

# Managing Legal Risk for Alternative Uses of Forestland



United States Department of Agriculture  
National Institute of Food and Agriculture

## *Presentations and Materials provided by:*

- ◇ **University of Arkansas Co-operative Extension staff**
- ◇ **LSU AgCenter staff**
- ◇ **Staff Attorneys, National Agricultural Law Center**




---

---

---

---

---

---

---

---




---

---

---

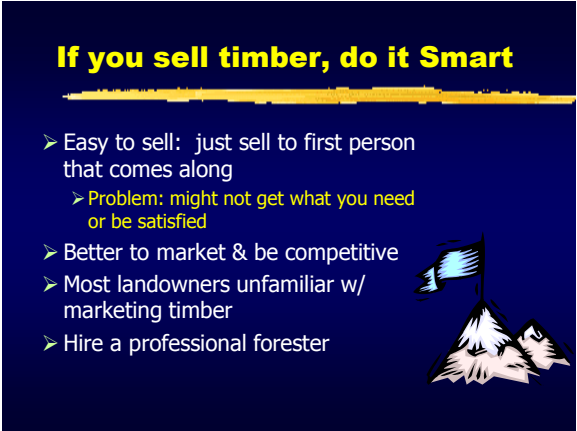
---

---

---

---

---




---

---

---

---

---

---

---

---

### First Steps in Marketing

- ✓ Determine your objectives: What does the sale do your for you?
- ✓ What Do You Have?
- ✓ Product Market & Options
- ✓ Current Prices & Trends
- ✓ How the Market Works




---

---

---

---

---

---

---

---

### Trees sold by Volume or Weight

- ✓ Board Feet
- ✓ Tons
- ✓ Cords
  - ✓ stack of wood: 4 ft. X 4 ft. X 8 ft. w/ 128 cubic ft.
- ✓ Cubic Feet
- ✓ To determine volume
  - Diameter at breast height
  - Height at 66 ft. away
  - Estimate volume
  - Easy tool to use: Biltmore Stick




---

---

---

---

---

---

---

---

### Know What You Have

- ❖ Inventory
  - ❖ Timber Species
  - ❖ Stand Density
  - ❖ Sensitive Areas
- ❖ Volume by Size & Product
- ❖ What to Sell




---

---

---

---

---

---

---

---

## What to Sell: Wood Products

---

➤ **Wood Products**

- ✦ Pulpwood (4- 9" dbh)
- ✦ Ties
- ✦ Chips
- ✦ Pallet Material
- ✦ Biomass (?)

➤ **Quality Wood Products**

- ✦ Face Veneer (> 10")
- ✦ Chip-N-Saw
- ✦ Sawtimber
- ✦ Poles




---

---

---

---

---

---

---


---

## Are all Trees Top Dollar?

---

Price determined by several factors

- ✓ Tree Quality: ie. Is it hollow, damaged, crooked, diseased, insect infested, etc.
- ✓ Distance to Mill or Buyer
- ✓ Current Market Prices
- ✓ Species
- ✓ Tree Size
- ✓ Site Conditions and Considerations
- ✓ Product Class




---

---

---

---

---

---

---

---

## Marketing Objectives

---

- ❖ **Maximum financial return**
  - Revenue from sale
  - Find buyer w/highest offer
- ❖ **Balance against forest sustainability**
  - Site protection
  - Regeneration





---

---

---

---

---

---

---

---

### Sell Competitively

- ❖ Determine Selling Method
  - ❖ Negotiated Sales
  - ❖ Sealed Bids
  - ❖ Sell at Gate
- ❖ Method of Payment
  - ❖ Lump Sum Sale
  - ❖ Pay-as-cut (by unit)
  - ❖ Percentage basis

---

---

---

---

---

---

---

---

### What's wrong with "Buyer's Select" ?

- Cutting all the big & best trees & leaving the smaller & worst trees is high-grading
  - Devalues the forest
  - Shifts to lower value species
  - Cuts future profits
  - Diminishes habitat

---

---

---

---

---

---


---

---

### The Harvesting Contract

- ✓ Logging methods & requirements
- ✓ Liability issues & insurance requirements
- ✓ Lists & clarifies responsibilities of both
- ✓ It protects both the seller & the buyer

Don't rely upon a "smile and a handshake"




---

---

---

---

---

---

---

---

### What's in a Contract: The Essentials

- Language specifying the specific parties to the contract
- Spell out the State laws which will apply
- Spell out how the trees to be cut are identified. Eg. All trees marked w/red; all trees of specific species, etc.
- Guarantee title
- Specify amount to be harvested

---

---

---

---

---

---

---

---

### Essentials Continued

- Manner, time, and method of payment:
  - Lump-sum or per unit price
- Any down payment to be made to the seller upon execution of the contract
- Performance bond that will be returned to the buyer upon satisfactory completion of the sale

---

---

---

---

---

---

---

---

### Essential Contract Components

- ❖ Language that protects seller (landowner) from buyer's failure to pay
- ❖ Time frame w/a definite termination date
- ❖ Language freeing the landowner from responsibility from any injury, death, or property damage caused by buyer during tenure of agreement
- ❖ Language freeing seller from Worker's Comp
- ❖ Statement that the seller may suspend operations if conditions of the contract are violated
- ❖ Any changes to the contract must be written, dated, signed, and witnessed as is the original document

---

---

---

---

---

---

---

---

### Other Important Considerations

- ❖ Prohibit excessive damage to "leave" trees
- ❖ Statement about unmarked trees being cut
- ❖ Specify any penalties
- ❖ Establish who owns the tops: the seller or the buyer
- ❖ Establish procedures for settling disputes
- ❖ Determine sale boundaries
- ❖ Location of all roads, landings, decks BEFORE harvesting
- ❖ Establish access rights to seller and buyer

---

---

---

---

---

---


---

---

---

---

### Special Provisions



- ✓ You can determine stump heights
- ✓ Limit number of trees left "hanging"
- ✓ Timing of road and trail building
- ✓ Requiring ruts be smoothed
- ✓ Any seasonal restrictions: ie. No logging during deer season
- ✓ Any weapon prohibitions
- ✓ Determine how potential damage to fences, buildings, crops will be handled

KEY: additional provisions will cost you money

---

---

---

---

---

---

---

---

---

---

### Contract Tips



- Consult an attorney
- Put ALL agreements in writing
- Try to avoid mistakes in contract
- Make contract easy to understand
- Make sure each party has a copy of the contract
- Too many restrictions/provisions will not be acceptable to a buyer
- If a buyer's contract is used, make sure you understand what's included: don't sign just to complete the sale

---

---

---

---

---

---

---


---

---

---

### Conclusions

- Planning helps YOU meet your goals
- Professional help is available
- Timber contracts are important
- Plan for the future by planning to reforest
- It's your land and your choice
- Make the most of that choice




---

---

---

---

---

---

---

---

### What's the Message?

- ❖ Stop & Think
- ❖ Before you make any decisions:
  - ❖ Contact a Registered Forester
  - ❖ Get to Know your Forest
  - ❖ Get Everything in Writing
- ❖ Protect your Forest by Protecting yourself
- ❖ Develop a Long Term Plan




---

---

---

---

---

---

---

---

### Get Professional Advice

- ✓ Advantages/Disadvantages to each method—GET HELP
- ✓ Seek advice from accountant, attorney, professional forester
- ✓ Let them prepare a contract or sale agreement
- ✓ Research shows that consulting foresters can make ~ 20% more for the landowner




---

---

---

---

---

---

---

---



## Resources

- Consulting Foresters
- Arkansas Forestry Commission
- Arkansas Game & Fish Commission
- Arkansas Forestry Association
- Cooperative Extension Service
  - Arkansas Timber Report
  - Fact Sheets




---

---

---

---

---

---

---


---

---

---

## Arkansas Timber Report:

[http://www.arnatural.org/News/Timber\\_Report/default.htm](http://www.arnatural.org/News/Timber_Report/default.htm)




---

---

---

---

---

---

---

---

---

---

## Questions?




---

---

---

---

---

---

---

---

---

---

## Establishing Wildlife Enterprises on Private Lands

Rebecca McPeake  
Associate Professor &  
Extension Wildlife Specialist  
Cooperative Extension Service  
University of Arkansas Division of Agriculture

## What is a wildlife enterprise?

- Transactions that result in mutually beneficial outcomes for the landowner and the resource user pertaining to wildlife
  - Not necessarily monetary, e.g., in-kind
  - Hunting & fishing
  - Ecotourism: wildlife viewing, hiking, high adventure

## What are examples of wildlife enterprises?

- Deer leases
- Fee fishing
- Dove hunts
- Duck blinds
- Wildlife viewing
- Guide services
- Bobwhite preserves



## Why the interest?

- Generate income as a business
- Prevent trespass
- Pay property taxes
- Compatible with ongoing business & provides supplementary income
  - Agriculture operation



## "Pro & Con" Philosophies on Wildlife as a Business

- **Pro:** Traditionally wildlife was a by-product of agriculture and forestry in which habitat might be destroyed because of a lack of monetary value. By adding a monetary value to wildlife, more habitat will be saved.
- **Con:** Leasing changes wildlife from being a natural and free resource that everyone can enjoy to a commodity in which people must pay for the opportunity to see wildlife.

## How much income?

- It depends . . . .
  - Location, location, location!
  - Wildlife abundance
  - Wildlife quality
    - Trophies
    - "Lifer"
  - Amenities
  - Marketing



## Deer Lease Fee Rates

- Arkansas
  - Quality deer management: average \$2.28 per acre; timber companies \$4 - \$7 / acre
  - Traditional deer management: average \$1.94/acre
- Louisiana: \$1 - \$10 / acre
- Tennessee: \$1 - \$10 / acre
- Texas: \$2 - \$8 / acre up to \$8,000
- South Carolina: avg \$1.50 / acre
- Florida: \$1.43 / acre



## Waterfowl Lease Rates

- "Any hole a duck landed on in the last 10 years will bring \$600 an acre."
  - Tim Glaub, farmer, Crittenden County
- \$10 - \$30 / acre for flooded rice fields in Stuttgart
  - Arkansas Land and Life, Fall 1999
- 600 acre tract near White River generates \$100,000 annually
  - Wildlife Biologist, AGFC, 2000



## Dove Hunts

- \$50 - \$100 per gun
  - Democrat and Gazette, 2000
- Add a barbeque, \$200



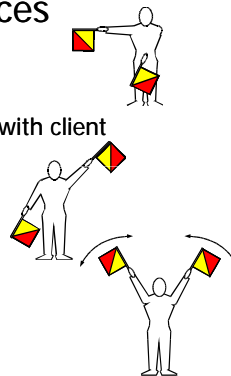
## Other Opportunities

- Guide services
- Bird hunting preserves
- Special services
- Ancillary opportunities



## Guide Services

- Individual guide
  - Expert participates actively with client
- Semi-guide
  - Expert monitors group
- Self-guide
  - Client receives information



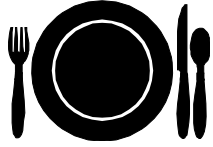
## Bird Hunting Preserves

- Private
  - Administered by a full-time manager
- Co-operative
  - Administered by a sporting club or Board of Directors
- "Do it yourself"
  - Administered by a small group of individuals



## Special Services

- Lodging
- Meals
- Equipment rental
- Cleaning and processing meat



## Ancillary activities

- Dog training and/or boarding
- Shooting range for skeet, trap, sporting clays, small arms
- Game bird breeding



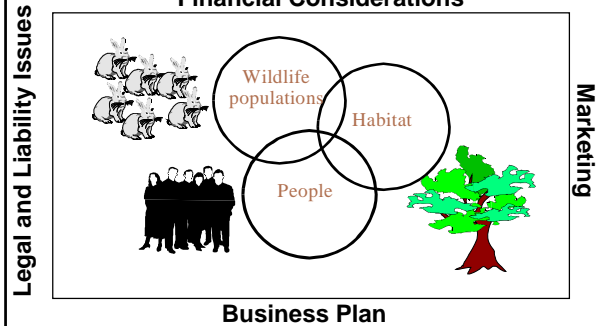
Many are interested, but only a few make a pot of gold.

*Only 1% - 5% of those who consider starting an enterprise actually follow through.*



## Successful Wildlife Enterprises

### Financial Considerations



## Wildlife Populations

- Game species
  - Waterfowl
  - White-tailed deer
  - Wild turkey
  - Mourning dove
- Rare & endangered species
  - Trumpeter swan
  - Red-cockaded woodpecker



## Species Habitat Management

- Life history
- Population dynamics
- Habitat needs
- Example:  
Wild Turkey



## It's Tough Being a Turkey

- Lifespan 5 years, usually less
  - 40% - 50% adult mortality
  - 25% - 35% pout mortality, highest during first 2 weeks of life



## Mortality Factors

- Hens and Poults
  - Bobcats, coyotes, foxes, raccoons, great horned owls, hawks, dogs
- Chicks
  - Predators
  - Cold rainy weather
- Gobblers
  - 70-90% mortality from legal hunting & illegal poaching
- All turkeys – diseases
  - Avian Pox
  - Histomoniasis (Blackhead)



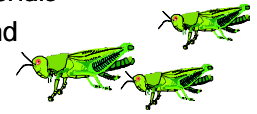
## Nesting Success

- Hens' mortality highest during nesting season.
- 40-50% nests hatch successfully.
  - Ranges from 0-70%.
- Predators: Raccoon, Snakes, Skunk, Opossum, Coyote, Fox
- Adverse Weather, Floods, Disturbance
- Nesting success has a large impact on population size.



## Dietary Needs

- 75% - 90% plant materials
- 32% of turkey's fall and winter diet - acorns
- Chicks feed almost exclusively on insects during their first month of life before changing over to seeds and fruits.



## Wild Turkey: Life History

- Winter
  - Divide into flocks.
  - Food in short supply.
- Spring
  - Breeding & nesting.
  - Flocks break up.
  - Move into summer range.
- Summer
  - Brood rearing.
- Fall
  - Divide into flocks.
  - Move to winter range.



## Annual Cycle: Winter



- Four flock types
  - Adult Gobblers
  - Juvenile Gobblers (separate from hens in mid – late winter).
  - Successful Hens and Young (flocks tend to be the largest)
  - Unsuccessful Hens
- Prefer forested habitats where they can find soft and hard mast, but will use openings.
- Home ranges: several hundred to thousands of acres depending on food availability.

## Winter Foods

- **Hard mast:**
  - Acorns
  - Pecans
  - Pine seed
- **Soft mast:**
  - Dogwood
  - Grape
  - Wild cherry
  - Black gum
  - French mulberry (American Beautyberry)
  - Greenbrier
  - Poison ivy
- **Green Forages:**
  - Ladino clover
  - Winter wheat
  - Rye
  - Ryegrass
  - Grass leaves
  - Ferns
- **Seeds:**
  - Sedges
  - Tick trefoils
  - Grain crops
- **Insect exoskeletons**

## Annual Cycle: Spring



- Behaviors triggered primarily by increasing day-length.
- Flocks begin break-up during late winter/early spring.
- Move from winter range to breeding areas.
  - 1 – 3 miles
  - Occasionally 15-20 miles or more.
- Gobblers begin to establish dominance in late winter/early spring.

## Nesting Behavior

- Nest on the ground, usually forested areas within 100 yards of an opening
- Lays 1 egg/day until clutch is complete (10-12 eggs).
- Hen begins continuous incubation (~27 days), only briefly leaving nest on occasion.
- Often hatch late May or early June
- Nesting success effected by:
  - Adverse weather
  - Predation
  - Flooding



## Spring Foods



- **Green forages:**
  - Clovers
  - Alfalfa
  - Winter wheat
  - Misc. grasses
- **Hard mast:**
  - Acorns
  - Maple
  - Ash
- **Soft mast:**
  - Wild strawberry
  - Raspberry
  - Dewberry
- **Insects & other animal matter:**
  - Grasshoppers
  - True bugs
  - Beetles
  - Leafhoppers
  - Snails

## Annual Cycle: Summer



- Nesting activity decreases, and is generally complete by the end of July.
- Broods use openings and edges to forage for insects.
- Insects comprise ~75% of poult's diet (high in protein)
- Poults development:
  - Fly at 2 weeks of age
  - Roost in trees by 4 weeks of age. (survival increases dramatically)

## Summer Foods

- **Insects:**
  - Grasshoppers
  - True bugs
  - Beetles
- **Soft mast:**
  - Blackberry
  - Dewberry
  - Huckleberry
  - Wild cherry
  - Pokeweed
  - Mulberry
- **Green Forage:**
  - Clovers
  - Alfalfa
  - Misc. grasses
- **Grass/Seeds:**
  - Wild millets
  - Panicums
  - Bahia
  - Dallisgrass
  - Smartweed



Gaping Panicum

## Annual Cycle: Fall



- Assemble into winter flocks (Adult Gobblers, Successful Hens, Unsuccessful Hens).
- Disperse from summer range to winter range. Distance traveled may be several miles
- Forested areas become the primary habitat as turkeys search for mast (e.g., acorns, dogwood fruits, etc.).
- Depending on food availability, daily range can be large (> 1,000 acres).

## Fall Foods



Flowering Dogwood

- Insects & other animal matter
  - Walkingsticks
  - Grasshoppers
- Hard mast:
  - Acorns
  - Pecans
  - Pine seed
- Soft mast:
  - Dogwood
  - Grape
  - Wild cherry
  - Black gum
  - Greenbrier
  - Autumn olive
- Green Forage:
  - Clovers
  - Alfalfa
- Grass/Seeds:
  - Panicums
  - Bahia
  - Dallisgrass
  - Tick trefoils
  - Crab grass

## People Management

- Enjoy working with people
- Enjoy the challenge of a different and new business
- Comfortable with allowing strangers on your land
- Enjoy meeting people and making new friends

## Components of a Business Plan

- What type of outdoor experience is offered
- Resource availability
- Legal and liability issues
- Financial feasibility
- Marketing

## Resource Inventory

- Inventory of existing and available resources.
- Helps determine whether can develop an economically feasible business and what type of wildlife enterprise to pursue.
- Determine if anything is lacking that would prevent development of the planned enterprise.
- Identify which resources are underused.
- Resources can be classified as natural, physical, labor, and financial.

## Limiting Landowner Liability

- Post the property
- Danger signs
- AGFC regulation: written permission from landowner
- Written contract
- Insurance
- Release Agreement



## Posting your property

- Law requires written consent of the owner or lessee to enter posted property.
  - Signs
  - Paint



## Signs



- “Posted” and/or “No Trespassing” in letters at least 4” high.
- Readily visible.
- Forested land – signs placed 100 feet apart and at each road entrance.
- Cultivated land, orchards, pasture land, impoundments, other – signs placed 1000 feet apart and at each road entrance.

## Posting Paint

Purple, semi-paste, tree marking paint which meets or exceeds the following specifications:

- Pigment . . . . . 62.6%
  - Titanium Dioxide 22.2%
  - Calcium Carbonate 77.8%
- Vehicle . . . . . 37.4%
  - Oleoresinus Vehicle 47.2%
  - Petroleum Solvents 45.4%
  - Driers, wetting agents, & tinting materials 7.4%

## Hunting Regulation (June, 2002)

- Must get permission to access private land before begin hunting on the property.
- Unlawful for a person to hunt, fish, or trap wildlife on private property of another person without having obtained verbal or written permission from the landowner or lessee of the property.
- However, if the property is lawfully posted or fenced according to existing state law, the person must carry written permission from a landowner or lessee of the property.

## Hunting Regulation (cont.)

- Written permission must include:
  - name of person permitted on the property.
  - signature and telephone number of the landowner or lessee.
  - the beginning and ending dates of the permission period.
- Written permission is not required of close relatives of the landowner or lessee – verbal permission is sufficient.
- Landowner must ask AR Game & Fish Commission wildlife officer to monitor property.

## Basics of Hunting Leases

- Hunting Leases are essentially contracts between two parties.
- Hunting regulations and AR Game & Fish laws should also be consulted.
- Basics of contract and property law are assumed. See an attorney.





## Insurance



- Have liability coverage.
- Consult with insurance provider.
- Typically, hunting lease activities will be covered under an endorsement to a general liability policy.
  - “incidental business pursuit”, but may be tied to gross receipts.

## Release Statement



- Consider having all users sign a release.
- Releases the landowner from legal liability for injuries the user may receive while on the property.

## Arkansas' Recreational Use Statute



- Creates a protection to the landowner for permitting recreational use land.
  - designed to encourage landowners to make areas available to the public for recreation.
- Limits the landowners' liability to the user.
  - Landowners who invite anyone to use land for recreational purposes does not assure the land is safe.
  - Landowners don't assume responsibility for injuries to persons or property caused by the user.
  - Liability not incurred for natural or artificial conditions, structures, or personal property on the land.

## Arkansas statute, cont...



- Permission doesn't confer the status of “invitee” or “licensee” to whom a duty of care is owed.
- If a fee is charged, immunity from liability may be affected under the statute.

## Financial Feasibility

- Estimate of start-up costs
  - Examples: acquiring buildings, equipment, license/permit fees, promotional signs, etc.
- Estimate of operating costs (on-going expenses)
  - Examples: labor, shipping, advertising, insurance
- Enterprise Budget information
  - agricultural economics or farm management departments at universities.
  - U.S. Small business Administration ([www.sba.gov](http://www.sba.gov)).

