infrastructure protection area can only be initiated by
 94 the legislative body of the municipality or county. Creation of a critical infrastructure

95 materials protection area is a legislative act.

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

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

103 (2) The proposal shall identify:

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

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

108 (c) for each parcel of land:

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

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

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

113 (3) An agriculture protection area, industrial protection area, or critical infrastructure
 114 materials protection area may include within its boundaries land used for a roadway,
 115 dwelling site, park, or other nonagricultural use, in the case of an industrial protection
 116 area, nonindustrial use, or in the case of a critical infrastructure materials protection
 117 area, use unrelated to critical infrastructure materials operations, if that land constitutes a
 118 minority of the total acreage within the~~the~~ relevant protection area.

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

121 [~~(4)~~] (5) A county or municipal legislative body may establish:

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

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

124 [~~(5)~~] (6) A county and municipal legislative body shall establish the minimum number of
 125 continuous acres that shall be included in an agriculture protection area, industrial
 126 protection area, or critical infrastructure materials protection area.

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

128 **26B-7-401 . Definitions.**

129 As used in this part:

130 [~~(1) "Agricultural tourism activity" means the same as that term is defined in Section~~
 131 ~~78B-4-512.~~]

132 [~~(2)~~ (1) "Agritourism" means the same as that term is defined in Section 78B-4-512.

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

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

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

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

142 (a) provides food services; and

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

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

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

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

149 (c) submits to the appropriate local health department the documentation required by
 150 Section 26B-7-412.

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

153 (8) "Food" means:

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

157 (b) chewing gum.

158 (9) "Food service establishment" means any place or area within a business or organization
 159 where potentially hazardous foods, as defined by the department under Section
 160 26B-7-410, are prepared and intended for individual portion service and consumption by
 161 the general public, whether the consumption is on or off the premises, and whether or
 162 not a fee is charged for the food.

- 163 (10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility
 164 located in a private home and operated by a resident of the home where ready-to-eat
 165 food is handled, stored, prepared, or offered for sale.
- 166 (b) "Microenterprise home kitchen" does not include:
 167 (i) a catering operation;
 168 (ii) a cottage food operation;
 169 (iii) a food truck;
 170 (iv) an agritourism food establishment;
 171 (v) a bed and breakfast; or
 172 (vi) a residence-based group care facility.
- 173 (11) "Microenterprise home kitchen permit" means a permit issued by a local health
 174 department to the operator for the purpose of operating a microenterprise home kitchen.
- 175 (12) "Ready-to-eat" means:
 176 (a) raw animal food that is cooked;
 177 (b) raw fruits and vegetables that are washed;
 178 (c) fruits and vegetables that are cooked for hot holding;
 179 (d) a time or temperature control food that is cooked to the temperature and time
 180 required for the specific food in accordance with rules made by the department in
 181 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
 182 (e) a bakery item for which further cooking is not required for food safety.
- 183 (13) "Time or temperature control food" means food that requires time or temperature
 184 controls for safety to limit pathogenic microorganism growth or toxin formation.

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

186 **78B-4-512 . Definitions -- Participation in an agritourism activity -- Limitations**
 187 **on civil liability -- Signage requirement.**

188 (1) As used in this section:

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

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

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

194 [~~(b) "Agritourism" means the travel or visit by the general public to a working farm,~~

195 ~~ranch, or other commercial agricultural, aquacultural, horticultural, or forestry~~

196 ~~operation for the enjoyment of, education about, or participation in the activities of~~

- 197 the farm, ranch, or other commercial agricultural, aquacultural, horticultural, or
 198 forestry operation.]
- 199 (a) "Agricultural enterprise" means a farm, ranch, or other agricultural, aquacultural,
 200 horticultural, or forestry operation.
- 201 (b) "Agritourism" means the combination of agricultural production with tourism to
 202 attract participants from the general public to an agricultural enterprise for the
 203 entertainment, recreation, or education of the participants.
- 204 (c) "Agritourism activity" means an activity at an agricultural enterprise that a
 205 participant engages in or observes for recreation, education, or entertainment.
- 206 [(e)] (d) "Inherent risk of an agritourism activity" means a danger, hazard, or condition [
 207 which is an integral] that is part of an [agricultural tourism] agritourism activity[-and
 208 that cannot be eliminated by the exercise of reasonable care], including:
- 209 (i) [~~natural~~] surface and subsurface conditions of land, vegetation, [~~and~~] or water on
 210 the property;
- 211 (ii) unpredictable behavior of domesticated or farm animals on the property; [~~or~~]
- 212 (iii) reasonable dangers of structures or equipment ordinarily used where agricultural
 213 or horticultural crops are grown or farm animals or farmed fish are raised[-];
- 214 (iv) behavior of insects or wildlife not owned or kept by the operator of the property;
- 215 (v) exposure to pathogens from animals, animal feed, animal waste, or other sources;
 216 or
- 217 (vi) negligent behavior by an individual other than the operator.
- 218 [(d)] (e) "Operator" means:
- 219 (i) a person who [~~operates, provides, or demonstrates an agricultural tourism activity;~~
 220 ~~or~~] owns or manages an agricultural enterprise where a participant engages in or
 221 observes an agritourism activity;
- 222 (ii) a person who provides an agritourism activity at an agricultural enterprise; or
 223 [(ii)] (iii) an employee of a person described in Subsection [(1)(d)(i)] (1)(e)(i) or (ii).
- 224 [(e)] (f) (i) "Participant" means an individual, other than [~~a provider or operator, who~~
 225 ~~observes or participates in an agricultural tourism]~~ an operator, who engages in or
 226 observes an agritourism activity, regardless of whether the individual [paid to
 227 observe or participate in an agricultural tourism] pays to engage in or observe the
 228 agritourism activity.
- 229 (ii) "Participant" does not mean an individual who is paid to participate in an [
 230 ~~agricultural tourism]~~ agritourism activity.

