
HOUSE BILL No. 1133

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-31-9.

Synopsis: Agritourism liability. Provides that an agritourism professional is not liable for the injury or death of an agritourism participant if the cause of the injury or death is an inherent risk of the agritourism activity. Establishes exceptions. Requires the agritourism professional to post a warning sign and place the warning notice in any contracts signed by the participant.

Effective: July 1, 2011.

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January 6, 2011, read first time and referred to Committee on Judiciary.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1133



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-31-9 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]:

4 **Chapter 9. Limited Liability Arising From Agritourism**
5 **Activities**

6 **Sec. 1. (a) This chapter does not apply to activities if the**
7 **participant is paid to participate in the activity.**

8 **(b) This chapter does not apply to an agritourism professional**
9 **who does not comply with the requirements concerning signs and**
10 **warning notices required by this chapter.**

11 **Sec. 2. As used in this chapter, "agritourism activity" means:**

12 **(1) an activity at an agricultural, horticultural, or**
13 **agribusiness operation where the general public is allowed or**
14 **invited to participate in, view, or enjoy the activities for**
15 **recreational, entertainment, or educational purposes,**
16 **including farming, ranching, historic and cultural agricultural**
17 **activities, self-pick farms, or farmers' markets;**



1 (2) an activity involving an animal exhibition at an
 2 agricultural fair; or
 3 (3) natural resource based activities and attractions, including
 4 hunting, fishing, hiking, and trail riding.

5 Sec. 3. As used in this chapter, "agritourism professional"
 6 means a person who is engaged in the business of providing
 7 agritourism activities whether or not the participant pays to
 8 participate in the activity. The term includes employees or
 9 authorized agents who offer or conduct agritourism activities on
 10 behalf of an agritourism professional.

11 Sec. 4. As used in this chapter, "inherent risks of agritourism
 12 activities" means those conditions, dangers, or hazards that are an
 13 integral part of an agritourism activity, including the following:

14 (1) Surface and subsurface conditions and natural conditions
 15 of land, vegetation, and waters.
 16 (2) The behavior of wild or domestic animals.
 17 (3) The ordinary dangers of structures or equipment
 18 ordinarily used on a working agricultural, horticultural, or
 19 agribusiness operation.
 20 (4) The negligent acts of a participant that may contribute to
 21 injury to the participant or others, including failing to follow
 22 instructions given by an agritourism professional, failing to
 23 exercise reasonable caution while engaging in the agritourism
 24 activity, or failing to obey written warnings or postings on the
 25 premises of the agritourism operation.

26 Sec. 5. As used in this chapter, "participant" means any person,
 27 other than the agritourism professional, who engages in an
 28 agritourism activity.

29 Sec. 6. As used in this chapter, "person" means an individual,
 30 governmental entity, corporation, limited liability company,
 31 partnership, unincorporated association, or other legal or
 32 commercial entity.

33 Sec. 7. An activity may be an agritourism activity whether or
 34 not a participant provides monetary or other valuable
 35 compensation to participate in the activity.

36 Sec. 8. (a) Subject to section 9 of this chapter, an agritourism
 37 professional is not liable for:

38 (1) an injury to a participant; or
 39 (2) the death of a participant;
 40 resulting from an inherent risk of agritourism activities.

41 (b) Subject to section 9 of this chapter, a participant or
 42 participant's representative may not:

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- 1 (1) make a claim against;
- 2 (2) maintain an action against; or
- 3 (3) recover from;
- 4 **an agritourism professional for injury, loss, damage, or death of**
- 5 **the participant resulting from an inherent risk of agritourism**
- 6 **activities.**

7 **Sec. 9. Section 8 of this chapter does not prevent or limit the**
 8 **liability of an agritourism professional:**

- 9 (1) who has actual knowledge of:
 - 10 (A) a dangerous condition on the land, facilities, or
 - 11 equipment used in the agritourism activity; or
 - 12 (B) the dangerous propensity of a particular animal used
 - 13 in the agritourism activity;
 - 14 and does not make the danger known to the participant and
 - 15 the danger proximately causes injury, damage, or death to the
 - 16 participant;
- 17 (2) who fails to properly train, or improperly or inadequately
- 18 trains, employees who are actively involved in agritourism
- 19 activities and an act or omission of the employee proximately
- 20 causes injury, damage, or death to the participant;
- 21 (3) who commits an act or omission that:
 - 22 (A) constitutes willful or wanton disregard for the safety of
 - 23 the participant; and
 - 24 (B) caused the injury or death of the participant; or
- 25 (4) who intentionally injures the participant.

26 **Sec. 10. (a) This chapter does not apply unless an agritourism**
 27 **professional posts and maintains a sign on which is printed the**
 28 **warning notice set forth in section 12 of this chapter.**

29 (b) A sign referred to in subsection (a) must be placed in a
 30 clearly visible location at the main point of entrance to the
 31 agritourism activity.

32 (c) The warning notice on a sign referred to in subsection (a)
 33 must be printed in black letters, and each letter must be at least
 34 one (1) inch in height.

35 **Sec. 11. (a) If there is a written contract between an agritourism**
 36 **professional and a participant for the providing of professional**
 37 **services, instruction, or the rental of equipment to a participant for**
 38 **purposes of engaging in or participating in an agritourism activity,**
 39 **the contract must contain in clearly readable print the warning**
 40 **notice specified in section 12 of this chapter,**

41 (b) The warning notice required by subsection (a) must be
 42 included in a written contract described in subsection (a) whether

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1 or not the contract involves agritourism activities on or off the site
 2 of the agricultural, horticultural, or agribusiness operation.
 3 Sec. 12. The warning notice that must be printed on a sign under
 4 section 10 of this chapter and included in a written contract under
 5 section 11 of this chapter is as follows:
 6 **WARNING**
 7 Under Indiana law, an agritourism professional is not liable
 8 for an injury to, or the death of, a participant in agritourism
 9 activities at this location if the death or injury results from the
 10 inherent risks of agritourism activity.
 11 Inherent risks of agritourism activities include risks of injury
 12 inherent to land, equipment, and animals as well as the
 13 potential for you to act in a negligent manner that may
 14 contribute to your injury or death, or for other participants
 15 to act in a manner that may cause you injury or cause your
 16 death.
 17 You are assuming the risk of participating in this agritourism
 18 activity.

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