## Marketing

- Selling “an experience”
- Determine what is offered based on what customers want
- Location
- Know your competition
- Determining a price
  - Uniqueness
  - Compete in low-end, moderate, or high-end market
- Signals its value to potential customers

## Promoting Enterprises

- Word-of-mouth
- Promotional campaign
  - Direct marketing
  - Media advertisements
  - Outdoor trade shows & conventions
- Celebrity endorsements



## Internet Resource

forestandrange.org  
home || search this site || learning options || references & links

### Developing a Wildlife Enterprise - Is it for you?

Home || Wildlife Basics || Habitat Management || Legal Aspects || Your Wildlife Enterprise || Meet Enterprise Managers

#### Developing a Wildlife Enterprise - Is it for you?

[Wildlife Basics](#)  
[Habitat Management](#)  
[Legal Aspects](#)  
[Your Wildlife Enterprise](#)  
[Meet Enterprise Managers](#)

**QUICK FACT** Land leasing and ownership account for 19% of Bunker expenditures, according to the "2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation."

Is a **wildlife enterprise** for you? Seems like a simple question on the surface, but there are many things to consider, from what type of experience you're interested in offering, to liability issues, to financial feasibility.

## Highlights

- Only 1% to 5% of those who consider starting an enterprise actually follow through.
- Having a successful enterprise requires:
  - Knowledge of the wildlife species and habitat needs
  - People management skills
  - Business plan
    - Financial, marketing, and liability



www.NationalAgLawCenter.org

## Leasing Forestland for Recreational Purposes

*Rusty Rumley*  
*Staff Attorney*

479-575-7646 • nataglaw@uark.edu

---

---

---

---

---

---

---

---

### Disclaimer...

- ▣ This presentation is NOT intended to be a substitute for legal advice.
- ▣ It is intended to educate about leases so that you can save money when talking to an attorney

---

---

---

---

---

---

---

---

### Leases...What are they?

- Essentially they are legally enforceable agreements between two or more parties for the use of some good or property.
- Leases are just one of many different forms of contracts

---

---

---

---

---

---

---

---

### General Rule about making a contract

---

- If you (or your attorney) write the contract then any ambiguity is generally decided in favor of the other person.
- Be clear about what you want in the contract.

---

---

---

---

---

---

---

---

### Basic Parts of a Contract:

---

- Subject Matter – at least “reasonably certain”
- Offer
- Consideration
- Acceptance
- Capacity

---

---

---

---

---

---

---

---

### Leases

---

- Leases are a form of contracts that for our purposes of this morning deal with the rental of real property that is used for some recreational purpose.
  - Realizing that there are many other forms of leases out there.

---

---

---

---

---

---

---

---

### Some of the Parties in Leases and Contracts

---

- Lessor – also known as the landlord or land owner
- Lessee – also know as the tenant
- Third Parties – other people that may become involved later.
  - Example – Hunting guests of the lessee

---

---

---

---

---

---

---

---

### What are the different types/lengths of leases:

---

- Tenancy at will
- Periodic Tenancy
- Tenancy for a term of years
- Tenancy at sufferance

---

---

---

---

---

---

---

---

### Tenancy at will

---

- Tenancy at will – these can be cancelled by either party at any time, but because of this fact courts do not like to recognize them because they can be used against one of the parties as a weapon “at will”

---

---

---

---

---

---

---

---

### Periodic Tenancy

- Periodic Tenancy – *practically all oral agricultural leases are considered to be this type of lease.* The lease is for some relatively short period of time (less than 1 year) and the lease renews itself at the end of the term unless the parties have either given adequate notice to terminate or if they have agreed to end the lease.

---

---

---

---

---

---

---

---

### Tenancy for a term of years

- Tenancy for a term of years – these are written leases that normally cover more than one year and unlike periodic tenancies they terminate at the end of the lease unless other arrangements are made. The lease contract will usually control most aspects of these leases
  - This is what the majority of recreational uses fall under.

---

---

---

---

---

---

---

---

### Tenancy at sufferance

- Tenancy at sufferance – when one of the above listed tenancies is legally ended and the tenant refuses to depart than a tenancy at sufferance is created.
- The landlord has different options depending upon what state they are in and Arkansas offers several different remedies such as eviction, a fine, or charging double rent.
- This type of tenancy does not last long because either the tenant will leave or eventually a periodic tenancy will come into existence that mirrors the previous agreement

---

---

---

---

---

---

---

---

### Get out your lease form...

- Find the basic parts of the contract
  - Who are the parties?
  - Who is the landlord and who is the tenant?
  - What land is being leased out?
  - How much is the rent?
- What kind of tenancy is the lease (Periodic or term of years)?

---

---

---

---

---

---

---

---

### Oral and Written Leases and Contracts

- Are Oral Leases and Contracts even valid?
  - Yes, under certain circumstances.

---

---

---

---

---

---

---

---

### Oral Leases and Contracts

- Statute of Frauds
- A.C.A. § 4-59-101 - (a) Unless the agreement, promise, or contract, or some memorandum or note thereof, upon which an action is brought is made in writing and signed by the party to be charged therewith, or signed by some other person properly authorized by the person sought to be charged, no action shall be brought to charge any:
  - (5) **Person upon any lease of lands, tenements, or hereditaments for a longer term than one (1) year;**
  - (6) Person upon any contract, promise, or agreement that is not to be performed within one (1) year from the making of the contract, promise, or agreement.
- Also, contracts for the sale of goods that exceed \$500 must also be in writing in order to be enforceable.

---

---

---

---

---

---

---

---

### What does this mean?

- Oral leases and contracts are valid so long as they may be performed in less than one year.

---

---

---

---

---

---

---

---

### Examples

- ▣ A verbal agreement to lease land that begins on Jan. 1 and ends on Dec. 31 is perfectly valid. Many oral leases for farmland follow this format.
- ▣ A verbal agreement for a hunting lease covering the coming deer season would be valid.
- ▣ A verbal agreement for a hunting lease covering the next three deer seasons will be invalid (unless some other facts or admissions are made at a late date)

---

---

---

---

---

---

---

---

### Hypothetical:

- You make a verbal agreement with a painter to paint your house. Such a task can be fully performed in 4 days, but because of weather, a backlog of jobs for the painter to work through, and a lack of available paint that you desire (Razorback red) the painter still has not painted your house and it has been more than one year since you made the verbal contract. Is the contract still enforceable?

---

---

---

---

---

---

---

---



## Answer

- Yes! If the contract could be performed within one year of making it then the oral contract is valid even if they take more than a year to actually fulfill the obligation. Here the facts say that the task could be performed in 4 days which is less than one year.

---

---

---

---

---

---

---

---

## Exception to the Statute of Frauds:

- The purpose of the statute of frauds is to have written documentation for important agreements to prove that they actually exist, but there are ways around this doctrine.
- Common Law remedies (usually equitable remedies) such as Partial Performance and Estoppel may allow a party to enforce an oral contract that exceeds a year if there is some other reason for a judge to rule that it would be unfair not to find that a contract exists.

---

---

---

---

---

---

---

---

## Examples:

- Making significant capital improvements
- Paying multiple years rent in advance
- Other extreme examples may apply, BUT do NOT rely on this type of remedy if at all possible!
  - The point behind "equitable remedies" is fairness. You do not want a judge deciding whether you win or lose on what they consider "fair."

---

---

---

---

---

---

---

---

### Terminating Oral Leases:

- ❑ 18-16-105. Termination of oral lease of farmlands. – Feb. 19, 2009

The owner of farmlands that are rented or leased under an oral rental or lease agreement may elect not to renew the oral rental or lease agreement for the following calendar year by giving written notice by certified mail to the renter or lessee on or before June 30 that the oral rental or lease agreement will not be renewed for the following calendar year.

- ❑ For Residential Leases under the Arkansas Landlord-Tenant Act of 2007 most leases will be considered to be monthly so you will need to give a month's notice to cancel it.
- ❑ **There is nothing specific for recreational leases**

---

---

---

---

---

---

---

---

---

---

### Some Things to Consider when Drafting Leases (Besides Money)

- ❑ Maintenance of fixed assets on the property
- ❑ Uses of the property
- ❑ Termination of the lease/contract
- ❑ Death of one of the parties
- ❑ Multiple parties using the property
- ❑ Liability for injuries/Insurance
- ❑ Assignment and Subleasing

---

---

---

---

---

---

---

---

---

---

### Maintenance of Fixed Assets

- Most rental property will have some fixed assets that are located on the land and may or may not be used by the tenant.
- The question is: Who has the responsibility of maintaining it?

---

---

---

---

---

---

---

---

---

---

## Houses on the Property

- Is the tenant going to use the hunting house? If so do they maintain the house or does the landlord?
- May the tenant sublease out the house to someone else without the landlord's consent?
- What if the landlord rents the house to someone other than the tenant that is renting out the forestland? Do the two tenants have to share things such as roads and water supply? What if they have competing uses for the property?

---

---

---

---

---

---

---

---

## Barns, storage sheds, corrals, etc...

- The tenant has the right to use these facilities if they are located on the property and nothing is expressly stated in the lease agreement.
- What if the tenant makes a substantial improvement to the property such as building a barn or new fences?

---

---

---

---

---

---

---

---

## Repairs, Generally

- Whose responsibility is it to maintain the fixtures on the property?
  - **In the absence of any express agreement, the tenant is bound to use the premises in a tenant-like manner, and to make the smaller or ordinary, repairs necessary to keep the buildings on the premises wind- and water-tight, such as ordinary repairs to the roofs of buildings, to prevent leakage, and, in the lease of a farm, to make repairs generally, or to keep the fences in ordinary repair.** 52A C.J.S. Landlord & Tenant § 819

---

---

---

---

---

---

---

---

### Uses of the Property:

- Do you restrict the uses of the property?
- If so then what kind of uses?
  - Agritourism
  - Bee keeping
  - Ranching
  - Row crops
  - Harvesting timber
  - Hunting and fishing

---

---

---

---

---

---

---

---

### Uses of the Property, continued

- Will the property be used for hunting?
  - Will the tenant's forestry practices disturb the local wildlife?
  - Does the tenant have the right to sublease out the hunting rights?
  - Do you want to try and lease out the hunting rights to someone other than the tenant? To multiple people? What are some of the consequences of doing this?

---

---

---

---

---

---

---

---

### Assignment and Subleasing

- What are they?
- Can a tenant assign or sublease the property that they are renting to another party without the permission of the landlord?

---

---

---

---

---

---

---

---

## Assignment and Subleasing, continued

- If there is no agreement to the contrary than the default rule is that the tenant is generally free to either assign or sublease property that they are renting without the permission of the landlord, however the tenant may still be liable if the person to whom they lease it to either breaches the lease or fails to pay rent
- This can create a very difficult situation for the landlord!
  - What do they know about the new tenant?
- Rules concerning assignment and subleasing are state specific so to be safe the landlord should prohibit them in the written lease.

---

---

---

---

---

---

---

---

---

---

## Death of a Party

- What happens when either the landlord or the tenant dies?
- Usually nothing changes! The estate of the decedent (usually their family) will continue the lease until it runs its course.
- Most contracts (including leases) remain relatively unaffected by the death of one of the parties.
  - The exception is for contracts that involve a personal service since those depend on the individual to perform some special service.

---

---

---

---

---

---

---

---

---

---

## Termination of the Lease/Contract:

- What kind of lease is it? Term of Years or Periodic Tenancy?
- Tenancy at Will – either party can cancel it whenever they want to
- Term of Years – these leases simply expire at the end of the term without any notice being necessary
- Periodic Tenancy – these can be month to month or year to year, however in most agricultural leases they are assumed to be year to year.
  - Under the Common Law either party must give 6 month's notice to terminate a year to year periodic tenancy.

---

---

---

---

---

---

---

---

---

---

## Termination of the Lease/Contract, continued

- Breach of Covenant:
- If the landlord or tenant breaks one of their promises in the lease agreement is there a right to terminate the lease?
  - Generally No, unless the state specifically creates such a right or the lease contract allows for it. The normal remedy is to sue just like with a breach of contract and either get damages or an injunction against further waste.
  - Courts may make allowances in certain cases where the tenant or landlord's actions are so severe that they warrant termination, but this is rare.

---

---

---

---

---

---

---

---

---

---

## Termination of the Lease/Contract, continued

- Breach of Contract:
- Very similar to the breach of a covenant in a lease, but instead of just one portion of the lease being broken, the violation here is severe enough that the contract itself is broken.
- Can you stop performing if the other party breaches the contract?
  - Sometimes you can, but only if the breach warrants your nonperformance as well. Minor problems arise in contracts all of the time and courts realize the fact that the world isn't perfect.
  - In the case of a minor problem the party that is in the wrong may have to pay damages to the other party to offset their losses from the breach; however if the contract can continue on than both parties should carry on with the contract.

---

---

---

---

---

---

---

---

---

---

## Termination of the Lease/Contract, continued

- The problem that often arises in these cases is where you entered into a contract for a long period of time (such as in lease for a term of years) and something happens which causes you to want to get out of the lease.
  - Timber values skyrocket, land closer to home becomes available to rent or buy, but you are tied up in the current lease, etc...

---

---

---

---

---

---

---

---

---

---

### Termination of the Lease/Contract, continued

- You/They want out of the lease so you/they "make a mountain out of a mole hill"
- This is the worst scenario because not only do they probably never breach the lease by their conduct, but now you will breach the contract instead (since you probably believe that the contract has been rescinded by now) and you will be the one paying the damages.

---

---

---

---

---

---

---

---

### Termination of the Lease/Contract, continued

- What is the point?
  - Don't just assume that a contract or lease has terminated because it may just be your wishful thinking

---

---

---

---

---

---

---

---

### Termination of the Lease/Contract, continued

- Can the lease or contract be cancelled?
- If the parties agree to cancel the lease or contract than this is often enough to cancel the lease or contract.
  - This is probably the best and most common way that the parties can end a contract

---

---

---

---

---

---

---

---

### Free lease forms and other resources

- ❑ Located on the C.D. in your materials are a number of hunting and fishing leases from extension services across the country.
- ❑ These forms are for educational purposes and are not recommended for use as is.

---

---

---

---

---

---

---

---

### Thanks for Attending

- ❑ I'll be around the rest of the day to answer questions if I can...Please ask and I'll answer if I'm able to.
- ❑ Much of this information can be found on the National Agricultural Law Center website at <http://www.nationalaglawcenter.org/>
- ❑ You can request a copy of this presentation by email at [NatAgLaw@uark.edu](mailto:NatAgLaw@uark.edu)

---

---

---

---

---

---

---

---

#### Disclaimer

The University of Arkansas 's National Agricultural Law Center does not provide legal advice. Any information provided on or by this Website is not intended to be legal advice, nor is it intended to be a substitute for legal services from a competent professional. This work is supported by the U.S. Department of Agriculture under Agreement No. 59-8201-9-115, and any opinions, findings, conclusions, or recommendations expressed in the material on this Website do not necessarily reflect the view of the U.S. Department of Agriculture.

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)

Phone: (479)575-7646  
Email: [NatAgLaw@uark.edu](mailto:NatAgLaw@uark.edu)

---

---

---

---

---

---

---

---



# HUNTING LEASE

State of Mississippi  
County of \_\_\_\_\_

Subject to the terms and conditions set forth in this HUNTING LEASE AGREEMENT, \_\_\_\_\_ (hereinafter called LESSOR) does hereby grant to \_\_\_\_\_ (hereinafter called LESSEE) the right to access, hunt and shoot the game species as listed in Section 3.A, subject to the stipulations and conditions hereinafter set forth and only at such times as hunting and shooting are permitted by the laws and regulations of the United States and the State of Mississippi in force and effort, on the tract or tracts of land described in Section 1.

## 1. PROPERTY DESCRIPTION

(Refer to an Attached Map)

## 2. PAYMENT, TERMS, AND RENEWAL

- A.** The property referred to in this agreement shall be understood as comprising a total of \_\_\_\_\_ acres, more or less.
- B.** The LESSEE hereby agrees to:
- a. Year 1. Pay to the LESSOR the sum of (\$) \_\_\_\_\_ per acre, totaling (\$) \_\_\_\_\_ on or before (date) \_\_\_\_\_.
  - b. Year 2. Pay to the LESSOR the sum of (\$) \_\_\_\_\_ per acre, totaling (\$) \_\_\_\_\_ on or before (date) \_\_\_\_\_.
  - c. Year 3. Pay to the LESSOR the sum of (\$) \_\_\_\_\_ per acre, totaling (\$) \_\_\_\_\_ on or before (date) \_\_\_\_\_.
- C.** Bid deposits received shall be applied and deducted from the total amount of the lease fee. Should LESSEE fail to pay the full amount by the required date, the LESSOR may consider this act as a breach of contract, and at their desecration, accept the bid deposit as liquidated damages.
- D.** The term of this lease shall run from (date) \_\_\_\_\_ to (date) \_\_\_\_\_.
- E.** This agreement automatically will be renewed on an annual basis unless written notice is delivered on or before (date) \_\_\_\_\_.

## 3. RIGHTS INCLUDED

The rights herein granted are restricted solely to;

- A.** Hunting and shooting the following species;
- a. Whitetail Deer
  - b. Wild Turkey
  - c. Common Grey Squirrel
  - d. Rabbit
  - e. Ducks
  - f. Opossum, Raccoon, & Bobcats
  - g. Nuisance species such as Coyote, Crows and Beaver may be taken at any time as law allows.
- B.** The methods of hunting include all legal methods (bow, muzzleloader, shotgun, & rifle) except the hunting of deer with dogs.
- C.** Fishing within property boundaries along Fair River.
- D.** Camping at designated camping areas.

## 4. LEASEHOLDER RESPONSIBILITIES

- A. LESSEE ORGANIZATION:** If the LESSEE is an organization composed of several members, the term "LESSEE" and the terms of this lease, its stipulations and conditions shall apply to each and every member and failure to comply will subject the club or organization to liability under the provisions contained within this lease agreement. The terms of this lease and its stipulations and

conditions shall also apply to any and all guests of the organization. Members and Guest must NOT have been convicted of a game violation in any state for the previous three calendar years. Any violation of federal or state game laws and regulations on the premises by any individual authorized to hunt on the tract may result in immediate termination of the lease

- B. LESSEE MEMBERS LIST AND IDENTIFICATION:** LESSOR will be furnished with a complete list of members, guests and licensees with officer's addresses and phone numbers. LESSOR will be notified in writing of all changes in LESSEE's membership and officers throughout the term of the lease. LESSEE shall provide a written copy of club rules, organization, and bylaws to LESSOR. All members shall have in their possession a membership card valid for the current season, listing his or her name and signed in ink by the club president or representative. LESSEE will also maintain a sign in board which will contain the following information
  1. The identity of the members/guest and where they are located while hunting while afield.
  2. Written Copy of club rules
  3. Records of all game harvested and supply these records to the LESSOR
  4. Map of the property to be provided by LESSOR
  5. News of any scheduled forestry or land management activities.
  
- E. SUBLEASING:** LESSEE agrees not to sublease, license or otherwise transfer any of the rights or privileges granted by this lease and only the LESSEE, MEMBERS and his GUESTS shall have hunting rights on the leased area during the term of this lease except those reserved as follows: (RESERVED HUNTING RIGHTS) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
  
- F. STATE LAWS:** The LESSEE will conform strictly to local, state, and federal laws and regulations governing hunting and shooting; the LESSEE will report all violations of laws and regulations and will assist law enforcement officers. If the hunting season begins after the date this lease commences, or ends before the termination of the lease, the term of this lease will be reduced to conform to applicable regulations.
  
- G. TOXIC SUBSTANCES, ZONING & ENVIRONMENTAL:** LESSEE shall not allow any toxic substances or hazardous wastes to be stored upon the Leased Premises or utilized in the LESSEE's operations on the Leased Premises, except those substances which may be considered toxic and which are commercially available and customarily used in exercising the rights granted herein, and LESSEE's use of the Leased Premises shall fully comply with all applicable building and zoning codes and other land use regulations, any applicable environmental laws or regulations and any other applicable laws or regulations.
  
- H. SAFETY ZONES:** Hunting and shooting are prohibited within 75 yards of any occupied dwelling or within any designated safety zone.
  
- I. POSTING LAND:** The LESSEE will post the boundaries of the leased property with durable signs that include the name and address of the LESSEE.
  
- J. FOREST FIRES:** The LESSEE will exercise due care to prevent forest fires on the property and, will extinguish any unsupervised fire, without cost to the LESSOR, if the fire occurs when LESSEE is using the property.
  
- K. TIMBER DAMAGES:** The LESSEE will not cut, use, destroy, drive, or screw any object, in timber growing on the leased lands; and will not make or suffer any waste thereon. Timber found damaged or destroyed by LESSOR without prior approval will be assessed at a rate of twice the stumpage value of said timber.
  
- L. FOOD PLOTS:** LESSEE will get approval from representatives of Forest Pro L.L.C. or LESSOR before installing any new food plots on said property. Open areas located within various right-of-ways and previously existing food plots may be maintained and planted without approval.

LESSEE understands that timber management activities may require the use of food plots for other purposes and that LESSOR bears no responsibility for any damages done within planted areas. LESSOR may elect to convert the use of existing food plots to timber growing at any time.

