

---

ENGROSSED SUBSTITUTE SENATE BILL 5808

---

State of Washington

65th Legislature

2017 Regular Session

By Senate Agriculture, Water, Trade & Economic Development  
(originally sponsored by Senators Warnick, Chase, Walsh, Brown,  
Becker, Short, and Bailey)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to agritourism; and adding new sections to  
2 chapter 4.24 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that agriculture  
5 plays a substantial role in the economy, culture, and history of  
6 Washington state. As an increasing number of Washington's citizens  
7 are removed from day-to-day agricultural experiences, agritourism  
8 provides a valuable opportunity for the public to interact with,  
9 experience, and understand agriculture. In addition, agritourism  
10 opportunities provide valuable options for agricultural producers and  
11 rural residents to maintain their operations and continue a  
12 traditional economic development opportunity in rural areas. Inherent  
13 risks exist on farms and ranches, some of which cannot be reasonably  
14 eliminated. Uncertainty of potential liability associated with  
15 inherent risks has a negative impact on the establishment and success  
16 of agritourism operations.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout this chapter unless the context clearly requires  
19 otherwise.

1 (1) "Agritourism activity" means any activity carried out on a  
2 farm or ranch whose primary business activity is agriculture or  
3 ranching and that allows members of the general public, for  
4 recreational, entertainment, or educational purposes, to view or  
5 enjoy rural activities including, but not limited to: Farming;  
6 ranching; historic, cultural, and on-site educational programs;  
7 recreational farming programs that may include on-site hospitality  
8 services; guided and self-guided tours; bed and breakfast  
9 accommodations; petting zoos; farm festivals; corn mazes; harvest-  
10 your-own operations; hayrides; barn parties; horseback riding;  
11 fishing; and camping.

12 (2) "Agritourism professional" means any person in the business  
13 of providing one or more agritourism activities, whether or not for  
14 compensation.

15 (3) "Inherent risks of agritourism activity" means those dangers  
16 or conditions that are an integral part of an agritourism activity  
17 including certain hazards, such as surface and subsurface conditions,  
18 natural conditions of land, vegetation, waters, the behavior of wild  
19 or domestic animals, and ordinary dangers of structures or equipment  
20 ordinarily used in farming and ranching operations. Inherent risks of  
21 agritourism activity also include the potential of a participant to  
22 act in a negligent manner that may contribute to injury to the  
23 participant or others, including failing to follow instructions given  
24 by the agritourism professional or failing to exercise reasonable  
25 caution while engaging in the agritourism activity, unless the  
26 participant acting in a negligent manner is a minor or is under the  
27 influence of alcohol or drugs.

28 (4) "Participant" means any person, other than the agritourism  
29 professional, who engages in an agritourism activity.

30 (5) "Person" means an individual, fiduciary, firm, association,  
31 partnership, limited liability company, corporation, unit of  
32 government, or any other group acting as a unit.

33 NEW SECTION. **Sec. 3.** (1)(a) Except as provided in subsection  
34 (2) of this section, an agritourism professional is not liable for  
35 injury, loss, damage, or death of a participant resulting exclusively  
36 from any of the inherent risks of agritourism activities.

37 (b) Except as provided in subsection (2) of this section, no  
38 participant or participant's representative may pursue an action or  
39 recover from an agritourism professional for injury, loss, damage, or

1 death of the participant resulting exclusively from any of the  
2 inherent risks of agritourism activities.

3 (c) In any action for damages against an agritourism professional  
4 for agritourism activity, the agritourism professional must plead the  
5 affirmative defense of assumption of the risk of agritourism activity  
6 by the participant.

7 (2) Nothing in subsection (1) of this section prevents or limits  
8 the liability of an agritourism professional if the agritourism  
9 professional does any one or more of the following:

10 (a) Commits an act or omission that is grossly negligent or  
11 constitutes willful or wanton disregard for the safety of the  
12 participant and that act or omission proximately causes injury,  
13 damage, or death to the participant.

14 (b) Has actual knowledge or reasonably should have known of an  
15 existing dangerous condition on the land, facilities, or equipment  
16 used in the activity or the dangerous propensity of a particular  
17 animal used in such an activity and does not make the danger known to  
18 the participant and the danger proximately causes injury, damage, or  
19 death to the participant.

20 (c) Permits minor participants to use facilities or engage in  
21 agritourism activities that are not reasonably appropriate for their  
22 age.

23 (d) Knowingly permits participants to use facilities or engage in  
24 agritourism activities while under the influence of alcohol or drugs.

25 (e) Fails to warn participants as required by section 4 of this  
26 act.

27 (3) Any limitation on legal liability afforded by this section to  
28 an agritourism professional is in addition to any other limitations  
29 of legal liability otherwise provided by law.

30 NEW SECTION. **Sec. 4.** (1) Every agritourism professional must  
31 post and maintain signs that contain the warning notice specified in  
32 subsection (2) of this section. The sign must be placed in a clearly  
33 visible location at the entrance to the agritourism location and at  
34 the site of the agritourism activity. The warning notice must consist  
35 of a sign in black letters, with each letter to be a minimum of one  
36 inch in height. Every written contract entered into by an agritourism  
37 professional for the providing of professional services, instruction,  
38 or the rental of equipment to a participant, whether or not the  
39 contract involves agritourism activities on or off the location or at

1 the site of the agritourism activity, must contain in clearly  
2 readable print the warning notice specified in subsection (2) of this  
3 section.

4 (2) The sign and contracts described in subsection (1) of this  
5 section must contain the following notice of warning:

6 "WARNING

7 Under Washington state law, there is limited liability for an  
8 injury to or death of a participant in an agritourism  
9 activity conducted at this agritourism location if such an  
10 injury or death results exclusively from the inherent risks  
11 of the agritourism activity. Inherent risks of agritourism  
12 activities include, among others, risks of injury inherent to  
13 land, equipment, and animals, as well as the potential for  
14 you to act in a negligent manner that may contribute to your  
15 injury or death. We are required to ensure that in any  
16 activity involving minor children, only age-appropriate  
17 access to activities, equipment, and animals is permitted.  
18 You are assuming the risk of participating in this  
19 agritourism activity."

20 (3) Failure to comply with the requirements concerning warning  
21 signs and notices provided in this section prohibits an agritourism  
22 professional from invoking the privilege of immunity provided by this  
23 section and sections 1 through 3 of this act and may be introduced as  
24 evidence in any claim for damages.

25 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act are each  
26 added to chapter 4.24 RCW.

--- END ---