- 231 ~~[(f)]~~ (g) "Property" means the real property where an ~~[agricultural tourism]~~ agritourism
232 activity takes place~~[-and the buildings, structures, and improvements on that real~~
233 ~~property]~~.
- 234 ~~[(2) A participant in an agricultural tourism activity may not make any claim against, or~~
235 ~~recover damages from, any operator for injury primarily resulting from:]~~
236 ~~[(a) an inherent risk of agritourism; or]~~
237 ~~[(b) the participant's failure to:]~~
238 ~~[(i) follow instructions given by the operator; or]~~
239 ~~[(ii) exercise reasonable caution while engaged in an agricultural tourism activity.]~~
- 240 (2) (a) Except as provided in Subsection (3), an operator may not be liable for an injury,
241 illness, death, or damage to personal property of a participant that results from an
242 inherent risk of an agritourism activity if the operator posts the signage described in
243 Subsection (5).
- 244 (b) An operator is not required to eliminate an inherent risk of an agritourism activity at
245 the operator's agritourism activity.
- 246 (3) Nothing in Subsection (2):
- 247 (a) limits the liability of an operator if the operator:
- 248 (i) acts or omits an act in gross negligence or willful or wanton disregard for the
249 safety of a participant that proximately causes injury, illness, death, or damage to
250 personal property of a participant;
- 251 (ii) has actual knowledge or reasonably should have known of a dangerous condition
252 on the land, facilities, or equipment used in the agritourism activity that
253 proximately causes injury, illness, death, or damage to personal property of a
254 participant;
- 255 (iii) has actual knowledge or reasonably should have known of the dangerous
256 propensity of an animal used in an agritourism activity and does not make the
257 danger known to the participant, and the danger proximately causes injury, illness,
258 death, or damage to personal property of a participant; or
- 259 (iv) intentionally injures the participant;
- 260 (b) prevents or limits the liability of an operator under a product liability law; or
261 (c) negates assumption of risk as an affirmative defense.
- 262 (4) A limitation on legal liability afforded to an operator under Subsection (2) is in addition
263 to any limitation of legal liability otherwise provided by law.
- 264 ~~[(3)]~~ (5) An operator shall post and maintain, in a clearly visible location at each entrance to

265 the property where an [~~agricultural tourism~~] agritourism activity takes place or at the
266 location of each [~~agricultural tourism~~] agritourism activity, a sign [~~describing~~] that:
267 [~~(a) the inherent risks of the activity; and~~
268 [~~(b) the limitations on liability of the operators.~~]
269 (a) is printed in black letters, that are a minimum of one inch in height, on a white
270 background; and
271 (b) states, "WARNING: Under Utah law, an operator of an agritourism activity or the
272 property where the activity takes place is not liable for the injury, illness, death, or
273 damage to personal property of a participant that primarily results from the inherent
274 risks of the activity or a participant's failure to follow instructions or exercise
275 reasonable caution. You are assuming the risk of participating in or observing an
276 agritourism activity."
277 [~~(4) In any action for damages for personal injury, death, or property damage in which~~
278 ~~an owner or operator of an agritourism activity is named as a defendant, the court~~
279 ~~shall undergo a comparative negligence analysis and consider whether:]~~
280 [~~(a) the injured person deliberately disregarded conspicuously posted signs, verbal~~
281 ~~instructions, or other warnings regarding safety measures during the activity; or]~~
282 [~~(b) any equipment, animals, or appliance used by the injured person during the activity~~
283 ~~were used in a manner or for a purpose other than that for which a reasonable person~~
284 ~~should have known they were intended.]~~

285 Section 7. **Effective date.**

286 This bill takes effect on May 1, 2024.