- M. STRUCTURES:** LESSEE will remove all structures including deer stands, campers, and other non attached buildings placed or constructed by LESSEE from the lease area at termination of this lease unless prearranged with LESSOR. Any structures not removed will become the property of the LESSOR.
- N. LIMITED NUMBER OF HUNTERS:** To provide a quality hunting experience and maintain an adequate level of game species the LESSEE agrees to limit number of hunters (members & guest) so not to exceed one hunter per one hundred acres (1/100) of land in the total. The number of hunters hunting on lease property at any one time shall not to exceed \_\_\_\_\_.
- O. INSURANCE:** LESSEE shall provide proof of general liability insurance, with the LESSOR(s) & Forest Pro LLC named as co-insured, in the amount of ONE MILLION DOLLARS (\$1,000,000) with a company licensed and approved to do business in Mississippi.
- P. FOREST MANAGEMENT:** The right to hunt and shoot is subject to any rights that the LESSOR(s) may care to exercise over the land. LESSEE acknowledges that LESSOR(s) are in the timber growing business and timber cutting, planting or other forestry or land management practices may be conducted at any time of the year. **Forest and land management activities will take precedence over hunting activities.** Notification of any forestry or land management activities will be posted on the club sign in board.
- Q. PROPERTY PROTECTION:** No agreement, plan or program concerning the regulation of animal populations or management of water, land or other natural resources on said land shall be made by LESSEE with any local, state, federal or private agency, without prior written approval of LESSOR. The release of feral swine and other domestic, exotic game or non-game species whether pen-reared or wild, is strictly prohibited except for state and federally coordinated restocking with written approval from LESSOR. LESSEE has inspected the leased premises and accepts same in an "as is" condition.

## LEASEHOLDER BEHAVIOR

**TO ADJOINING LANDOWNERS:** The LESSEE agrees to respect the rights of adjoining Landowners and clubs, to conduct all activities on or around said land in a courteous manner and to be solely responsible for promptly resolving any problems with adjoining landowners or clubs that may arise from LESSEE's activities. The LESSEE agrees not to hunt, shoot or take game from property joining that of LESSOR unless written permission has been granted from said adjacent landowners. The approval of adjoining landowners will be required before retrieval of injured game.

**TO CAMPGROUNDS:** The LESSOR will provide an area for a campground to LESSEE provided that:

1. Buildings and campers placed on the property are in good physical and structural condition.
2. Campgrounds are kept clean and free of debris.
3. LESSOR is responsible for all cost associated with the development, operation, and disposal of said campground.
4. LESSEE acknowledges that hunting is a social activity, but no loud parties or disturbance of the peace will be allowed. If activities violate the minimal thresholds of common law then they violate the terms of the lease.
5. Any sewage generated by the campgrounds shall be disposed of properly as designated by Mississippi State Board of Health and meet the guidelines of the set forth by the local county health department.

**SAFETY:** LESSEE will maintain a list of safety guidelines and will post the safety guidelines on the sign in board. Any accidents or near misses will be recorded on the sign in board. Additionally a safety meeting will be held annually for the entire membership, and safety procedures will be

reviewed, and if necessary enhanced. A review of the prior season's accidents or near misses will be discussed with the membership as well as possible ways to have avoided these accidents.

**TRESPASSERS:** The LESSEE will use common sense in dealing with any suspected trespasser. A name and address may be asked of the trespasser but threats or pointing of weapons is not allowed. All information about suspected trespassers will be submitted to the proper authorities.

**TRASH DISPOSAL:** Any and all campsites, clubhouse grounds, or gathering places on the property shall be kept free of litter. Receptacles for trash may be placed within the leased areas and emptied by club members at the county landfill or in county-serviced dumpsters.

**ANIMAL REMAINS DISPOSAL:** LESSEE agrees to dispose of animal remains in a dug out pit at least 300 feet from camp, public roads, residences, and any water courses. Pit should be constructed in non-porous soils and in non-flooding areas.

**ROAD USE;** Vehicles shall be parked in designated areas. Use of roads by trucks or automobiles shall be restricted to dry weather conditions. Use of roads shall be restricted to ATV or other recreational vehicles during wet weather conditions. LESSEE covenants and agrees to maintain all roads, structures and other aspects of the premises in a manner satisfactory for the conduct of hunting on leased premises. No new roads or trails will be established without prior written consent from LESSOR or their agent Forest Pro L.L.C...

**GATES:** The LESSEE has the right to install gates at their own expense and will provide LESSOR with any keys or combinations to locks that LESSEE establishes.

## **LEASE CANCELLATION**

It is mutually agreed that failure to abide by the terms and stipulations above by any person present on the leased area under this lease will constitute cause for the forfeiture of all hunting rights, deposits and fees.

Should the LESSEE fail to comply, in the opinion of the LESSOR, strictly with the terms of this lease; the LESSOR reserves the right to cancel this lease forthwith without any liability whatsoever. Should the LESSOR elect to cancel this lease, a letter addressed to the LESSEE (President of the leasing organization), canceling the lease, will be accepted as sufficient notice by all parties herein referred to.

The LESSOR may cancel this lease even though the LESSEE has complied with its terms; but the LESSOR will refund to the LESSEE the prorated amount based on the number of days remaining before lease expiration, without further liability whatsoever to the LESSEE.

## **LESSOR PROTECTION**

LESSEE recognizes the inherent dangers associated with hunting, both natural and human-created. LESSEE recognizes that accidents involving firearms, ammunition, falling trees, hidden ground openings poisonous plants and animals and various other dangers may forcibly occur on the premises aforementioned. LESSEE acknowledges his/her recognition of these dangers and the possible existence of dangerous physical conditions upon the premises such as, but not limited to, those described on the enclosed map. The Leased Premises are being leased in their "as is" condition, and LESSOR makes no covenants, warranties or representations as to the condition or state of the Leased Premises whatsoever. Without limitation of the foregoing, LESSOR specifically disclaims any express or implied covenants, warranties or representations (a) as to the past, present or future existence of any toxic substances or hazardous wastes on or under the Leased Premises or the improvements located thereon, (b) as to the compliance by the Leased Premises or the use thereof with any applicable building or zoning codes or other land use regulations, any applicable environmental laws or regulations, or any other applicable laws or regulation, or of fitness for a particular purpose or of habitability of the Leased Premises. With the aforementioned recognitions in

mind, The LESSOR assumes no responsibility for the safety of the LESSEE in the exercise of the rights granted by this agreement. The LESSEE hereby assumes all such responsibility. LESSEE agrees to defend, indemnify, and hold harmless LESSOR and all of his/her family, servants, employees and agents from all claims, demands, suits, losses, actions, personal injuries, deaths, property liability and all other liability of whatsoever nature, kind, and description, resulting directly or indirectly from or on account of the operations of the LESSEE hereunder, by LESSEE or LESSEE's guests on the premises heretofore mentioned, said obligation to indemnify extending to the reimbursement of LESSOR for all expenses and suits including but not limited to, judgments, attorney's fees, court costs, and all the expenses of any kind and character, and in the event the judgment is rendered against Lesser in any such action, to satisfy the same. Each member of the LESSEE organization will be jointly liable to indemnify and hold the LESSOR harmless. The foregoing covenants, warranties and representations of the LESSEE and the foregoing indemnification provisions shall survive the termination of this lease.

In case any one or more of the provisions contained in this lease shall for any reason be held to be invalid, illegal, or unenforceable in any respect, all other provisions and this agreement shall be constructed as if such invalid, illegal, or unenforceable provision has never been contained herein.

Witness our signatures, this the \_\_\_\_\_ day of August, 200\_.

Signed: \_\_\_\_\_  
Primary LESSEE Date

Signed: \_\_\_\_\_  
Witness Date

**2008-2009  
Member Roster**

\_\_\_\_\_ Hunting Club membership roster.  
(By signing this roster I agree that I have read, and agree with the terms of the hunting lease)

President Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Member Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Member Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Member Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Member Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Member Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Member Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Member Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Member Name: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

**2008-2009  
Guest Roster**

\_\_\_\_\_ Hunting Club guest roster.  
(By signing this roster I agree that I have read, and agree with the terms of the hunting lease)

Guest Name: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Dates Hunted: \_\_\_\_\_

Guest Name: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Dates Hunted: \_\_\_\_\_

Guest Name: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Dates Hunted: \_\_\_\_\_

Guest Name: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Dates Hunted: \_\_\_\_\_

Guest Name: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Dates Hunted: \_\_\_\_\_

Guest Name: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Dates Hunted: \_\_\_\_\_

Guest Name: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Bus Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Dates Hunted: \_\_\_\_\_

## **HUNTING LEASE AND INDEMNITY AGREEMENT**

This Hunting Lease and Indemnity Agreement ("Agreement" or "Lease") is made and entered into as of the 3rd day of July 2003, by and between Joe Farmer (hereinafter referred to as "Lessor") and the following individual or group of individuals, Hunter Smith (hereinafter singularly or collectively referred to as "Lessee"). (Note: This is not intended as a corporate lease.)

### **WITNESSETH**

Subject to the terms and conditions set forth in this Agreement, Lessor does hereby grant to Lessee the exclusive right to access and hunt only the following game species with the following weapons:

All game species will all legal firearm and archery equipment for the state of Indiana.

which may be found upon and harvested from the following real estate (hereinafter "Real Estate" or "Leased Area"):

It is understood that the rights and privileges granted herein are not assignable without the express written consent of the Lessor. This Lease is strictly limited to the use of the Real Estate for the activities described herein, and notwithstanding anything contained herein to the contrary, the Lessee has no other rights to the use of the Real Estate.

### **Section I - Agreement**

- 1) The initial term of this Lease shall be for a period of one (1) year from July 3, 2003 to July 2, 2004.
- 2) The Lessee agrees:
  - a) To pay Lessor the sum of \$4000.00 as consideration for the use of the Leased Area for the initial term. If Lessee desires to renew the Lease for an additional one (1) year term, Lessee shall notify Base Camp Leasing in writing at least thirty (30) days prior to the expiration of the initial term and shall pay such sum to Lessor not later than two weeks prior to the commencement of the renewal term. Failure to pay such sum within the time constraints herein imposed releases the Lessor from performance of this Lease and Lessor may relet the whole or any part of the Real Estate without recourse from the Lessee.
  - b) To provide Lessor with a security deposit of \$0.00 (the "Deposit") on the commencement of the lease term. Such security deposit is refundable upon termination of this Lease if the provisions of the Lease have been adhered to and no damages have been placed upon the Lessor or the Real Estate as a result of the granting of privileges by Lessor contained herein or the actions of the Lessee.
  - c) To not sublease the Real Estate, nor shall Lessee grant permission to anyone who is not a party to this Lease or a member of the Hunting Group to hunt or otherwise use the Real Estate. For purposes of this Agreement, the Hunting Group shall be defined as the Lessee, which can consist of up to 7 individuals.
  - d) To abide by any and all State, Federal and local hunting regulations, including any quotas prescribed by Lessor. Failure to follow said regulations, by Lessee or other member of the Hunting Group may, at Lessor's option, cause immediate cancellation of the Lease as to that Lessee or to all Lessees (at Lessor's sole discretion) and without refund of all or any portion of the Deposit.
  - e) To maintain proper safety procedures regarding firearms, including but not limited to, ensuring



- that all firearms are unloaded while in vehicles and in vicinity of all buildings.
- f) To maintain proper vigilance aimed at preventing fires or damage by other means to the Real Estate, and to immediately report any wildfires that may occur on the Real Estate to Lessor.
  - g) To ensure that vehicles are driven only on established roads and that all gates are left as originally found.
  - h) To maintain a no hunting or shooting zone within 50 yards of any occupied building and around all other designated areas.
  - i) To remove all personal property or structures placed or constructed by Lessee upon the Leased Area at termination of this Lease unless the Lessor has provided prior written consent to leave any or all such property.
  - j) To repair any damage caused to the Real Estate and to return the Real Estate and property to the Lessor in the same condition that existed upon commencement of the Lease. Any clearing of underbrush must be done in a manner so as not to damage any trees or crops that have been planted.
  - k) To in no way hinder farming or damage crop production.
  - l) To not enter upon any neighboring land or hunt on any real estate not described herein.
  - m) To keep the Real Estate free of litter at all times.
  - n) That Base Camp Leasing ("Leasing Agent") is a third party beneficiary of this Agreement and any attempt to negotiate a new Lease with Lessor upon expiration or earlier termination of this Lease, without the inclusion of Leasing Agent as a third party beneficiary, will result in legal action taken against those parties.
- 3) Lessor hereby agrees:
- a) To provide the Lessee with hunting rights on the Leased Area during the term of this Lease, subject to the conditions and restrictions provided herein.
  - b) To not lease to or give any other individual(s) permission to access, occupy, or use for recreation purposes, or hunt on the Real Estate during the term of this Lease.
  - c) That Base Camp Leasing is a third party beneficiary of this Agreement and any attempt by Lessor to negotiate a new Lease with any Lessee upon expiration or earlier termination of this Agreement, without the inclusion of Leasing Agent as a third party beneficiary, will not release Lessor of the compensation due Leasing Agent.
- 4) The Lessee has chosen of his or her own free will to go hunting on the Real Estate, and realizes there are inherent dangers from the sport of hunting, including but not limited to, danger from other hunters, the inherent danger of injury from the presence or use of firearms, and other dangers of any nature whatsoever, including dangers to bodily injury or damage which may occur (such as, but not limited to, the use of hunting knives, axes, arrows, traveling by vehicle over rough terrain, getting into and out of deer stands for hunting), and the risk of such injury or damage caused by other hunters. Lessee agrees at all times to use extreme caution and care in protecting himself or herself, his or her property, and others and their property, from accident, damage or bodily injury which may result from any such risk.
- 5) It is mutually agreed that failure to abide by the terms and stipulations above by any Lessee or member of the Hunting Group constitutes a material breach of this Agreement and may result in the forfeiture of all hunting rights, Deposits and fees.

## **Section II - Release and Indemnification**

As further consideration for the rights and privileges granted herein, Lessee agrees to the following:

- 1) It is understood that the Real Estate consists of mostly undeveloped and untamed land, and the Lessee has had an opportunity to inspect the Leased Area and accepts the Real Estate in an "as is" condition and further, the Lessee understands that hunting is a dangerous activity and that there may be hazards (known and unknown, hidden and observable), including but not limited to, dangers such as holes, cracks or openings in the earth, fence wire, snakes, wells, swamps, brush and other growth, ponds, harmful plants, wild or poisonous animals, insects, bats, unauthorized or careless persons on the land, other hunters, or other risks that may be dangerous and cause injury and/or death and that Lessee assumes all such risks as his/her own responsibility, without liability to or recourse against the Lessor, Leasing Agent or their agents, officers, directors, employees, assignees and heirs.
- 2) That although Lessor may have a greater knowledge of land or the Real Estate than Lessee, that it is impracticable and virtually impossible for Lessor to list and/or to physically show Lessee each and every potential hazard on the Real Estate and Lessee enters onto said Real Estate despite same and at Lessee's own risk and without liability to Lessor or Leasing Agent or their agents, officers, directors, employees, assignees and heirs.
- 3) To forever release, defend, indemnify, and hold harmless Lessor and Leasing Agent, their agents, officers, directors, employees, assigns and heirs, from and against any and all liability, claims, fines, settlements, damages, demands, suits or causes of action of whatsoever nature, including but not limited to reasonable attorney's fees, arising out of bodily injury to, illness or death of any person, including Lessee or other member of the Hunting Group, damage to property of any person, legal entity, or third party, in any occurrence incident to or arising out of or relating to this Agreement or any activities occurring upon the Real Estate, whether by Lessee or otherwise; the performance or non-performance by Lessee of its obligations hereunder; a breach of any term, provision or warranty contained in this Agreement; or any violation of any laws, regulations or ordinances related to Lessee's obligations or performance hereunder.

### **Section III – Miscellaneous**

- 1) In the event that any action is filed in relation to this Agreement, the unsuccessful party in the action shall pay to the successful party, in addition to all other sums that either party may be called on to pay, a reasonable sum for the successful party's attorneys' fees.
- 2) Either party's failure to complain of any act or omission on the part of the other party, no matter how long same may continue, shall not be deemed a waiver by such party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Agreement shall be deemed a waiver or a breach of any other provisions of this Agreement or a consent to any subsequent breach of the same or any other provision.
- 3) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.
- 4) Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.
- 5) The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

- 6) This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.
- 7) Any notice provided for or concerning this Agreement shall be in writing and be deemed sufficiently given when sent by certified mail or registered mail to the respective address of each party as set forth in this Agreement.
- 8) The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.
- 9) If any provision of this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby, and each remaining provision shall be valid and enforceable to the fullest extent permitted by law.
- 10) This Agreement shall be construed under and in accordance with the laws of the state in which a majority of the Real Estate is located.

[SIGNATURE PAGE TO FOLLOW]

SIGNATURE PAGE TO  
HUNTING LEASE AND INDEMNITY AGREEMENT

The undersigned Lessee acknowledges that he or she has read this entire Agreement, including the release and indemnification provisions, and has had ample opportunity to review this Agreement with an attorney, and is signing this Agreement voluntarily, without duress, and by signature hereby accepts and agrees, jointly and severally, to all of the provisions of this Agreement contained herein.

**Lessee**

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Date \_\_\_\_\_

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Date \_\_\_\_\_

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Date \_\_\_\_\_

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Date \_\_\_\_\_

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Date \_\_\_\_\_

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Date \_\_\_\_\_

**Lessor**

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Date \_\_\_\_\_

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Phone \_\_\_\_\_  
Date \_\_\_\_\_

**Leasing Agent**

Base Camp Leasing  
866-309-1507

Signed \_\_\_\_\_  
Printed \_\_\_\_\_  
Date \_\_\_\_\_

Address \_\_\_\_\_  
City \_\_\_\_\_  
State, Zip \_\_\_\_\_

*(Valid only when accepted and signed by Leasing Agent)*

# Tips for Creating a Hunting Lease

*Michael T. Mengak  
Wildlife Specialist, Warnell School of Forestry and Natural Resources*

**L**easing hunting land is one of several types of hunting enterprises that can be profitable for landowners, or can at least cover some of the costs of land ownership. In 2008, deer hunting leases in Georgia were worth, on average, about \$12.00 per acre (ranging from \$5.00 to \$25.00 or more).

A good lease describes the agreements between the landowner and hunter (or club) so that there are no misunderstandings about the privileges being purchased. The clauses below are intended as a list of suggestions on the wording usually included in a hunting lease. There is no standard form for these clauses and all items are negotiable. Adapt the following clauses to meet your needs or prepare your own clauses for particular situations. It may be advisable to have your lease document reviewed by an attorney prior to signing.

Numerous examples of hunting leases can be found on the Internet. Landowners should review other examples and select the features that work best in their particular situation.

# Sample Hunting Lease Agreement

1. Limit the agreement to the people and lands involved. Specify the name of the hunter (or hunters or club). Include a map or other legal description of the property involved.

**Sample clause:** It is understood that all rights and privileges described here are limited to the land and provisions described here and to the undersigned lessor and lessee(s).

**Note:** State in writing if guests or family members may enter the property to hunt, fish, camp or engage in any other activity.

2. State the price of the lease and the kind(s) of animal(s) the lessee may hunt.

**Sample clause:** For the sum of \$\_\_\_\_\_, the lessee may hunt the following animals:

**Note:** State the date when payment is due and the place where payment is to be made. This may be as simple as mailing a check for the entire amount to the lessor's address. If payment can be made in installments, state the amount of and due date for each installment. State the consequences of late payments and/or a check that is returned by the bank as non-payable.

3. Describe the land to be leased.

**Sample clause:** In consideration of the rent described above, the lessor hereby leases to lessee(s) the following premises:

(Include a detailed description of the property. This may include maps and legal descriptions.)

4. Prevent the lessee(s) from subleasing the property.

**Sample clause:** The lessee(s) agrees not to sublease the above-described lands, nor shall lessee(s) grant any permissions to anyone to hunt or otherwise use the above-described land.

5. Clearly state which rights are included in the lease.

**Sample clause:** Lessee(s) shall use the premises for \_\_\_\_\_ purposes only. (Write in "hunting," "camping," "picnicking," "fishing" or other uses that are allowed. Write in any uses that are specifically prohibited, such as harvesting trees, building fires, riding horses or motor vehicles.) Lessee(s) may not cut or damage trees, crops, roads or dwellings, fences, buildings or other property on the land. Lessee(s) agrees to repair any damage he/she causes and to return the land and property to lessor in its prior condition at lessee's expense.

**Note:** The lessor may wish to designate camping sites or mark trees to be cut for firewood. State if tree stands or blinds may be constructed. State if motor vehicles such as ATVs or "4-wheelers" are allowed on the property.

6. State that lessee(s) is responsible for posting the land. State whether the lessee(s) can install locks on any gates.

**Sample clause:** The lessee(s) may post signs at his/her own expense. Text and size of such signs are to be approved by the lessor. When placing signs, lessee(s) may not drive nails into trees or buildings. Signs should not be offensive or create an eyesore. Thin wire staples that penetrate only the bark and do not damage timber may be used. If the lessee(s) locks any gates or installs any gates, he/she must provide the lessor with a key or combination to all locks.

7. Protect timber from damage by nails.

**Sample clause:** Lessee(s) may not drive nails or other metal objects into trees for building deer stands, hunting blinds, camping facilities or any other purpose.

8. Comment on trespass and wildfires.

**Sample clause:** Lessee(s) agrees to help protect said lands from trespass and fire. Lessee(s) will make an effort to put out, suppress or report any wildfires that may occur on the property.

9. Require that lessee(s) observe wildlife and game laws.

**Sample clause:** Lessee(s) shall strictly observe all applicable state, federal and/or local wildlife laws. Conviction of a wildlife law violation by any single member of the hunting group will cause immediate loss of lease privileges.

10. Include a clause to limit your liability for accidents.

**Sample clause:** It is understood that the lessee(s) accepts the land in an “as is” condition and further, the lessee(s) understands that hunting is a dangerous activity and that there may be hidden hazards such as holes, fence wire, snakes, wells, swamps, ponds, harmful plants, unauthorized careless persons on the land, other hunters, or other risks that may cause injury or death and the lessee(s) assumes all these risks as his own responsibility. Lessee(s) agrees to hold lessor harmless against any and all claims of loss damages, liabilities or other expense as a result of lessee’s occupancy and activities.

**Note:** A clause such as this is not a guarantee that the lessor cannot be sued, but it will usually increase the chances of winning a lawsuit or not being held liable. The best protection against liability claims is adequate insurance from a reputable company with experience in hunting lease liability protection. Although the clause says that hunting is a “dangerous activity,” statistically, hunting is safer than many other recreational activities. Further, the lessor has a duty to warn the lessee(s) of any known hazards and to mark them or remove them.

11. Include a clause to prevent littering.

**Sample clause:** Lessee(s) agrees that lands covered by this lease shall be kept free of litter at all times and that litter or trash will be removed by the lessee(s).

12. Reserve the right to cancel the lease.

**Sample clause:** Lessor retains the right to cancel this lease immediately and make no refunds if, in his opinion, the lessee(s) has not complied strictly with the provisions of this agreement. Lessor may cancel this lease for any reason upon 30 days’ written notice to the lessee(s) and in such case the lessor shall return to the lessee(s) a pro rata share of the rent based on the unexpired portion of the lease. It is understood by the lessee(s) that a letter of cancellation of lease shall be addressed to \_\_\_\_\_ and that this will be accepted as sufficient notice by all parties named herein. After expiration of notice period all parties named will immediately cease to exercise all rights stated in this lease.

13. Retain the right to enter the property at any time for any legal activity including management and protection or inspection.

**Sample clause:** Lessor reserves the right and at all times shall have full and free access to the property for any purpose including but not limited to inspecting, planting, cutting, protecting, caring for and dealing with any part or parts of the leased property.

**Note:** Include language to state if the lessor can hunt on the property. If any other rights-of-way are allowed across the property (utility line, adjoining property owner, other), identify them and state their right of access in the lease document.

14. Include a clause to prohibit business activities such as providing guide services or commercial hunting or fishing activities.

**Sample clause:** No commercial hunting, fishing or guide activities may occur on the property by any lessee(s), their guest(s), employee(s) or agent(s).

15. Venue clause.

**Sample clause:** Terms of the lease are to be interpreted according the laws of Georgia.

16. Include a clause to state the dates covered by the lease.

**Sample clause:** Unless this lease is canceled as herein provided, the lessee(s) may begin to use the property on \_\_\_\_\_ (date) and all rights granted shall cease on \_\_\_\_\_ (date).

**Note:** A lease can be for an entire year, hunting season, or other acceptable time period. Multi-year leases are not recommended. Some landowners allow camping, picnicking and/or fishing during the entire year. Such extra benefits can help develop a better rapport between lessee and lessor.

17. Have all parties sign and date the agreement. (If the lessee(s) are not signing in your presence, the use of a notary public is recommended.)

**Sample clause:** Executed by \_\_\_\_\_ (lessor) this \_\_\_\_\_ day of \_\_\_\_\_.

**Acceptance:** We acknowledge ourselves the undersigned lessee(s) to be bound by all terms and conditions of this agreement. All persons using the property must sign. Persons who have not signed this lease are not authorized to hunt on or enter upon the property described herein.

Hunters' (lessees') signatures and addresses:

_____	_____
_____	_____
_____	_____
_____	_____

Notary Public:

**Note:** Sample clauses listed here are intended to be illustrative, not exhaustive. The statements or opinions contained here are in no way to be construed to be those of an attorney or legal advice. Concerns raised by any of the preceding clauses are intended merely as drafting considerations for proper legal counsel. Waiver of liability – attach a liability waiver and a signed (by all parties) sheet identifying what hazardous areas have been described to the lessees or witnessed by them or pointed out by the landowner. Finally, make sure that every lessee or member of the hunting club signs and dates the document. Provide a copy to the lessee (or designated recipient or head of the hunting club).



Circular 971 (Formerly Leaflet 397)

Revised August 2009

The University of Georgia and Ft. Valley State University, the U.S. Department of Agriculture and counties of the state cooperating. Cooperative Extension, the University of Georgia College of Agricultural and Environmental Sciences, offers educational programs, assistance and materials to all people without regard to race, color, national origin, age, gender or disability.

An Equal Opportunity Employer/Affirmative Action Organization  
Committed to a Diverse Work Force



## **Samples Of Optional Clauses**

**[Any or all of these clauses can be added to the lease as needed.]**

### **BAG LIMIT**

1. Each individual LESSEE shall be privileged to take up to but no more than \_\_\_\_\_ buck deer and \_\_\_\_\_ doe deer. LESSEES shall keep complete and accurate records of all deer taken and report the same to LESSOR at the end of the hunting season.

### **MISCELLANEOUS RULES AND REGULATIONS**

2. No hunter shall be allowed to:
- a. Bring any dog, cat, or other domestic animal nor any motorcycle on the property.
  - b. Shoot a firearm from a vehicle.
  - c. Make a fire outside of camp.
  - d. Leave open a gate found closed or leave closed a gate found open.
  - e. Enter upon, either by vehicle or on foot, or shoot at game located upon any other land than that designated above.
  - f. Drive a motor vehicle other than along established roads.

### **BLINDS AND STANDS**

3. LESSEES and their designated parties shall be permitted to construct deer blinds and put up tree stands on the lease premises. However, no deer blind shall be constructed in a manner that damages any of the trees located on the lease premises. No nails or spikes shall be driven into trees. Lessees shall be required to remove same upon termination of this lease.

### **INJURY TO TREES**

4. LESSEES shall not cut or otherwise destroy any living tree located on the lease premises without permission of LESSOR, but they shall be permitted to use dead wood located on said premises.

### **LITTER, TRASH, GARBAGE, AND WASTE**

5. LESSEES agree to permit no material waste on the premises, to remove all material refuse and litter they deposit thereon, and, particularly, LESSEES agree not to throw out beverage containers on the lease premises.

### **DESTRUCTION OF ROADS**

6. In periods of wet weather, where the ground is sufficiently wet that motor vehicles will make substantial ruts, LESSEES agree to drive only on existing roads and in a manner so as to prevent damage to road .



www.NationalAgLawCenter.org

## Landowners' Legal Liability, Limiting Liability, and Transferring Property

*Elizabeth Rumley*  
Center Staff Attorney

479-575-7646 • nataglaw@uark.edu

---

---

---

---

---

---

---

---

### Today's Topics

- Concepts of Negligence & Premises Liability
  - Most common cause of action
  - Your duty of care as a land owner
- Limiting Liability through Business Organizations
  - Ways to protect your business
- Transferring Property to the Next Generation
  - Estate and Gift Tax Issues
  - Succession Planning

---

---

---

---

---

---

---

---

### It's always about the FACTS

- Sometimes it can be hard to answer a legal question with specificity
- Each situation is different based on the facts
- Courts make determinations of FACT before they apply the law
- Often the answer is "It depends!"
  - The facts of your specific situation may change the outcome



---

---

---

---

---

---

---

---

## ◦ PREMISES LIABILITY

The notion of people on your land and how YOU- the land owner - may be liable.

4

---

---

---

---

---

---

---

---

## Basic legal concepts

- Premises Liability is based on the notion of negligence
  - failure to exercise the care that a **reasonably prudent person** would exercise in like circumstances

5

---

---

---

---

---

---

---

---

## Negligence

- There are 4 parts to a cause of action for negligence (if they lack any one of these then you are safe!):
  - **Duty of Care**
    - Your responsibilities as a land owner; different in each situation
    - Typically the "reasonable person" standard
    - Duty of Care changes with the person
  - **Breach of Duty**
    - A failure on your part regarding your responsibilities
  - **Causation**
    - Your failure caused the "injury"
  - **Damages**
    - There must be an actual harm that can be redressed

6

---

---

---

---

---

---

---

---

## Liability Issues

- So now there are people on your land...
  - How did they get there?
    - Did you invite them or charge them to come onto your land?
  - Did they ask your permission? Are you allowing them to enter for free?
  - Are they trespassing? Are you aware of their presence?

7

---

---

---

---

---

---

---

---

## Liability Issues

- 3 Categories of People on Your Premises
  - Trespasser (2 types)
    - Lowest duty of care
  - Licensee
    - Higher duty of care than trespasser, but less than invitee
  - Invitee
    - Highest duty of care

8

---

---

---

---

---

---

---

---

## Liability Issues: Trespasser

- Trespasser
  - Entered upon land without permission or invitation
  - Knowledge of trespasser
    - No knowledge - no duty, no liability
    - Knowledge - duty not to affirmatively harm
      - A course of action which shows a deliberate intention to harm or utter indifference to, or conscious disregard of, the safety of others
  - Example: Teenagers going out to your pond and fishing without your permission
    - Do you know about them? What can you do about them?

9

---

---

---

---

---

---

---

---

## Liability Issues: Licensee

- Licensee
  - Present for a non-commercial, non-business purpose with the consent of the possessor of the property, such as a social **guest** at someone's residence

10

---

---

---

---

---

---

---

---

## Liability Issues: Licensee

- Your Duty:
  - Refrain from injuring the person through willful or wanton conduct
    - i.e., deliberate behavior such as setting booby traps
  - Warn of hidden dangers where the person does not know or is unlikely to know of the conditions or risks
- Example:
  - Someone asks for permission to hunt, walk, use land without a fee
    - Need to warn of the bull on the back 40 that isn't fenced in or of a huge snake population that you know of.
    - What about a pond that is located on the back 40?
      - It is not hidden so there is no general duty to warn them

---

---

---

---

---

---

---

---

## Liability Issues: Invitee

- Invitee
  - Person who is invited upon the premises in order to conduct business with the possessor
  - Came on the land for *your* benefit
    - Customers in store or shopping center
    - **Employees**
    - Students
    - Business visitor

12

---

---

---

---

---

---

---

---

## Liability Issues: Invitee

- Your duty:
  - Highest duty of care
  - A general duty to use ordinary care to keep the premises reasonably safe for the benefit of the invitee.
  - Typically you show these people the most concern anyways (i.e. "the customer is always right")
  - But what about employees?
    - What kind of concern are they typically shown? What kind of jobs do they typically perform?
    - This means making sure your employees have safe equipment, facilities, proper training, etc.

13

---

---

---

---

---

---

---

---

---

---

## Status of Entrant

- The status of a person on your land can change quickly.
  - For example -
    - If you allow someone to fish in your pond, but they explore other parts of your land, they may change from a licensee to a trespasser, but if you catch them and accept money for their access to the other parts of the land they become an invitee.
- It is important to define the area that visitors have permission to use.

14

---

---

---

---

---

---

---

---

---

---

## What's Next?

- **BUSINESS ORGANIZATION OPTIONS TO PROTECT YOUR PERSONAL AND BUSINESS ASSETS.**

---

---

---

---

---

---

---

---

---

---

## Types of Business Structures

- Sole Proprietorship
- General Partnership
- Limited Partnership
- Limited Liability Corporation
- Corporations
  - Subchapter "S"
  - Subchapter "C"

16

---

---

---

---

---

---

---

---

## The Business Structure

- What is so Important about a Business Structure?
  - Liability Protection – separating assets so that a creditor or plaintiff cannot take everything you own

---

---

---

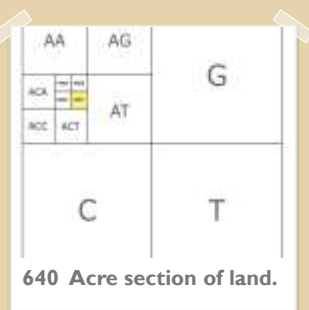
---

---

---

---

---



**Business Organizations are like "fire breaks" and not shields**

640 Acre section of land.

---

---

---

---

---

---

---

---



## Respect the Business Structure

- At the end of the day, Courts will only respect your business structure as much as you do.
- What does this mean?
  - You **HAVE** to keep the business separate from your personal life and from other businesses that you run.
  - Keep separate bank accounts, business records, etc...
  - Don't use business funds for the family vacation

---

---

---

---

---

---

---

---

## Issues we'll cover for each one

- Liability of Owners
- Legal Status
- Formation
- Management
- Taxation

20

---

---

---

---

---

---

---

---

## Sole Proprietorship

- Liability of Owners
  - 100% liability for the business debt
    - Creditors will be able to reach your personal assets as well as what you invested into the business.
      - This means that property such as your land, your home, your personal bank accounts are at risk!
- Legal Status
  - Not a separate legal entity
  - You would be sued directly.

21

---

---

---

---

---

---

---

---

## Sole Proprietorship

- Formation
  - No formalities are required...if you start a business by yourself than this is what you have.
  - Formed or dissolved at the discretion of the individual who owns it
  - Only 1 person, or it becomes a partnership
- Management
  - Easy decision making – only one person to consult!
- Taxation
  - Income is taxed on the individual's tax return (1040)
  - Schedule C

22

---

---

---

---

---

---

---

---

## General Partnership

- Definition
  - An association of two or more “persons” who agree to carry on as co-owners of a business for profit.
  - No intent is necessary to form a general partnership and it is possible to create one without intending to.

23

---

---

---

---

---

---

---

---

## General Partnership

- Liability
  - Each partner is **jointly and severally** liable for the debts of the business.
    - Not only are you personally liable for the debts and actions of the business (just like the sole proprietorship), but you are also responsible for all of the other partners actions
  - Creditors can reach your personal assets, in addition to what you have invested into the business

24

---

---

---

---

---

---

---

---

### In Re Simmons (Arkansas 2007)

- Simmons farming operation was in financial trouble and filed for Chapter 7 which would discharge many of the debts.
- Simmons' son, and general partner, produced a forged personal guarantee on a loan that Simmons had no knowledge of at the time (he later found out about it)
- Court held that the Son's actions imputed fraud to ALL partners so no discharge was allowed.

---

---

---

---

---

---

---

---

### General Partnership

- Legal Status
  - Recognized as a separate legal entity
- Formation
  - No formalities are required
  - Can be formed unintentionally (only intent required is to run business for profit)...Example look at your land lease forms when you go home.
  - There can be a formal partnership agreement that details management responsibilities and how profits/losses will be split

26

---

---

---

---

---

---

---

---

### General Partnership

- Management
  - Each member of the partnership is called a "general partner"
  - The decisions are made by all partners and all partners actively participate...any partner can bind the rest of the partners to a contract
  - Profits and losses are split evenly
    - Unless the partnership agreement states otherwise and there typically has to be a good reason for this.

27

---

---

---

---

---

---

---

---

## General Partnership

- Taxation
  - The general partnership has the advantage of being a "pass-through entity"
  - This means the partnership itself pays no income taxes
  - Instead, income is taxed only after it is distributed to the partners.
  - This is different than the "double tax" where income is taxed when the business earns it and when it is paid out to the individual partners.

28

---

---

---

---

---

---

---

---

## Limited Partnership

- Limited Liability Partnership
  - A more formal business organization that limits some liability
- Liability
  - General Partner
    - Is fully liable for the financial and legal obligations of the business
  - Limited Partner
    - Only at risk of losing the capital invested or pledged to the business
    - Personal assets are not at risk

29

---

---

---

---

---

---

---

---

## Limited Partnership

- Legal Status
  - Separate legal entity
- Formation
  - Requires at least 1 General partner and 1 Limited partner
  - Requires a partnership agreement that lays out how the business will be run, including how profits/losses will be divided
  - Certificate must be filed with Secretary of State...all states vary slightly, but the our website contains the necessary information
  - Name of business must have "limited" or "LLP"

30

---

---

---

---

---

---

---

---

## Limited Partnership

- Management
  - The General partner manages the business
    - Policy reasons: General partner has the most at stake. Incentive to make sound business decisions
  - The limited partner CANNOT manage the business or they may be deemed to be a general partner.
- Taxation
  - Limited Partnership is also a “pass-through entity”
  - Income is only taxed after it is passed on to the general or limited partners.

31

---

---

---

---

---

---

---

---

## Example

Grandmother wishes to help her grandson start a farming operation and she really doesn't know much about farming.

- The Limited Partnership would work well for her because she can have a stake in the business (i.e. she doesn't have to just give the grandson money).
- If the grandson fails than only the money that she gave to the grandson can be lost and the creditors cannot come back against her.

---

---

---

---

---

---

---

---

## Limited Liability Company (LLC)

- LLC – created in the 1970s
  - Similar to Limited Partnerships...except everybody can be protected.
  - Provides protection to personal assets
  - Made up of “members” rather than “partners”
- Liability
  - Members' personal assets are protected from creditors of the business.
  - Creditors can only reach that which has been invested or pledged to the business

33

---

---

---

---

---

---

---

---

## LLC

- Legal Status
  - Recognized as separate legal entity
- Formation
  - Can be formed with 1 or more members
  - Created by delivering Articles of Organization to the Secretary of State's office
    - Must include
      - Name of LLC
      - Address of LLC
      - Agent for service of process
  - Certain reports must be filed each year to maintain LLC status

34

---

---

---

---

---

---

---

---

## LLC

- Management – 2 options
  - Member Management (small businesses)
    - All members have the right to participate in management
    - This is the more common option
  - Manager Management (large businesses)
    - Only designated members have management authority as provided in articles of organization
  - Profits and losses are shared equally among members unless otherwise agreed

35

---

---

---

---

---

---

---

---

## LLC

- Taxation
  - The LLC can elect to be a "pass-through entity"
    - Income is taxed only when it is distributed to the members
  - Or the LLC also has the option of being taxed as a corporation
    - Income would be taxed when the LLC earns it and again when it is distributed to the members

36

---

---

---

---

---

---

---

---

## Corporations

- Most complex business organization
- Offer liability protection for shareholders
  - Similar to that of LLC
  - Older business organization with centuries of case law.

37

---

---

---

---

---

---

---

---

## Corporations

- Liability
  - Shareholders are protected from creditors of the corporation in most cases
- Legal Status
  - Corporation is a separate legal entity

38

---

---

---

---

---

---

---

---

## Corporations

- Formation
  - Articles of incorporation must be filed with Secretary of State
    - Must include
      - Name of corporation
      - Purpose of corporation
      - Stock structure
  - Fictitious name statement
  - By Laws
    - Include details of how the corporation will be run
      - Officers
      - Shareholder meetings
      - Number and terms of Directors on Board

39

---

---

---

---

---

---

---

---

## Corporations

- Formalities
  - Record keeping requirements
  - Regular board meetings
  - Annual shareholder meetings
  - Annual filing requirements for the state

40

---

---

---

---

---

---

---

---

## Corporations

- Management
  - Shareholders elect a Board of Directors
  - Board of Directors appoint Officers
    - Officers are responsible for day-to-day management decisions
    - Board of Directors is responsible for long term planning and management
  - Shareholders have limited management authority and vote only on extraordinary measures
    - Like selling more than 1/2 of the assets or dissolving

41

---

---

---

---

---

---

---

---

## Types of Corporations

- S Corporation
  - Limited number of shareholders (100 or less)
  - “Legal persons” that are allowed to be shareholders is limited to citizens, resident aliens, estates and certain trusts
    - No corporations, non-resident aliens
  - Only one class of voting stock
  - Distribution rights to shareholders must be equal
  - No tax at the corporate level...“pass through”
    - Similar to taxation of LLC

42

---

---

---

---

---

---

---

---



## Types of Corporations

- C Corporation
  - Typically the big national corporations
  - Unlimited number of shareholders
  - No limits on who (or what legal entities) can be shareholders
  - Can issue common or preferred stocks or bonds (multiple classes of stock)
  - Distribution rights are very flexible
  - Income is taxed at the corporate level
    - And then again when it is distributed to shareholders

43

---

---

---

---

---

---

---

---

## How to choose!

- Deciding which business structure to use is an important decision.
- Many factors to consider
  - Who is involved
  - What is their role
  - What are the requirements
  - What makes the most sense for my business

44

---

---

---

---

---

---

---

---

## What's Next?

### TRANSFERRING PROPERTY TO THE NEXT GENERATION

---

---

---

---

---

---

---

---

### Estate Taxes: Why it probably doesn't matter to you

- Does anybody know how much total property and cash that one person can pass down to his/her children with NO estate planning and not pay federal estate taxes?
  - Currently the Unified Credit is \$5 million per person...which means that a married couple can pass down \$10 million!
  - With simple estate planning you can pass much more

---

---

---

---

---

---

---

---

### IMPORTANT

- If your estate is over \$5 million dollars, the executor of the first deceased spouses' estate must make an "election" with the IRS in order to allow the remaining spouse to use the decedent's Unified Credit.
- This must be done within 6 months of the first spouses' death.

---

---

---

---

---

---

---

---

### State Estate Tax Exemptions:

- Arkansas – No Tax
- Louisiana – No Tax
- Mississippi – No Tax
- Missouri – No Tax
- Kentucky – No Tax

---

---

---

---

---

---

---

---

### So if estate taxes aren't the issue than what is?

- Succession Planning – bringing in the next generation so that they know what they are doing when the owner passes away
- How to do this effectively is the real challenge of estate planning.

---

---

---

---

---

---

---

---

### Transferring Property or the Farming/Forestry Operation?

- Do you want to transfer assets or do you want to transfer the farming/forestry operation?
- Transferring assets is pretty simple:
  - Use a will or a trust to pass property at death
- Transferring the operation is MUCH more difficult!!!

---

---

---

---

---

---

---

---

### Succession Planning

- Bringing in the next generation so that the operation can continue on in the event of the death of the farmer/business owner.
- The best way to do this is often to create a business entity and allow them to start taking an ownership/management interest

---

---

---

---

---

---

---

---

## Succession Planning

- You **WILL** need an attorney for this and input from family members.
  - This is complex and every family and farm differs so the succession plan must be unique
  - How do you give to family members that do not wish to participate in running the farm?
  - What about your surviving spouse?
  - The next generation needs to learn the ropes while you are still around to teach them which means that they have to take some responsibility...you can't do it all.

---

---

---

---

---

---

---

---

## Gifts Property

- Giving away property during your life may be an option, however there are some dangers.
- An individual who wants to give away large sums of money is subject to the \$5 million dollar cap mentioned earlier- the amount they give away during life is subtracted from the \$5 million they may give at the end of their lives.

---

---

---

---

---

---

---

---

## Federal Gift Tax

- If you give people a lot of money or property, you might have to pay a federal gift tax.
- But most gifts are not subject to the gift tax.
  - For example, in 2012, you can give away a maximum of \$13,000 (called the "annual exclusion") to as many people as you want to, without facing gift taxes.
- However, if you exceed the annual exclusion, the amount above that is subject to the \$5 million dollar cap mentioned earlier- the amount you give away during life is subtracted from the \$5 million you may give at the end of your lives.

---

---

---

---

---

---

---

---

### Federal Gift Tax:What Does This Mean?



- Joe and Sue have one son, Bill. They would like to give him a gift of money or property. When does the federal gift tax kick in?
  - Joe and Sue each can give Bill up to \$13,000 a year.
  - That totals \$26,000 a year.
  - Together, Joe and Sue may also give their daughter-in-law; or anyone else they want to; \$26,000 per year

---

---

---

---

---

---

---

---

---

---

### Federal Gift Tax:What Does This Mean?

- What if Joe and Sue give Bill \$500,000 for three years in a row?
  - They exceeded the annual exclusion by \$474,000 each year, or a total of \$1,422,000 over the three year span.
  - That \$1,422,000 will be deducted from the \$10 million they can give upon death, leaving them with the ability to leave \$8,578,000 tax-free




---

---

---

---

---

---

---

---

---

---

### Talk to your Attorney

- Before making any large gifts or creating a will (or trust) talk to your attorney and family.
- Every situation is unique...you have different assets and different family members which means that your estate plan will also be unique.

---

---

---

---

---

---

---

---

---

---




---

---

---

---

---

---

---

---

---

---




---

---

---

---

---

---

---

---

---

---




---

---

---

---

---


---

---

---

---

---



## Any Questions?

I'll be available afterwards and I have contact information if you think of any questions later on.

---

---

---

---

---

---

---

---



**Contact Information:**

The National Agricultural Law Center  
University of Arkansas

Elizabeth R. Rumley  
Phone: (479) 387-2331  
Email: [erumley@uark.edu](mailto:erumley@uark.edu)

[www.nationalaglawcenter.org](http://www.nationalaglawcenter.org)

---

---

---

---

---

---

---

---

The National Agricultural  
Law Center



University of Arkansas • School of Law • Division of Agriculture

An Agricultural Law Research Project

## **States' Agritourism Statutes**

### **State of Arkansas**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)





## States' Agritourism Statutes

### STATE OF ARKANSAS

*Current through end of the 2011 Regular Session.*

#### **§ 2-11-101. Title**

This chapter shall be known and may be cited as the “Agritourism Act”.

#### **§ 2-11-102. Legislative intent --Construction --Purpose**

(a) It is the intent of this chapter to:

(1) Promote rural tourism and rural economic development by encouraging owners or operators of farms, ranches, and other rural land or attractions, including historic, cultural, and natural attractions, to invite members of the public to view, observe, and participate in the operations and attractions for educational, entertainment, or recreational purposes; and

(2) Encourage agritourism activities by limiting civil liability of those engaged in agritourism or providing the activities of agritourism.

(b) This chapter shall be liberally construed to carry out the purposes described in subsection (a) of this section.

#### **§ 2-11-103. Definitions**

As used in this chapter:

(1) “Agribusiness operation” means an agricultural, horticultural, viticultural, forestry, dairy, livestock, poultry, bee, or any other farm, ranch, plantation, or range business operation;

(2)(A) “Agritourism activity” means an interactive or passive activity carried out with or without payment to an agritourism activity operator on a farm, ranch, or agribusiness operation related to agriculture, food production, historic traditions, or nature-watching conducted by an agritourism activity operator for the education, entertainment, or recreation of participants.

(B) “Agritourism activity” includes without limitation:

(i) A farming or ranching activity;

(ii) The viewing of historic, cultural, or natural attractions;

(iii) A harvest-your-own activity;

(iv) Nature-watching; and

(v) An activity involving an animal exhibition at an agricultural fair.

(C) “Agritourism activity” does not include:

(i) A road side fruit and vegetable stand; or

(ii) An operation exclusively devoted to the sale of merchandise or food at retail;

(3) “Agritourism activity operator” means an individual or entity that provides the facilities and equipment necessary to participate in an agritourism activity;

(4) “Inherent risk” means dangers or conditions that are an integral part of an agritourism activity including without limitation:

(A) The propensity of a wild or domestic animal to behave in ways that may result in injury, harm, or death to persons on or around the wild or domestic animal;

(B) Hazards such as surface and subsurface conditions;

(C) Natural conditions of land, vegetation, and waters;

(D) Ordinary dangers of structures or equipment used in farming or ranching operations; and

(E) The potential of a participant to act in a negligent way that may contribute to injury to the participant or others, whether failing to follow safety procedures or failing to act with reasonable caution while engaging in the agritourism activity; and

(5) “Participant” is defined as a person, other than the agritourism activity operator, who engages in an agritourism activity.

#### **§ 2-11-104. Assumption of risk by participant**

Except as provided in § 2-11-105, a participant assumes the inherent risk of an agritourism activity by engaging in the agritourism activity.

#### **§ 2-11-105. Liability of agritourism activity operator**

This chapter shall not prevent or limit the liability of an agritourism activity operator if the agritourism activity operator or an agent of the agritourism activity operator:

(1) Commits an act or omission of gross negligence concerning the safety of a participant that proximately causes injury, damage, or death to the participant;

(2)(A) Has actual knowledge of a dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in the activity that proximately causes injury, damage, or death to the participant and does not make the danger known to the participant that proximately causes injury, damage, or death to the participant;

(3) Intentionally injures a participant; or

(4) Commits other acts, errors, or omissions that constitute willful or wanton misconduct, gross negligence, or criminal conduct that proximately causes injury, damage, or death.

#### **§ 2-11-106. Limitation on liability**

(a) An agritourism activity operator or participant is not liable for damages arising from the personal injury or death of a participant if:

(1) The injury or death results from an inherent risk; and

(2) The warning contained in § 2-11-107 is posted.

(b) The limitation of liability provided by this section is in addition to any other limitation of liability provided by law.

#### **§ 2-11-107. Warning required**

(a) At each agritourism activity, the agritourism activity operator shall post and maintain signage in a clearly visible location at or near the main entrance to the agritourism activity and in black letters at least one (1”) in height containing the following warning:

“WARNING -- Under Arkansas law, an agritourism activity operator is not liable for the injury or death of a participant in an agritourism activity resulting from the inherent risk of agritourism activities. Inherent risks include without limitation the risk of animals, weather, land conditions, and the potential for you as a participant to act in a negligent way that may contribute to your own injury or death. You are assuming the risk of participating in this agritourism activity.”

(b) The agritourism activity operator shall include, in clearly visible print, the warning contained in subsection (a) of this section in a written contract between the agritourism activity operator and each participant.

(c) At each agritourism activity, the agritourism operator shall post and maintain signage of a specific or known hazard in the particular area on or surrounding the agritourism activity.

The National Agricultural  
Law Center



University of Arkansas School of Law

An Agricultural Law Research Project

## **States' Recreational Use Statutes**

**State of Arkansas**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)



UNIVERSITY of ARKANSAS  
SCHOOL of LAW

## States' Recreational Use Statutes STATE OF ARKANSAS

### **AR ST § 18-11-301 to § 18-11-307**

*Current through end of 2010 Fiscal Sess., including changes made by Ark. Code Rev. Comm. received through 4/26/10.*

#### **§ 18-11-301. Purpose of subchapter**

The purpose of this subchapter is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.

#### **§ 18-11-302. Definitions**

As used in this subchapter:

- (1) "Charge" means an admission fee for permission to go upon or use the land, but does not include:
  - (A) The sharing of game, fish, or other products of recreational use; or
  - (B) Contributions in kind, services, or cash paid to reduce or offset costs and eliminate losses from recreational use;
- (2) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty;
- (3) "Owner" means the possessor of a fee interest, a tenant, lessee, holder of a conservation easement as defined in § 15-20-402, occupant, or person in control of the premises;
- (4) "Public" and "person" includes the Young Men's Christian Association (Y.M.C.A.), Young Women's Christian Association (Y.W.C.A.), Boy Scouts of America, Girl Scouts of the United States of America, Boys Clubs of America, Girls Clubs of America, churches, religious organizations, fraternal organizations and other similar organizations; and

(5) "Recreational purpose" includes, but is not limited to, any of the following, or any combination thereof:

- (A) Hunting;
- (B) Fishing;
- (C) Swimming;
- (D) Boating;
- (E) Camping;
- (F) Picnicking;
- (G) Hiking;
- (H) Pleasure driving;
- (I) Nature study;
- (J) Water skiing;
- (K) Winter sports;
- (L) Spelunking;
- (M) Viewing or enjoying historical, archeological, scenic, or scientific sites; and
- (N) Any other activity undertaken for exercise, education, relaxation, or pleasure on land owned by another.

#### **§ 18-11-303. Construction of subchapter**

Nothing in this subchapter shall be construed to:

- (1) Create a duty of care or ground of liability for injury to persons or property; or
- (2) Relieve any person using the land of another for recreational purposes from any obligation which he or she may have in the absence of this subchapter to exercise care in his or her use of the land and in his or her activities thereon or relieve any person from the legal consequences of failure to employ such care.

#### **§ 18-11-304. Duty of care**

Except as specifically recognized by or provided in § 18-11-307, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for recreational purposes.

#### **§ 18-11-305. Limitation on liability**

Except as specifically recognized by or provided in § 18-11-307, an owner of land who, either directly or indirectly, invites or permits without charge any person to use his or her property for recreational purposes does not thereby:

- (1) Extend any assurance that the lands or premises are safe for any purpose;
- (2) Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;

- (3) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons; or
- (4) Assume responsibility for or incur liability for injury to the person or property caused by any natural or artificial condition, structure, or personal property on the land.

#### **§ 18-11-306. Land leased to state**

Unless otherwise agreed in writing, the provisions of §§ 18-11-304 and 18-11-305 are applicable to the duties and liability of:

- (1) An owner of land leased to the state or a political subdivision of the state for recreational purposes;
- (2) An owner of an interest in the real property burdened by a conservation easement as defined in § 15-20-402; or
- (3) A holder of a conservation easement as defined in § 15-20-402.

#### **§ 18-11-307. Owner's liability**

Nothing in this subchapter limits in any way liability which otherwise exists:

- (1) For malicious, but not mere negligent, failure to guard or warn against an ultra-hazardous condition, structure, personal property, use, or activity actually known to the owner to be dangerous; and
- (2) For injury suffered in any case in which the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that, in the case of land leased to the state, a subdivision thereof, or to a third person, any consideration received by the owner for the lease shall not be deemed a charge within the meaning of this section.

The National Agricultural  
Law Center



University of Arkansas School of Law

**An Agricultural Law Research Project**

**States' Agritourism Statutes**

**State of Louisiana**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)





## States' Agritourism Statutes

### STATE OF LOUISIANA

*Current through the 2008 Legislative Session.*

#### **§ 9:2795.5. Limitation of liability; agritourism activities; definitions; exceptions; required warning**

- A. As used in this Section, the following terms shall have the following meanings, unless the context requires otherwise:
- (1) "Agritourism" means the travel or visit by the general public to, or the practice of inviting the general public to travel to or visit, a working farm, ranch, or other commercial agricultural, aquacultural, horticultural or forestry operation for the purpose of enjoyment, education, or participation in the activities of the farm, ranch, or other agricultural, aquacultural, horticultural, or forestry operation
  - (2) "Agritourism activities" means those activities related to agritourism as defined in rules and regulations adopted by the commissioner of agriculture and forestry in accordance with the Administrative Procedure Act, and which the conduct of any such activity is set forth in a plan of operation approved by the director of the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center or his designee.
  - (3) "Agritourism professional" means any person and his employees or authorized agents who offers or conducts one or more agritourism activities or agritourism purposes.
  - (4) "Inherent risks of agritourism activity" means those conditions, dangers, or hazards that are an integral part of an agritourism activity, including surface and subsurface conditions of the land and water; natural conditions of vegetation; the behavior of wild or domestic animals; those arising from the form or use of structures or equipment ordinarily used on a working far, ranch or other commercial agricultural, aquacultural, horticultural, or forestry operation; and the mistakes or negligent acts of a participant that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.
  - (5) "Participant" means any person, other than an agritourism professional, who engages in an agritourism activity, even if that person did not pay to participate in the agritourism activity.
- B. (1) Except as provided in Paragraph (2) of this Subsection, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in Subsection C of this Section is posted as required and, except as provided in Paragraph (2) of this Subsection, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage or death of the participant resulting exclusively from any of the inherent

risks of agritourism activities. In any action for damages arising out of an agritourism activity against an agritourism professional, the agritourism professional shall plead the provisions of this Section as an affirmative defense.

(2) Nothing contained in Paragraph (1) of this Subsection prevents or limits the liability of an agritourism professional, if the agritourism professional does any one or more of the following:

- (a) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission caused injury, damage, or death to the participant.
- (b) Intentionally injures the participant.
- (c) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facility upon which the participant sustained injuries because of a dangerous latent condition, including but not limited to the dangerous propensity of a particular animal used in such activity, which was known or should have been known to the agritourism professional and for which warning signs have not been conspicuously posted.
- (d) Any limitation on liability provided by Paragraph (1) of this Subsection shall prevent or limit the liability of an agritourism professional in addition to any other limitation of liability otherwise provided by law.

(3) Nothing contained in Paragraph (1) of this Subsection shall prevent or limit the liability of an agritourism professional under liability provisions set forth in the Louisiana Products Liability Act, R.S. 9:2800.51 through 2800.60.

C. (1) Every agritourism professional shall post and maintain signs that contain the warning notice specified in Paragraph (2) of this Subsection and shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the warning notice specified in Paragraph (2) of this Subsection.

(2) The signs and contracts described in Paragraph (1) of this Subsection shall contain the following notice of warning:

#### WARNING

Under Louisiana law, R.S. 9:2795.5, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, the risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death.

You are assuming the risk of participating in this agritourism activity.

(3) Failure to comply with the requirements concerning warning signs and notices provided in this Subsection shall prevent an agritourism professional from invoking the limitation of liability provided by this Section.

The National Agricultural  
Law Center



University of Arkansas School of Law

An Agricultural Law Research Project

**States' Recreational Use Statutes**

**State of Louisiana**

[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)



UNIVERSITY of ARKANSAS  
SCHOOL of LAW

## States' Recreational Use Statutes

### STATE OF LOUISIANA

#### **LSA-R.S. 9:2791 to 9:2795.4**

*Current through the 2009 Regular Session.*

#### **§ 2791. Liability of owner or occupant of property not used primarily for commercial recreational purposes**

A. An owner, lessee, or occupant of premises owes no duty of care to keep such premises safe for entry or use by others for hunting, fishing, camping, hiking, sightseeing, or boating or to give warning of any hazardous conditions, use of, structure, or activities on such premises to persons entering for such purposes, whether the hazardous condition or instrumentality causing the harm is one normally encountered in the true outdoors or one created by the placement of structures or conduct of commercial activities on the premises. If such an owner, lessee, or occupant gives permission to another to enter the premises for such recreational purposes he does not thereby extend any assurance that the premises are safe for such purposes or constitute the person to whom permission is granted one to whom a duty of care is owed, or assume responsibility for or incur liability for any injury to persons or property caused by any act of person to whom permission is granted.

B. This Section does not exclude any liability which would otherwise exist for deliberate and willful or malicious injury to persons or property, nor does it create any liability where such liability does not now exist. Furthermore the provisions of this Section shall not apply when the premises are used principally for a commercial, recreational enterprise for profit; existing law governing such use is not changed by this Section.

C. The word "premises" as used in this Section includes lands, roads, waters, water courses, private ways and buildings, structures, machinery or equipment thereon.

D. The limitation of liability extended by this Section to the owner, lessee, or occupant of premises shall not be affected by the granting of a lease, right of use, or right of occupancy for any recreational purpose which may limit the use of the premises to persons other than the entire public or by the posting of the premises so as to limit the use of the premises to persons other than the entire public.

\* REPEAL BY IMPLICATION: Provisions in subsec. B of this section, relating to commercial or non-commercial use of owner or lessee seeking immunity, were found to be in conflict with later-

enacted provisions of R.S. 9:2795(B), and therefore repealed by implication. *Richard v. Hall*, Sup.2004, 874 So.2d 131, 2003- 1488 (La. 4/23/04), rehearing denied.

**§ 2795.1. Limitation of liability of farm animal activity sponsor or professional; exceptions; required warning**

A. As used in this Section, the following terms shall have the following meanings, unless the context requires otherwise:

(1) "Engages in a farm animal activity" means riding, training, providing, or assisting in providing medical treatment of, driving, or being a passenger upon a farm animal, whether mounted or unmounted, or any person assisting a participant or show management. The term "engages in a farm animal activity" does not include being a spectator at a farm animal activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the farm animal activity.

(2) "Farm animal" means one or more of the following animals: horse, pony, mule, donkey, hinny, cow, bull, ox or other bovine, sheep, pig, hog, goat, ratite (ostrich, rhea, emu), and chicken or other fowl.

(3) "Farm animal activity" includes any or all of the following:

(a) A farm animal show, fair, competition, performance, or parade that involves any or all farm animals, including but not limited to any dressage, hunter and jumper horse show, grand prix jumping, three-day event, combined training, rodeo, Courir de Mardi Gras, driving, pulling, cutting, polo, steeplechasing, English and western performance riding, endurance trail riding, and western game and hunting.

(b) Training or teaching activities, or both, involving farm animals.

(c) Boarding a farm animal, including daily care.

(d) Riding, inspecting, or evaluating a farm animal belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the farm animal or is permitting a prospective purchaser of the farm animal to ride, inspect, or evaluate the farm animal.

(e) A ride, trip, hunt, or other farm animal activity of any type, however informal or impromptu, that is sponsored by a farm animal activity sponsor.

(f) Placing or replacing horseshoes or trimming the hooves on a farm animal.

(g) Examining or administering medical treatment to a farm animal by a veterinarian.

(4) "Farm animal activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for a farm animal activity, including but not limited to: a pony club; 4-H club; Courir de Mardi Gras association; hunt club; riding club; school and college-sponsored class, program, and activity; therapeutic riding program; bull riding activity; and any operator, instructor, and promoter of a farm animal facility.

(5) "Farm animal facility" means any area used for any farm animal activity, including but not limited to a farm, ranch, riding arena, training stable, barn, pasture, riding trail, show ring, polo field, or other area or facility used or provided by a farm animal activity sponsor or where a participant engages in a farm animal activity.

(6) "Farm animal professional" means a person engaged for compensation in any of the following:

(a) Instructing a participant or renting to a participant a farm animal for the purpose of riding, driving, or being a passenger upon the farm animal.

(b) Renting equipment or tack to a participant in a farm animal activity.

(c) Examining or administering medical treatment to a farm animal as a veterinarian.

(d) Veterinarian or farrier services.

(7) "Inherent risks of farm animal activities" means those dangers or conditions which are an integral part of a farm animal activity, including but not limited to:

(a) The propensity of a farm animal to behave in ways that may result in injury, harm, or death to persons on or around them.

(b) The unpredictability of a farm animal's reaction to such things as sounds, sudden movement, and unfamiliar objects, persons, or other animals.

(c) Certain hazards such as surface and subsurface conditions.

(d) Collisions with other farm animals or objects.

(e) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the farm animal or not acting within his ability.

(8) "Participant" means any person, whether amateur or professional, who engages in a farm animal activity, whether or not a fee is paid to participate in the farm animal activity.

B. Except as provided in Subsection C of this Section, a farm animal activity sponsor, a farm animal professional, or any other person, which shall include a corporation or partnership, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of a farm animal activity and, except as provided in Subsection C of this Section, no participant or participant's representative shall make any claim against, maintain an action against, or recover from a farm animal activity sponsor, a farm animal professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of farm animal activities.

C. Nothing in Subsection B of this Section shall prevent or limit the liability of a farm animal activity sponsor, a farm animal professional, or any other person if the farm animal activity sponsor, farm animal professional, or person either:

(1) Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and such equipment or tack was faulty to the extent that it did cause the injury.

(2) Failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the farm animal activity and to safely manage the particular farm animal based on the participant's representations of his ability.

(3) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facility upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the farm animal activity sponsor, farm animal professional, or person and for which warning signs have not been conspicuously posted.

(4) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury.

(5) Intentionally injures the participant.

D. Nothing in Subsection B of this Section shall prevent or limit the liability of a farm animal activity sponsor or a farm animal professional under liability provisions as set forth in the "Louisiana Products Liability Act", R.S. 9:2800.51 through 2800.59.

E. Every farm animal professional and every farm animal activity sponsor shall post and maintain a sign conspicuously located or provide a written warning which contains the warning notice specified in Subsection F of this Section. The sign shall be placed in a clearly visible location on or

near any stable, corral, registration area, staging area, or arena where the farm animal professional or the farm animal activity sponsor conducts a farm animal activity or the written warning shall be given to each participant prior to the commencement of the parade or activities. The warning notice specified in Subsection F of this Section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height or shall appear in the written warning in boldfaced capital letters no smaller than 12-point type. Every written contract entered into by a farm animal professional or by a farm animal activity sponsor for the provision of professional services, instruction, or the rental of equipment or tack or a farm animal to a participant, whether or not the contract involves farm animal activities on or off the location or site of the farm animal professional's or the farm animal activity sponsor's business, shall contain in clearly readable print the warning notice specified in Subsection F of this Section.

F. The signs, written warnings, and contracts described in Subsection E of this Section shall contain the following warning notice: "WARNING Under Louisiana law, a farm animal activity sponsor or farm animal professional is not liable for an injury to or the death of a participant in a farm animal activity resulting from the inherent risks of the farm animal activity, pursuant to R.S. 9:2795.1."

G. Failure to comply with the requirements concerning warning notices provided in this Section shall prevent a farm animal activity sponsor or farm animal professional from invoking the privilege of immunity provided by this Section.

#### **§ 2795.4. Limitation of liability; motorized off-road vehicle activities; definitions; exceptions; required warning**

A. As used in this Section, the following terms shall have the following meanings, unless the context requires otherwise:

(1) "Engages in motorized off-road vehicle activity" means rides or drives, or is a passenger upon a motorized off-road vehicle, or is a person assisting a participant or management. The term "engages in a motorized off-road vehicle activity" does not include being a spectator at a motorized off-road vehicle activity, except in cases where the spectator places himself in an unauthorized area and in immediate proximity to the motorized off-road vehicle activity.

(2) "Inherent risks of motorized off-road vehicle activities" means those dangers or conditions which are an integral part of a motorized off-road vehicle activity, including but not limited to:

(a) The propensity of a motorized off-road vehicle to roll over in ways that may result in injury, harm, or death to persons on or around it.

(b) Certain hazards such as surface and subsurface conditions.

(c) Collisions with other motorized off-road vehicles or objects.

(d) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain



control over the motorized off-road vehicle or not acting within his ability.

(3) "Motorized off-road vehicle" means any two- or four-wheeled vehicle powered by a combustible engine or electric motor and weighing eleven thousand five hundred pounds or less, whether or not such vehicle is required to be registered to operate upon the highways of this state.

(4) "Motorized off-road vehicle activity" includes any or all of the following:

(a) A motorized off-road vehicle show, race, competition, or performance that involves any or all motorized off-road vehicles, including but not limited to any dirt track, paved or unpaved race course, or jump.

(b) Training, teaching, or demonstrating activities involving motorized off-road vehicles.

(c) Driving, inspecting, or evaluating a motorized off-road vehicle belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the motorized off-road vehicle at a motorized off-road vehicle facility.

(d) A ride, trip, hunt, or other motorized off-road vehicle activity of any type, however informal or impromptu, that is sponsored by a motorized off-road vehicle activity sponsor.

(5) "Motorized off-road vehicle activity sponsor" means an individual, group, club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for a motorized off-road vehicle activity, including but not limited to a hunting club; riding club; school or college-sponsored class, program, or activity; therapeutic riding program; or any operator, instructor, or promoter of a motorized off-road vehicle facility.

(6) "Motorized off-road vehicle facility" means any area used for any motorized off-road vehicle activity, including but not limited to a farm, ranch, riding arena, barn, pasture, riding trail, paved or unpaved race course, or other area or facility used or provided by a motorized off-road vehicle activity sponsor or where a participant engages in a motorized off-road vehicle activity.

(7) "Motorized off-road vehicle professional" means a person engaged for compensation in any of the following:

(a) Instructing a participant or renting to a participant a motorized off-road vehicle for the purpose of riding, driving, or being a passenger upon the motorized off-road vehicle.

(b) Renting equipment to a participant in a motorized off-road vehicle activity.

(8) "Participant" means any person, whether amateur or professional, who engages in a motorized off-road vehicle activity, whether or not a fee is paid to participate in the motorized off-road vehicle activity.

B. Except as provided in Subsection C of this Section, a motorized off-road vehicle activity sponsor, a motorized off-road vehicle professional, or any other person, which shall include individuals and all forms of business entities, shall not be liable for an injury to or the death of a participant resulting from the inherent risks of a motorized off-road vehicle activity and, except as provided in Subsection C of this Section, no participant or participant's representative shall make any claim against, maintain an action against, or recover from, a motorized off-road vehicle activity sponsor, a motorized off-road vehicle professional, or any other person for injury, loss, damage, or death of the participant resulting from any of the inherent risks of motorized off-road vehicle activities.

C. Nothing in Subsection B of this Section shall prevent or limit the liability of a motorized off-road vehicle activity sponsor, a motorized off-road vehicle professional, or any other person if the motorized off-road vehicle activity sponsor, motorized off-road vehicle professional, or other person either:

(1) Provided the equipment, and knew or should have known that the equipment was faulty, and such equipment was faulty to the extent that it did cause the injury.

(2) Failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the motorized off-road vehicle activity.

(3) Owned, leased, rented, or otherwise was in lawful possession and control of the land or facility upon which the participant sustained injuries because of a dangerous latent condition which was known or should have been known to the motorized off-road vehicle activity sponsor, motorized off-road vehicle professional, or other person and for which warning signs have not been conspicuously posted.

(4) Committed an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission caused the injury.

(5) Intentionally injured the participant.

D. Nothing in Subsection B of this Section shall prevent or limit the liability of a motorized off-road vehicle activity sponsor or a motorized off-road vehicle professional or other person under liability provisions as set forth in the Louisiana Products Liability Act, R.S. 9:2800.51 through 2800.59.

E. Every motorized off-road vehicle professional and every motorized off-road vehicle activity sponsor shall post and maintain a sign conspicuously located or provide a written warning which

contains the warning notice specified in Subsection F of this Section. The sign shall be placed in a clearly visible location on or near any registration area, staging area, or arena where the motorized off-road vehicle professional or the motorized off-road vehicle activity sponsor conducts a motorized off-road vehicle activity, or the written warning shall be given to each participant prior to the commencement of the activities. The warning notice specified in Subsection F of this Section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height or shall appear in the written warning in boldfaced capital letters no smaller than twelve-point type. Every written contract entered into by a motorized off-road vehicle professional or by a motorized off-road vehicle activity sponsor for the provision of professional services, instruction, or the rental of equipment or a motorized off-road vehicle to a participant, whether or not the contract involves motorized off-road vehicle activities on or off the location or site of the motorized off-road vehicle professional's or the motorized off-road vehicle activity sponsor's business, shall contain in clearly readable print the warning notice specified in Subsection F of this Section.

F. The signs, written warnings, and contracts described in Subsection E of this Section shall contain the following warning notice: "WARNING Under Louisiana law, a motorized off-road vehicle activity sponsor or motorized off-road vehicle professional is not liable for an injury to or the death of a participant in a motorized off-road vehicle activity resulting from the inherent risks of the motorized off-road vehicle activity, pursuant to R.S. 9:2795.4."

G. Failure to comply with the requirements concerning warning notices provided in this Section shall prevent a motorized off-road vehicle activity sponsor or motorized off-road vehicle professional from invoking the privilege of immunity provided by this Section.




---

---

---

---

---

---

---

---

## What is Agritourism?

It is a business venture located on a working farm, ranch, or agricultural enterprise that provides an “experience” for visitors while generating supplemental income for the owner.

Learn more on our website:

[www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism)




---

---

---

---

---

---

---

---

## Agriculture + Tourism

Farm/Ranch	Outdoor nature-based	Rural
<ul style="list-style-type: none"> <li>• Tours</li> <li>• Farm stays</li> <li>• Bed and breakfasts</li> <li>• Winery</li> <li>• Photography</li> <li>• Mazes</li> <li>• Crop tours</li> <li>• Pumpkin patches</li> <li>• Christmas trees</li> <li>• Horseback riding</li> </ul>	<ul style="list-style-type: none"> <li>• Hiking</li> <li>• Nature walks</li> <li>• Paddling</li> <li>• Orienteering</li> <li>• Wildlife viewing</li> <li>• Birding</li> <li>• Camping</li> <li>• Hunting</li> <li>• Fishing</li> </ul>	<ul style="list-style-type: none"> <li>• Museums</li> <li>• Farmers markets</li> <li>• Road-side stands</li> <li>• Value-added products</li> <li>• Fairs</li> <li>• Festivals</li> <li>• Family reunions</li> </ul>




---

---

---

---

---

---

---

---

# Demand -- Outdoor Tourism

Louisiana:	United States:
<ul style="list-style-type: none"> <li>Contributes \$4.7 billion annually to economy</li> <li>Supports 48,000 jobs across the state</li> <li>Generates \$225 million in annual sales tax revenue</li> <li>Produces \$3.2 million in retail sales and services</li> </ul>	<ul style="list-style-type: none"> <li>Contributes \$730 billion annually to economy</li> <li>Supports 6.4 million jobs (1 in 20)</li> <li>Stimulates 8 percent of all consumer spending</li> </ul>

Reference: Outdoor Industry Association




---

---

---

---

---

---

---

---

---

---

---

---

## 2007 Agriculture Census

- 23,350 farms had agritourism income
  - \$566 million in income
  - 136,817 farms engaged in direct sales
- Louisiana**
- 170 farms had agritourism income

USDA, National Agricultural Statistical Service, 2007 Census of Agriculture

**SECTION B INCOME FROM FARM-RELATED SOURCES**

Report each amount from the last 12 months (2007).

1. Total net on-farm agricultural income (net of taxes and on-farm energy, mining, quarrying, and other non-agricultural income) from all sources, including: <ul style="list-style-type: none"> <li>1.1 Net sales of farm products (including on-farm processing)</li> <li>1.2 Net sales of farm products (including on-farm processing) from off-farm sales</li> <li>1.3 Net sales of farm products (including on-farm processing) from off-farm sales (excluding 1.2)</li> <li>1.4 Net sales of farm products (including on-farm processing) from off-farm sales (excluding 1.2 and 1.3)</li> <li>1.5 Net sales of farm products (including on-farm processing) from off-farm sales (excluding 1.2, 1.3, and 1.4)</li> <li>1.6 Net sales of farm products (including on-farm processing) from off-farm sales (excluding 1.2, 1.3, 1.4, and 1.5)</li> <li>1.7 Net sales of farm products (including on-farm processing) from off-farm sales (excluding 1.2, 1.3, 1.4, 1.5, and 1.6)</li> </ul>	Net	\$	
2. Net income from other sources (including off-farm income)	Net	\$	
3. Total net income from farm-related sources	Net	\$	




---

---

---

---

---

---

---

---

---

---

---

---

## 5 Most Popular Activities




---

---

---

---

---

---

---

---

---

---

---

---



## Benefits to the Farmer/Rancher

- Supplemental income
- Steady employment for farm workers
- Opportunity to share the agriculture experience
- Opportunity to sell farm products



---

---

---

---

---

---

---

---

## Getting Started

- Assess your personality
- Determine your goals
- Is there a demand?
- Do you have land, equipment, etc.
- Do you have start-up capital?
- Do you have time and labor supply



---

---

---

---

---

---

---

---

## More considerations. . .

- Liability-protection for personal assets
- What are safety concerns?
- Can you purchase insurance?



---

---

---

---

---

---

---

---

# Case Study

# Case Study



---

---

---

---

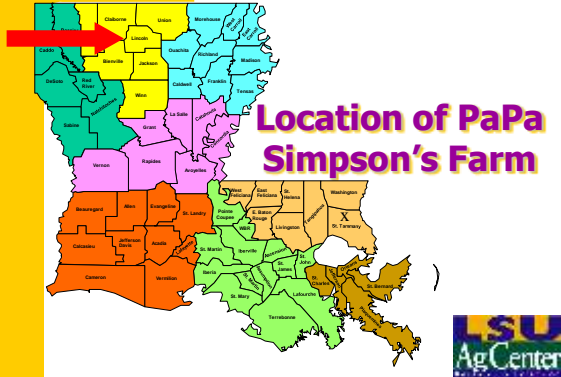
---

---

---

---

## State of Louisiana



---

---

---

---

---

---

---

---

## PaPa Simpson's Farm, LLC "Where Learning Comes to Life"



---

---

---

---

---

---

---

---



## Agritourism Limited Liability Law

- Passed in 2008 in Louisiana
- Provides limits to liability for certain agritourism ventures
- Requires completion of a plan of operation identifying risks
- Law is voluntary

Learn more at: [www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism)




---

---

---

---

---

---

---

---

---

---

---

---

Plan Of Operation			
Activity (one per page)	Risks	Suggestions to Minimize Risk	Placement of Warning Signs
<b>EXAMPLE:</b> Wagons	1) Wagon not stopping 2) Wagon becoming detached from transportation vehicle 3) Passengers falling out of the wagon 4) People standing up while wagon moving and becoming injured 5) Passengers changing barrels and legs inside the moving wagon	1) Do more like tractor to slower than the kind of wagon for someone leading ability 2) Use a locking coupler with safety chain 3) Put front, rear and side walls or rails on wagons to keep people from being pushed off 4) Require every passenger to stay seated with no legs or arms hanging over the sides or ends of the wagon 5) Require steps and/or sturdy rails for leading passengers onto trailers or wagons 6) Place the safety rails after everyone is seated 7) Travel at speeds safe for the operating 8) Use an experienced operator who can start and stop smoothly	1) Place a warning sign as required by La. R.S. 9:2776 at the entrance to the wagon path

---

---

---

---

---

---

---

---

---

---

---

---

## MarketMaker

- Links producers to consumers
- Special section for “agritourism”
- Markets your business 24/7
- FREE
- Registration required at [LA.FoodMarketMaker.com](http://LA.FoodMarketMaker.com)




---

---

---

---

---

---

---

---

---

---

---

---

**Contact Information:**

**Dora Ann Hatch**

LSU AgCenter  
Agritourism Coordinator  
318-927-9654 Ext. 229  
[dhatch@agcenter.lsu.edu](mailto:dhatch@agcenter.lsu.edu)  
[www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism)  
<http://www.louisianaagritourism.blogspot.com>

---

---

---

---

---

---

---

---





**a new agricultural business enterprise**

# Agritourism



Business Community  
Family & Home  
Health Environment  
Home Crops & Livestock  
Innovation & Natural Resources  
Policy & Business  
Policy & Home Crops & Livestock  
Health Environment  
Home Crops & Livestock





## Forms of Agritourism

Horseback riding  
Wildlife viewing & photography  
Fee fishing  
Camping/picnicking  
Fee hunting  
Wagon rides  
School tours  
Garden/nursery tours  
Winery tours  
Agricultural exhibits  
Game preserve  
Skeet shooting  
Exotic farm animals  
On-farm sales  
Roadside stands  
Agricultural crafts  
U-pick operations  
Petting zoo  
Hunting/working dog trials/training  
Farm/ranch vacations  
Bed and breakfasts  
Guest ranch  
Youth camp  
Farmers markets  
Bird watching  
Christmas tree farms  
Guided crop tours  
Hay bale maze  
Corn maze  
Pony rides  
Hiking trails  
Packing trips  
Pumpkin patch  
Agricultural fairs and festivals

Agritourism is a business venture on a working farm, ranch or agricultural enterprise that offers educational and fun experiences for visitors while generating supplemental income for the owner. Visitors participate in friendly “discovery” and learning activities in natural or agricultural settings. Because it blends entertainment and education, agritourism is also known as “agrientertainment,” “agritainment” or “agrotourism.”

Agritourism dates back to the late 1800s when city dwellers escaped urban life on short vacations to the farm to visit their relatives. In the 1920s, the growth of automobile travel made it easier for people to head for the country. Rural recreation rose significantly in the 1930s during the Great Depression and in the 1940s following World War II. In the 1960s and 1970s, horseback riding and farm petting zoos became popular. In the 1980s and 1990s, farm vacations, overnight stays at bed and breakfasts and commercial farm tours became popular. Today, demand continues to grow for agritourism.

## Benefits of Agritourism

Agritourism can provide many benefits to the agricultural producer:

- Cash flow during the off-season
- Opportunity to sell the “experience” of your agricultural venue
- Opportunity to sell products grown and harvested in your agricultural operation
- Opportunity to share your passion of agriculture with others

## Agritourism as a Business

Anyone planning to start an agritourism venture should look at the venture as a BUSINESS. First, ask yourself, “What type of agritourism business do I want to operate?” Will it be to (1) supplement cash flow, (2) earn a profit or (3) provide educational fun and enjoyment to others without making a profit?

**Supplementing cash flow** during lean months can help agricultural owners meet the demand of payroll and keep competent workers year-round.

Ventures expecting to **make a profit** must make sure that expenses are less than the income generated and that profits are sufficient to satisfy the supplemental income needs of the owner and still allow for reinvestment dollars to expand or upgrade the venture for continued growth.

Ventures that provide **fun and enjoyment to others** without the burden of making a profit still require capital to operate and must have cash flow to continue operation even though their mission is not to make a profit. Few people have the dollars to operate entirely for free.



# So, where do you begin?

## Suggested Steps in Planning Your Agritourism Business

**Assess your personality.** Are you the type individual who would enjoy agritourism? Find out by answering these questions: Do you enjoy people? Are you a good communicator? Are you patient? Are you organized? Can you adapt to change? If the answer to the majority of these questions is yes, you are a good candidate for agritourism.

**Identify your goals.** What are your dreams for your agritourism venture? What do you hope to accomplish by opening this business? Are you interested in making a supplemental income? If so, how much money will you need? If you are not interested in supplemental income, are you aware of the cost involved in launching this venture, and can you support it from your own funds? Once you have answered these questions, make a timeline for reaching your goals. Within what time period do you expect to open your operation? Will it take 1-2 years, 1-3 years, etc? Once you decide, put your goals in writing.

**Do a market analysis.** With a clear vision of your goals, see if there is a market for your agritourism venture. How do you do this? You can (1) hire a marketing firm and pay for the service, (2) consult a local Small Business Development Center and ask if they offer the service or (3) do it yourself.

If you choose the third option, consult chambers of commerce, tourism boards and state tourism centers to see what types of agritourism ventures are popular in your area. If you are hoping to attract school-age children, ask the schools if they are interested in what you plan to offer. For example, ask how many classes would come if you had a petting zoo field trip? If similar agritourism businesses exist in the area, observe how busy they are. If the owners are approachable, ask for their input.

Do some research online, too. Look at the U.S. Census records to determine the age classifications of people in your market area. The

U. S. Census has a quick facts page that provides age classifications at [quickfacts.census.gov/qfd/states/00000](http://quickfacts.census.gov/qfd/states/00000).

The Louisiana Office of Culture, Recreation and Tourism and the Louisiana Sea Grant College Program at Louisiana State University offer travel resources and economic data on line at [www.latour.lsu.edu](http://www.latour.lsu.edu).

**Evaluate your land resources.** Do you have sufficient property resources for the venture and parking? Is your venture located near the market you hope to attract? Are directions to your location easy to give? What will you have to change about your property to accommodate your new venture? Will it be affordable? Is it possible to open your business for a trial run without making any major changes or investments?

**Assess your financial resources.** Be realistic. Will you have the cash you need to begin your venture or will you need to get a loan? Are you willing to borrow the money? Assessing your financial resources can be difficult. In most cases, it's a good idea to involve other family members and outside professionals to assist you in making that decision.

**Estimate your time and labor needs.** Anyone beginning an agritourism venture will need the full support of his or her family. The time and energy needed to run an operation will require work and support from the whole family.

Most agricultural owners already have workers, and those workers will need to adjust to new changes. For example, when the cows are not being milked, workers can assist with the field trips or plant corn for the corn maze. Lots of multitasking and learning of new skills will be necessary.

If you cannot run your new agritourism venture with the help of your family and existing workers, will you have sufficient funds to hire people? Hiring people affects your

bottom line, but if it's the difference between offering a good attraction and charging more, choose charging more. Remember, people want the "experience," so it needs to be a good one.

**Identify safety issues and comply with state law.** Are you ready for visitors? Is your facility handicapped accessible? Are there plenty of restrooms? Are there handwashing areas? (If not, do you plan to offer hand sanitizers?) Are ponds or other dangerous areas fenced off from visitors? If your mode of on-farm transportation is wagons, what safety features do they have? Do they have high rails to keep children in? Are there safety barriers to prevent accidents? Are the steps into moving forms of transportation safe and secure? Are people in place to assist visitors who might have difficulty? Is there a plan in place to care for someone who has an accident?

In 2008, the Louisiana legislature expanded the limitation of liability found in La R.S. 9:2795 et seq to include limitation of liability for certain agritourism activities: to provide for definitions, to provide for exceptions, to provide for certain warnings and to provide for related matters. These provisions have now been adopted and can be found in La R.S. 9:2795.5.

**Seek legal assistance.** As the owner, it is your responsibility to see that your visitors are safe and protected. Accidents happen, however. To protect yourself legally, from the actions of people employed by you, you might want to consider becoming a limited liability company (LLC). An LLC is a form of business organization that is a "legal person" having one or more members organized and filing articles with the Secretary of State. As an LLC you are removing liability from you personally for others' negligence. Legal issues are complex, and you should consult your local attorney for advice in this matter.

**Explore insurance options.** Insurance is a necessity. Be advised that not all companies insure agritourism ventures. The best place to start shopping for insurance is with the company that writes your present insurance. Tell them you are planning to expand your operations and will need more coverage. Ask for their suggestions.

**Market your venture.** With your marketing analysis in hand, begin planning your marketing strategy. Where do the people live and work who would like to participate in your agritourism venture? How do you reach them with information? Make a budget and consider the following as possibilities: newspaper ads, television commercials, brochures, flyers, Web site, personal appearances and word of mouth.

**Develop a business plan.** Once you have thought through the process, you are ready to formally write the business plan. Many people say, "I'm not borrowing money, and I know what I want to do, so why do I have to write a business plan?" Business plans offer an opportunity to think through your operation and plan for the perfect as well as the not-so-perfect days when you experience hardships from equipment failure or employee problems. After you create the plan, consult with a banker. Even if you don't need the additional funds, it's wise to know whether you have a marketable venture.

Free help with business plans are available from Small Business Development Centers. For a Louisiana directory of SBDC log onto [www.lsbdc.org/Default.aspx](http://www.lsbdc.org/Default.aspx).

## Business Startup Help from the LSU AgCenter

Starting your new agritourism business venture can be overwhelming, but community rural development agents with the LSU AgCenter are available to assist. To contact an agent, call your local LSU AgCenter parish office and ask for a member of the CRD Team.

For more information contact:

**Dora Ann Hatch**  
**Area Agent**

**Community Rural Development**

**318-927-9654 Ext. 229**

**[dhatch@agcenter.lsu.edu](mailto:dhatch@agcenter.lsu.edu)**

## Suggested Online Reading References

**[www.naturalresources.msstate.edu/resources/agritourism](http://www.naturalresources.msstate.edu/resources/agritourism)**

This Web site provides links to other states resources in agritourism.

**[www.nrcs.usda.gov/technical/RESS/altenterprise/resmanual](http://www.nrcs.usda.gov/technical/RESS/altenterprise/resmanual)**

*Alternative Enterprises and Agritourism: Farming for Profit and Sustainability Resource Manual*. This Resource Manual contains 2,300 pages of reference material. It is divided into 20 chapters and 37 subchapters to guide you to a subject of interest. Among the most interesting parts of this manual are the 200 pages devoted to success stories in agritourism.

**[extension.tennessee.edu/publications/pbfiles/PB1754.pdf](http://extension.tennessee.edu/publications/pbfiles/PB1754.pdf)**

*Agritourism in Focus, A Guide for Tennessee Farmers*, Extension PB 1754 from the University of Tennessee has 10 chapters and an appendix that deals with topics of agritourism operations.

This is an excellent manual to assist people beginning an agritourism venture.

**[www.sare.org/publications/naf2/naf2.pdf](http://www.sare.org/publications/naf2/naf2.pdf)**

The *New American Farmer* is available on this Web site. It contains success stories of on-farm operations.

**[www.latour.lsu.edu](http://www.latour.lsu.edu)** is a Louisiana tourism data Web site maintained by the Louisiana Sea Grant College program at LSU and the Louisiana Office of tourism, Department of Culture, Recreation and Tourism. The site contains recent statistical data, resource materials such as impact reports, demographic projections, industry trends and links to various tourism Web sites.

## Article References

*Agricultural Tourism Operation Fact Sheets*, Small Farm Center, University of California at Davis, 2006. **[www.sfc.ucdavis.edu/agritourism/factsheets](http://www.sfc.ucdavis.edu/agritourism/factsheets)**.

"Agri-Tourism: Selling an Experience" Ag Opportunities Newsletter, November-December (Vol.12, No 3) Bruce Wicks, University of Illinois. **[agebb.missouri.edu/mac/agopp/arc/agopp040.txt](http://agebb.missouri.edu/mac/agopp/arc/agopp040.txt)**.

*Agritourism in Focus, A Guide for Tennessee Farmers*, Extension PB 1754, University of Tennessee, 2005. **[extension.tennessee.edu/publications/pbfiles/PB1754.pdf](http://extension.tennessee.edu/publications/pbfiles/PB1754.pdf)**.

"Developing Agri-Tourism Attractions," Action Newsletter, Alabama Cooperative Extension Service, J. Thomas Chestnut, Editor, Summer 2006 issue, **[www.aces.edu/crd/publications/action/ActionSummer2006.pdf](http://www.aces.edu/crd/publications/action/ActionSummer2006.pdf)**.

## Individual Source

James R. Hatch, attorney at law, Homer, LA.

Author: **Dora Ann Hatch, Area Agent, Community Rural Development**

**Louisiana State University Agricultural Center** | William B. Richardson, Chancellor  
**Louisiana Agricultural Experiment Station** | David J. Boethel, Vice Chancellor and Director  
**Louisiana Cooperative Extension Service** | Paul D. Coreil, Vice Chancellor and Director

Pub. AC-5 7M 08/08

Issued in furtherance of Cooperative Extension work, Act. of Congress of May 8 and June 30, 1914, in cooperation with the United States Department of Agriculture. The Louisiana Cooperative Extension Service provides equal opportunities in programs and employment.



# Agritourism

## BEST MANAGEMENT PRACTICES & Plan of Operation



# Agritourism

## BEST MANAGEMENT PRACTICES

### Table of Contents

Introduction .....	2
Plan of Operation .....	3
BMP's.....	3
Access to the Enterprise ..	3
Parking & Traffic .....	4
Walkways.....	5
Access to Buildings, etc....	4
Lighting .....	6
Security.....	6
Animal Control.....	6
Water Features .....	7
Pest Control.....	7
Food Safety .....	7
Fire Prevention .....	7
Operation of Machinery...	8
Transportation .....	8
Recreational Activities.....	8
Storage Areas .....	9
Attractive Nuisances .....	9
Weather-related Emergencies .....	9
Responding to Injuries...	10
Warning Signs .....	10
Liability Insurance.....	11
La R.S. 9:2795.5.....	11
Review .....	11
Additional Resources .....	11
References .....	11
Plan of Operation Forms .....	12

### Introduction

Throughout the United States, farmers are recognizing that agritourism has the potential to sustain the farming industry and grow rural economies through tourism. Recent statistics provided by the Louisiana Travel Promotion Association in 2007 suggest that Louisiana has potential to grow an agritourism industry. This report cited that one in four travelers to Louisiana came to enjoy the great outdoors.

Those numbers aren't surprising to owners of bed and breakfasts located on working farms and ranches who have hosted guests for years. To foster the statewide growth of this industry known as agritourism, the 2008 Louisiana Legislature passed a bill limiting liability for agritourism professionals known as La R.S. 9:2795.5.

The legislation provides that the Louisiana Department of Agriculture and Forestry will develop a set of rules and regulations and that the LSU AgCenter will define a "plan of operation" for an agritourism venture. This publication contains the definition for the plan of operation and suggests best management practices for agritourism professionals to follow to minimize their risks.

A copy of the plan of operation is included in this brochure. The plan can also be found online at [www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism).

With much of Louisiana's agriculture in a challenging economic situation, specialty crops offer growers alternatives to consider. Specialty crops are crops new to a region where they have not been grown commercially before. Ranging from sweet and hot peppers to more commonly known crops like sweet potatoes, specialty crops generally introduce farmers to a new way of growing. These crops and others have enabled the continuance and even growth of the family farm with an economic impact on the state of more than \$300 million. Many specialty crops are used as staples in our cuisine and help make our food and culture unique. We encourage you to visit our Louisiana agritourism operations, where you can enjoy our specialty crops, including:

- Blackberries
- Blueberries
- Cabbage and other winter vegetables
- Christmas trees
- Citrus
- Cut flowers
- Figs
- Foliage
- Garlic and onions
- Mushrooms
- Okra
- Organic fruits and vegetables
- Peaches and other fruit crops
- Pecans and other tree nuts
- Southern peas
- Strawberries
- Strawberries
- Sweet and hot peppers
- Sweet corn
- Sweet potatoes
- Tomatoes
- Watermelons
- Wine



## What Is Agritourism?

Agritourism is a business operation on a working farm, ranch or agricultural enterprise that offers educational and fun experiences for visitors while generating supplemental income for the owner.

Visitors participate in friendly “discovery” and learning activities in natural or agricultural settings. Because it blends entertainment and education, agritourism is also known as “agrientertainment,” “agritainment.” (See LSU AgCenter Publication AC-5.)



## A Plan of Operation

A plan of operation is a planning document that assists agritourism professionals in identifying and addressing possible inherent risks on their operations through recommended best management practices. Components of the plan include listing of activities, their risks, suggestions for minimizing those risks and a plan for the location of warning signs.

Under La R.S. 9:2795.5, agritourism activities are defined as activities related to agritourism as defined in rules and regulations adopted by the Commissioner of Louisiana Agriculture and Forestry (LDAF). A copy of those rules and regulations can be obtained by logging onto the LDAF Web site at [www.ldaf.state.la.us](http://www.ldaf.state.la.us)

Risks shall be defined as the “inherent risks of agritourism activity” as described in La R.S. 9:2795.5. “Inherent risks” mean those conditions, dangers or hazards that are an integral part of an agritourism activity, including surface and subsurface conditions of land and water; natural conditions of vegetation; the behavior of wild or domestic animals; those arising from the form or use of structures or equipment ordinarily used on a working farm, ranch or other commercial agricultural, aquacultural, horticultural or forestry operation; and the mistakes or negligent acts of a participant that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity, according to La R.S. 9:2795.5.

## Best Management Practices

Best management practices are suggested practices that an agritourism professional can use to minimize risks in an agritourism enterprise. These best management practices can be used in the plan of operation under “suggestions to minimize risks.”

When reviewing or inspecting the various areas and activities around an agricultural enterprise, identify potential hazards, try to consider how others without your agricultural knowledge and experience would view each situation. Consider the perspectives of customers with little or no knowledge of potential agricultural hazards, especially your most at-risk customers such as children or the elderly. Also consider the perspectives of your employees who may also have little or no knowledge of potential agricultural hazards and may need training in identifying and handling hazards.

You may consider asking a friend or representative from an appropriate agency to assist in

this process. Friends who have operated similar enterprises can point out potential hazards or management difficulties. Your insurance agent may be able to identify items with a history of contributing to claims. Activities subject to regulation should be reviewed and may require inspection prior to opening as well as at other times. It is better to discover and correct problems before injuries and, perhaps, legal problems occur.

## Access to the Enterprise

You have heard the old adage, “You never get a second chance to make a first impression.” The entrance to your enterprise is often one of the first impressions customers will have of your business, and the entrance should, of course, be free of hazards. In particular, make sure traffic can safely enter and leave your enterprise.

The following suggestions may help to ensure safe access to your enterprise. Use the check boxes provided to indicate items relevant to your planned or existing operation. You may also want to mark actions you want to explore further.

- Make your driveway or entrance visible from at least 500 feet in either direction so motorists can see vehicles entering and leaving with time to stop safely. According to the Louisiana Office of Motor Vehicles Handbook, the total stopping distance for a car traveling at 55 mph is 228 feet, and at 60 mph the total stopping distance is 305.7 feet.
- Keep the entrance free of brush, weeds, signs, junk and other obstructions that could block drivers’ views of the driveway and highway from all vehicle heights (low cars to high SUVs or pickups). Signage must not be on the public right-of-way and must not obstruct visibility for people entering and leaving your property.
- Make the driveway entrance wide enough to allow a turning space for the longest vehicles, such as school buses, to enter and leave without swinging across the highway center line into oncoming traffic, dropping wheels off the drive or backing up.
- Remove limbs, brush and other items that can scratch or damage vehicles.
- Make the driveway wide enough for the larg-

est vehicles to meet and pass. If you can’t, provide pullouts adequate for even the largest vehicles or use one-way routing.

- If your driveway has a steep slope, sharp turn or other characteristics that could be problems, create a plan for alternative routes, closures or transportation for customers. Consider the hazards in both good and bad weather conditions.
- If there are concerns about load limitations on bridges on your property, consult with an engineer or your highway department to check maximum load limit.
- Make sure all bridges and drop-off hazards, for both vehicles and pedestrians, have adequate guardrails that will prevent vehicles from falling from the roadway or people falling from the walkway. If the drop-offs are along a public road, contact the highway department for assistance.
- If vehicles are required to drive through a creek, ditch or other waterway, have a plan to prevent vehicles from attempting to cross during flash floods. As little as 1 foot of flowing water pushing against the body of a vehicle can lift and carry it away.
- If your driveway is along a busy highway or if you are planning a major event, consider hiring off-duty law enforcement officers to provide traffic assistance.

## Parking and Traffic Control

The second impression customers get of your business might be the parking lot. Check local ordinances regarding parking requirements for businesses. Some local jurisdictions may have specific requirements based on the type of business and expected number of vehicles. Here are some general recommendations for parking areas:

- Provide parking spaces adequate for the largest expected crowd, including spaces for both automobiles and larger vehicles such as RVs and buses, depending upon the customers you expect.
- Make traffic lanes in the parking area at least 20 feet wide so automobiles can enter and leave parking spaces easily. Lanes and turnarounds in bus parking areas must have a minimum turning radius of 55 feet.
- Make parking areas firm, smooth and adequately drained to minimize the risk of vehicles getting stuck.
- Fill all holes to prevent falls and injuries.
- Keep the area mowed low so customers’ shoes and clothes do not get wet from dew or rain on



the grass.

- If the parking area also serves as a pasture, remove the livestock a couple of days before parking vehicles there and use a drag harrow to scatter manure piles.
- Be prepared to order a load of gravel to fill muddy areas that develop in the drives and lanes during wet weather. You can avoid the negative publicity by maintaining good driveways and parking areas.
- If used between dusk and dawn, provide the parking area with adequate lighting for security and for customers to see where they are going.
- You must provide parking and reasonable accommodations for people with disabilities or mobility limitations. Reasonable accommodations could include the following:
  - A pick-up and drop-off location closer than the parking area
  - Wheelchair/handicap accessible parking spaces that are level, on a firm surface and as close as possible to activities
  - Valet parking or golf cart shuttle services for customers with disabilities.

## Walkways

The walkways between parking and other facilities may be the next opportunity to make a good impression and prevent safety hazards. Walkways should be easily identified, with clear signage directing customers to the areas they wish to visit.

- Walkways must have firm, smooth surfaces to minimize risk of trips, slips or falls. The surfaces should be safe for all customers, including customers with disabilities. Avoid loose materials like sand, gravel and mulch. However, a smooth surface of firmly packed crusher-run 75 3/8-inch and under gravel (includes particles 3/8-inch diameter down to fines) can accommodate wheelchairs and scooters.
- Walkways must have a minimum clear width of 36 inches for wheelchairs and scooters used by individuals with disabilities.
- Walkways must have adequate drainage and be free of puddles and mud.
- Avoid steep grades whenever possible. The



maximum grade for walks and ramps used by wheelchairs is 1:12; that is, 1 inch rise for every 12 inches (1 foot) of horizontal run.

- Minimize the use of steps and stairs as much as possible. They are not only tripping and falling hazards but are barriers to customers with some disabilities.
- Provide handrails on all stairways and guardrails or other barriers around all drop-offs, including wheelchair ramps.
- Remove or barricade all overhangs, obstructions, sharp objects or other hazards that could cause injury if customers bumped against them. Check regularly for loose bolts, nails and other protrusions and correct identified hazards immediately.

## Access to Buildings, Food Services and Rest Rooms

Customers must have safe access to business facilities. While regulations permit some exceptions to the accessible design guidelines, you must provide reasonable accommodations for all customers. Building codes for both new construction and for remodeling older facilities require accessible design. Structures that can accommodate individuals with disabilities are also easier for able-bodied people to use. Refer to the Americans With Disabilities Act manual online at <http://www.ada.gov/>

### **Consider the following access guidelines:**

- Provide step-free access to the entrance, either by designing the ground surface and doorway at the same elevation or by installing an ADA-compliant ramp. Many customers will use the ramp instead of the stairs because they feel safer. You can also use hand trucks and carts on the ramp.
- Make sure doorways have a minimum clear-opening width of 32 inches to accommodate wheelchairs.
- Avoid installation of raised thresholds and elevation changes from room to room. These can trip customers and are also difficult for wheelchair users.
- Make sure door hardware have handles that do not require a strong grip. Replace round knobs or install handle extensions. Test existing doorknobs, bathroom fixtures and other fixtures yourself. You should be able to operate them with a closed fist. If not, the devices should be replaced or upgraded.
- Make wheelchair-accessible bathroom stalls a minimum of 5 feet by 5 feet to accommodate the wheelchair. If using portable toilets for events, you must provide a wheelchair acces-

sible toilet. These also benefit customers with small children by providing enough space to change diapers or assist children.

- Place portable toilets in shaded locations, especially wheelchair-accessible toilets. Summertime temperatures can become dangerously high in portable toilets located in full sun. Customers with disabilities may require more time in the toilet, and heat-related conditions are a real threat to those who no longer have the ability to regulate their body temperature.

## Lighting

Proper lighting is essential both for preventing injuries and as a security measure. Lighting considerations include the following:

- All public areas must be lighted if customers are present at night. If darkness is a key ingredient of parts of the business, walkways can have low-level lighting to help prevent trips and falls.
- All stairs or steps must be lighted to minimize trips and falls.
- Position lights so they do not blind drivers using driveways or public roads.

## Security

It is important for your customers to feel safe and secure at your operation. Customers may be unlikely to return if they feel unsafe or uneasy, for either their personal safety or the safety of their vehicle and belongings. Adopting the following procedures will help customers feel safe:

- Clearly identify all staff, whether paid employees or volunteers, so customers will know whom to contact for assistance.
- Train all staff to recognize potential safety and security threats and to implement proper communications and response procedures.
- Monitor parking, walkways and other public areas. Staff should occasionally walk or ride through the various areas to look for problems and offer assistance.
- Check off-limits and restricted areas for trespassers, who should be escorted back to the proper locations. If they refuse to cooperate, contact law enforcement for assistance. Be sure to document any incidents.
- Enforce a zero-tolerance anti-drug policy — including illegal use of tobacco and alcohol. Contact law enforcement for assistance immediately upon discovery of illegal activities and document any incidents.

## Animal Control and Biosecurity

Animals are part of the farming experience, but safety should be a major consideration when deciding how animals are to be included in your agritourism operation. Animal control and biosecurity procedures may include the following:

- Dogs and other farm pets should not be permitted to roam freely. Some people are afraid of dogs, and many people are allergic to cats. Maybe your dog has never bitten anyone, but there is a first time for everything. Also, customers may not want your dog marking their vehicles as his territory.
- All livestock pens, stables, dairies, pastures and kennels should be secured and off-limits. This is necessary for the safety of people as well as the animals and also as a biosecurity measure to prevent introduction of diseases.
- Petting zoos, in addition to the federal licensing requirements, should have animals appropriate for the intended audiences. Supervision by adults with proper training and experience can minimize injuries to customers.
- Hand-washing facilities or hand sanitizers should be available and all visitors instructed to wash their hands upon leaving the petting zoo area.
- Customers should not be permitted to bring personal pets to the operation.
- Customers from other farms or who have recently returned from other countries should be restricted to nonlivestock areas to prevent introduction of diseases.



## Water Features

Natural water features – ponds, lakes, streams, rivers or swimming pools maybe part of the landscape in agricultural enterprises. Because water poses a danger, care should be given by:

- Posting warning signs near the water features
- Fencing in or fencing off the water feature from customers
- Instructing children not to go near the water without an adult
- Providing rescue equipment nearby the water surface in case of an accident

## Pest Control

West Nile Virus and other diseases can be spread to animals and humans by insects and other vectors (a vector is an organism that does not cause disease itself but which spreads infection by conveying pathogens from one host to another). Rabies can be spread by mammals, particularly skunks, raccoons and bats. Flies, roaches, mice and other pests can also be vectors for diseases. Therefore, a pest control program must be in place. Consult regulations for the particular enterprise you will be operating to determine specific requirements. Pest control methods may include the following:

- Develop an Integrated Pest Management (IPM) plan. An IPM is a safer and usually less costly option for effective pest management. It employs commonsense strategies to reduce sources of food, water and shelter for pests. IPM programs take advantage of all pest-management strategies, including judicious, careful use of pesticides when necessary.
- Always use pesticides in strict compliance with label instructions. Restricted-use pesticides should be applied only by licensed applicators.
- Keep records of all pesticide applications. Areas that have been treated with pesticides must be posted as required by the EPA Worker Protection Standard. Contact your county Extension office for information on the EPA Worker Protection Standard requirements for worker training and compliance, or visit [http://eppserver.ag.utk.edu/PSEP/Worker\\_Protection.htm](http://eppserver.ag.utk.edu/PSEP/Worker_Protection.htm).

## Food Safety

All food and drinks must be stored, prepared, served and sold in strict compliance with health department regulations and guidelines. All food service establishments should pass the health department inspection, even concession stands

that may not require a permit. Contact your parish health department regarding permits and requirements. Contact the LSU AgCenter for information on proper food handling and your parish health department for information on food service employee classes.

One often-ignored aspect of food safety is customer sanitation practices, particularly hand washing. Provide hand-washing facilities and/or waterless hand sanitizers and post signs encouraging proper sanitation. When hosting school groups and similar tours, direct employees or chaperones to require hand washing before serving snacks or meals.

## Fire Prevention


A fire can have a devastating impact on any business, but particularly if it occurs in crowded areas. Therefore, you should develop a fire prevention and control strategy for your agritourism enterprise.

- Store flammable and combustible materials properly. That's one of the first rules of fire prevention. This means minimizing the accumulation of combustible materials against and near buildings. Maintain fire-safe zones that are kept clean and green — free of combustible debris — and use low-flammability landscaping plants and materials.
- Enforce a strict no-smoking policy except in designated smoking areas located downwind of other customers. Smoking, besides its negative health impacts, contributes to many fires. Careless disposal of ashes or cigarette remnants can ignite hay, dead grass, crop stubble and other materials.
- Purchase and install Class A-B-C multipurpose fire extinguishers in all vehicles; on all tractors and major equipment; and in the office, cooking areas, barns and fuel storage areas. These extinguishers are safe for almost all fires likely to be encountered on the farm. If you have sufficient pressure and flow, water hoses can be installed for controlling small fires in barns and outdoors.
- Finally, develop an emergency exit plan for all areas of the enterprise and train all staff on how to evacuate customers in the event of a fire or other emergency.

## Operation of Machinery

Farm machinery is fascinating to children of all ages. Tractors and other machinery, however, are designed for one operator and no passengers, with few exceptions. Therefore, operation of machinery should be kept to a minimum and

incorporated in only very carefully planned activities that do not place staff and customers at risk. Some safety procedures for machinery operation include the following:

- Do not operate tractors or other machinery in public areas. There can be significant blind spots around farm machinery, and children in particular can be run over.
- 
- Mowers and other machinery that can eject objects should never be operated near people.
- Do not permit passengers on tractors for any reason.
  - Keep all guards and shields in place on all machinery or equipment, even tabletop exhibits. In cases where installing guards would be impractical or detract from the historical significance of the machine, such as with antique engines, rope off or barricade safety zones to prevent access and contact with the equipment.
  - Equipment must never be left running unattended. Instruct staff to shut down any unattended equipment.
  - Chock wheels on all parked equipment, even on level ground, and never rely solely on parking brakes. People examining or climbing on the equipment could release the brake, resulting in a runaway.
  - Lower all implements to the ground and cover all blades and sharp protrusions.

## Transportation of Employees and Customers

When transporting employees and customers, use vehicles designed for that purpose. When transporting people on public roads, use only licensed motor vehicles with manufacturer-provided seating for each passenger. Golf carts and other off-road utility vehicles are suitable choices for many off-road trips.

As suggested earlier, there may be times when it is desirable or necessary to transport personnel and customers for events such as hayrides. This should be done with great care. Properly used, tractors and wagons can be safe for off-road transportation. Proper use includes:

- Being sure the tractor is heavier than the loaded wagon in order to have adequate braking ability

- Using a locking coupler and safety chain
- Putting front, rear and side walls or rails on wagons to keep people from being jostled off
- Requiring every passenger to stay seated with no legs or arms dangling over the sides or ends of the wagon
- Requiring steps and/or sturdy rails for loading passengers onto trailers or wagons
- Stating the safety rules after everyone is seated
- Traveling at speeds safe for the operating
- Using an experienced operator who can start and stop smoothly

## Recreational Activities

Providing recreational activities can increase customers' enjoyment of their visits and allows them to spend more time or visit more often, perhaps increasing sales. As with other aspects of the enterprise, however, recreation is not without certain risks. Research the activities and learn the potential risks; then select appropriate activities and enforce safe behavior. Here are some examples:

- Use only large-diameter natural fiber ropes for tug-of-war games because they will not stretch and cause recoil injuries if broken. The working load limit should be at least 100 pounds times the number of children on each side and 200 pounds times the number of adults on each side of the game. Never use nylon ropes for tug-of-war as they can stretch considerably and will recoil like a giant rubber band if they break, severing fingers and causing other injuries in the process.

## Storage Areas

Storage areas are necessary for agritourism ventures, but they also can pose danger if not properly secured by a lock. Storage areas can be used to store unused equipment that poses danger to children. Having a storage area that can be locked will eliminate the need for roping or fencing off areas. When selecting storage items:

- Store equipment not in use.
- Store sharp equipment such as tools and power tools.
- Place chemicals that are used on the farm, such as fertilizers, pesticides and fuels, in a storage facility.
- Store loose grains, bags of feed, etc. behind locked doors.

## Attractive Nuisances

Some states have attractive nuisance laws that require property owners to safeguard customers, visitors and even trespassers from attractive nuisances. Their laws and court judgments concerning attractive nuisances address their risks to children, but similar concerns may exist for adults unfamiliar with farms and for individuals with developmental disorders.

Louisiana is different with respect to attractive nuisance laws. “The traditional common law categories defining the duty of care to persons on the premises according to their status as invitee, licensee, trespasser or child trespasser were abandoned in the Shelton and Cates cases in 1976 and 1977. The attractive nuisance doctrine as to child trespassers was also abandoned. The resulting rule is that a landowner owes a duty of care according to the degree of danger and the foreseeability on the premises of those who might be harmed.” (Crawford, Willam E., James J. Bailey Professor Law, Louisiana State University, Louisiana Civil Law Treatise, Volume 12, Tort Law, St. Paul, MN, West Group 2000 pages 362-363.)

Duty of care for a landowner in Louisiana would require that the landowner take responsibility for the unseen; things that are not observable by an individual. For example, if a landowner allowed someone to swim in a pond that had old pier pilings hidden under the water’s surface, and the swimmer became injured, the landowner could be guilty of negligence because he did not warn the swimmer about the dangerous condition of the pond. In the same way, an agritourism business is protected from liability except for “An act or omission that constitutes willful or wanton disregard

for the safety of the participant and that act or omission caused injury, damage, or death to the participant” (5) (LA R.S. 9:2795.5); for example, a donkey that frequently kicks people being allowed to run loose among agritourism guests.

This immunity statute, gives further protection to agritourism businesses provided they follow the rules and regulations set forth by the Louisiana Department of Agriculture and Forestry in La R.S. 9:2795.5 and complete a plan of operation and post warning signs.

## Weather-related Emergencies and Natural Disasters

Perhaps no other business is as affected by weather as agricultural enterprises. Even the best plans can be wiped out by unfavorable growing conditions. Similarly, agritourism operations can be influenced by weather. Severe thunderstorms may be the most threatening situation. They pose multiple threats such as lightning, high winds and tornados, hail, heavy rains and flash flooding. They can also arrive quickly. Other elements such as heat, cold, sun and wind also can be hazardous.

Louisiana experiences almost every form of natural disaster. Some can be forecast several days in advance, such as tropical and ice storms. Your safety and emergency response plan should include procedures and preparations to protect customers and employees from weather or natural-disaster-related injury.

- You should have at least two ways to keep yourself and your employees informed of approaching storms. Most local radio and television stations routinely broadcast weather forecasts, and many broadcast emergency information from the National Weather Service. Cable television channels, such as The Weather Channel, also can provide up-to-date radar images, forecasts and warnings. The Internet offers a variety of sources for weather information and warnings. The National Weather Service Web site provides local weather forecasts, current warnings and radar images. You can also subscribe to notification services that deliver e-mail and text messages for local warnings and watches. Finally, consider purchasing a NOAA Weather Radio, especially one of the newer models with Specific Area Message Encoding (SAME) that can be programmed to deliver warnings for only your parish.
- Designate shelters for customers during storms. Shelters should be structurally sound and not in danger of collapse during severe

thunderstorms and should provide protection from wind, blowing debris and lightning. Do not permit anyone to seek shelter near trees or other tall objects and keep them away from doorways, windows, electrical appliances and plumbing. Wired telephones should not be used during thunderstorms because of the risk of electrocution, but cordless and cellular phones are safe to use.

- Provide access to shaded or air-conditioned areas during hot weather and access to heated areas in cold weather.
- Provide adequate supplies of cool drinking water and paper cups at various locations around the farm. Water coolers must be sanitized daily.
- Train staff to recognize symptoms of hypothermia and heat stress. Your staff also should be familiar with at least basic first-aid measures.

## Responding to Injuries and Medical Emergencies

Because quick response is critical in medical emergencies, someone trained in basic first aid and CPR should be on the premises whenever the business is open. In fact, the Occupational Safety and Health Administration (OSHA) standard for general industry, 29 CFR 1910.151, requires that employers provide personnel trained to administer first aid and that first aid supplies be made available unless there is a hospital, clinic or infirmary in “close proximity” for treating all injuries.

The purpose of this standard is to provide first aid until emergency medical services can respond. OSHA does not define “close proximity.” Past interpretations from OSHA, however, suggest that a response time of three to four minutes is needed in incidents involving suffocation, severe bleeding and other life-threatening or permanently disabling injuries.

Other injuries or conditions may permit longer response times, but prompt treatment is still needed. Medical personnel often refer to the first hour immediately after a serious injury, when caring for the victim is critical to survival, as the golden hour. For many conditions, the prospects of survival and full recovery decrease drastically if medical care is delayed beyond the first hour.

- Several employees should complete the American Red Cross courses for Community First Aid and Safety, Adult CPR and Infant and Child CPR. These employees should keep their certification cards in their possession. There should be enough trained employees to provide

emergency first-aid in all areas of the agritourism business. Each should have a functional cell phone or two-way radio available for emergency communications.

- Inform customers of the location of the first-aid station with an appropriate sign. There should be at least one first-aid kit that can be readily accessed by any staff member. Inspect the kit often, replacing any missing or out-of-date supplies. Additional first-aid kits might be placed at locations that are more than a few minutes walk from the first aid-station.

## Warning Signs

According to La R.S. 9:2795.5, “Every agritourism professional shall post and maintain signs that contain the warning notice:

### **WARNING**

Under Louisiana law, R.S. 9:2795.5, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity.

Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity.

It shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of 1 inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the warning notice above.”

## Liability Insurance

It is suggested that agritourism professionals purchase liability insurance. Insurance provides coverage to protect your investment and the safety of others. La R.S. 9:2795.5 does not exist to replace insurance but provides a limitation of liability for certain agritourism activities.



### To learn more about your needs:

- Consult with your present insurance agent for price quotes.
- Ask the agent to walk through your venture and point out ways you can reduce your risk.

## La R.S. 9:2795.5

Failure to comply fully with the requirements of La R.S. 9:2795.5 shall prevent an agritourism professional from invoking the limitation of liability provided by the law. A plan of operation must be approved by the LSU AgCenter to show compliance with LA R.S. 9:2795.5.

## Review

Although the primary goal of a business is usually to earn a profit, failing to maintain a safe environment for your family, employees and customers can contribute to injuries, illnesses and property damage. This can result in significant financial losses from direct expenses, fines, legal fees and lost income due to disruptions in the business and negative publicity. In other words, safety matters.

For assistance from the LSU AgCenter contact, Dora Ann Hatch, by calling (318) 927-9654 or e-mailing dhatch@agcenter.lsu.edu

## Disclaimer

This brochure is intended to provide useful information, but it does not constitute legal counsel. Information provided is understood to be correct and current with regulations in force and information available at the time of publication. Regulations, however, are subject to interpretation and are often amended, repealed or added. All agritourism ventures are unique, and the authors recognize that no one document can address all the needs of any agritourism professional.



## Additional Resources

- The Access Board – a Federal agency committed to accessible design <http://www.access-board.gov/> (Information on accessibility issues, regulations and accessible design for businesses, recreation and public facilities.)
- Agricultural Safety and Health. A listing of sites by the University of California appropriate to agricultural health and safety issues. <http://are.berkeley.edu/APMP/links/agsafety.html>
- Interpretation of the First Aid Standard. U.S. Department of Labor. Occupational Safety & Health Administration, 200 Constitution Ave, NW, Washington, D.C. 20210 [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=22314](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=22314) (OSHA's requirements for providing first aid capabilities in the workplace.)
- Farm Safety 4 Just Kids <http://www.fs4jk.org/>
- UC Small Farm Center <http://www.sfc.ucdavis.edu/agritourism/>
- University of Tennessee Extension. Agritourism in focus a guide for Tennessee farmers. PB 1754. Available at <http://extension.tennessee.edu/publications/pbfiles/PB1754.pdf>
- Natural Resources Conservation Service <http://www.economics.nrcs.usda.gov/altenterprise/res-manual.html>
- Louisiana Department of Health and Hospitals provides contacts to local services pertaining to water and water disposal. Louisiana Department of Health & Hospitals, 628 N. 4th Street, Baton Rouge, LA 70802 <http://www.dhh.louisiana.gov/offices.asp>
- Louisiana Department of Agriculture and Forestry. A listing of the rules and regulations for the La R.S. 9:2795.5 can be found on their Web site at: [www.ldaf.state.la.us](http://www.ldaf.state.la.us)
- LSU AgCenter. Articles on agritourism are found under community or crops and livestock on the home page. <http://www.lsuagcenter.com/>

## References:

- 1) Materials adapted from Agritourism in Focus, A Guide for Tennessee Farmers, Extension PB 1754, University of Tennessee, 2005. [extension.tennessee.edu/publications/pbfiles/PB1754.pdf](http://extension.tennessee.edu/publications/pbfiles/PB1754.pdf).
- 2) "Who Visits Louisiana?" A Presentation For the Louisiana Travel Promotion Association: March 15, 2007 found on the Web at <http://www.latour.lsu.edu/presentations/WhoVisitsLa.pdf> August 21, 2008.
- 3) "Louisiana Driver's Guide, Classes D and E" Louisiana Office of Motor Vehicles found on the Web at [http://www.dps.state.la.us/omv/Guide\\_DandE.pdf](http://www.dps.state.la.us/omv/Guide_DandE.pdf)
- 4) Crawford, Willam E., James J. Bailey Professor Law, Louisiana State University, Louisiana Civil Law Treatise, Volume 12, Tort Law, St. Paul, MN, West Group 2000 pages 362-363.)
- 5) LA R.S. 9:2795.5

# Agritourism

## Plan of Operation



Check all that apply:

- First Application
- Repeat application
- Added activities application
- Directory Application

Date Received: \_\_\_\_\_  
(office use)

An *agritourism plan of operation* is a planning document that assists agritourism professionals in identifying and addressing possible inherent risks on their operations through recommended best management practices. Components of the plan will include listing of activities, their risks, suggestions for minimizing those risks and a plan for the location of warning signs.

### Eligibility Requirements

The Commissioner of Agriculture and Forestry shall make the determination as to whether an activity is considered an agritourism activity. A list of agritourism activities can be found in the rules and regulations prepared by the Louisiana Department of Agriculture and Forestry. Anyone can request an activity be added or deleted from the list of agritourism activities. The requesting party shall be notified of the commissioner's decision. A list of the agritourism activities shall be published annually in the potpourri section of the February issue of the State Register and on the Louisiana Department of Agriculture and Forestry's Web site.

### Instructions

Type appropriate responses in the spaces provided and return this form to Dora Ann Hatch, LSU AgCenter, 11959 Highway 9, Homer, LA 71040 or e-mail to: [dhatch@agcenter.lsu.edu](mailto:dhatch@agcenter.lsu.edu) If you have any questions, contact Mrs. Hatch at 318-927-9654 Ext. 229 or e-mail questions to address above.

La R.S. 9:2795.5 requires that an updated application be filed with the LSU AgCenter each time new activities are added to your venture; this can be done by completing a plan of operation form for each new activity and mailing it along with a copy of your previously approved application.

A plan of operation form is provided. Complete the plan of operation form for each activity located on your agritourism venture. An example is provided. Make as many copies of the plan of operation page as necessary to report all activities on your venture. List one activity per page. Number the activities consecutively.

For assistance in completing this form contact your local LSU AgCenter Extension Office and request a copy of the Agritourism Best Management Practices brochure to help with completing the suggestions to minimize risk section (also available online at [www.lsuagcenter.com](http://www.lsuagcenter.com)). Refer to La R.S. 9:2795.5 for proper placement of signs.

The LSU AgCenter will review your application within 4-6 weeks after receiving your plan of operation.

### Applicant Information

Applicant Name:

Physical Address:

Mailing Address:

Town:

Zip Code:

Home Phone Number:

Other Phone Number:

Fax Number:

E-mail address:

### Agritourism Venture Information

Name of Agritourism Venture:	
* <i>If address and phone numbers are the same, indicate by circling YES. If different, provide the following information below:</i>	
Physical Address:	
Mailing Address:	
Town:	ZIP Code:
Business Phone Number:	Other Phone Number:
Fax Number:	E-mail address:
Web site address:	

### Agritourism Venture Structure

Provide a brief description of your venture:	
Are you a working: <input type="checkbox"/> Farm <input type="checkbox"/> Ranch <input type="checkbox"/> Commercial agricultural <input type="checkbox"/> Commercial aquacultural <input type="checkbox"/> Commercial horticultural <input type="checkbox"/> Forestry Operation	Select the appropriate response that defines your business structure: <input type="checkbox"/> Sole proprietorship <input type="checkbox"/> Limited liability company <input type="checkbox"/> Partnership <input type="checkbox"/> Joint venture <input type="checkbox"/> Corporation <input type="checkbox"/> Other
Hours of operation: <input type="checkbox"/> Seasonal <input type="checkbox"/> Year Round <input type="checkbox"/> Weekend only <input type="checkbox"/> Other	
Additional comments:	
Number of estimated visitors to your venture each year:	
How long have you been in business? <input type="checkbox"/> 0-1 years <input type="checkbox"/> 5-10 years <input type="checkbox"/> 20 or more <input type="checkbox"/> 1-5 years <input type="checkbox"/> 10-20 years	

*If you would like to be listed in the LSU AgCenter's Agritourism Directory do the following: send a copy of pages 1-2 of this form, check "directory application" on page one in the upper right hand corner, mail to Ms. Hatch between January 1- 31st of each year.*

## Plan Of Operation

Activity (one per page)	Risk	Suggestions to Minimize Risk	Placement of Warning Signs
EXAMPLE: Wagon Ride	<ul style="list-style-type: none"> <li><input type="checkbox"/> Wagon not stopping</li> <li><input type="checkbox"/> Wagon becoming detached from transportation vehicle</li> <li><input type="checkbox"/> Passengers falling out of the wagon</li> <li><input type="checkbox"/> People standing up while wagon moving and becoming injured</li> <li><input type="checkbox"/> Passengers dangling hands and legs outside the moving wagon</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Be sure the tractor is heavier than the loaded wagon for adequate braking ability</li> <li><input type="checkbox"/> Use a locking coupler and safety chain</li> <li><input type="checkbox"/> Put front, rear and side walls or rails on wagons to keep people from being jostled off</li> <li><input type="checkbox"/> Require every passenger to stay seated with no legs or arms dangling over the sides or ends of the wagon</li> <li><input type="checkbox"/> Require steps and/or sturdy rails for loading passengers onto trailers or wagons</li> <li><input type="checkbox"/> State the safety rules after everyone is seated</li> <li><input type="checkbox"/> Travel at speeds safe for the operating</li> <li><input type="checkbox"/> Use an experienced operator who can start and stop smoothly</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Place a warning sign as required by La R.S. 9:2795 at the entrance to the wagon ride.</li> </ul>

<b>Plan Of Operation</b>			
<b>Activity (one per page)</b>	<b>Risk</b>	<b>Suggestions to Minimize Risk</b>	<b>Placement of Warning Signs</b>



The Louisiana Department of Agriculture and Forestry is proud to partner with the LSU AgCenter in a Louisiana agritourism initiative, a program whose goal is to provide economic development and cultural opportunities for our farms, ranches, forests and working lands.



## Author

Dora Ann Hatch, Area Agent  
Community Rural Development &  
Extension Agritourism Program Coordinator

## Visit our Web site:

[www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism)

### Louisiana State University Agricultural Center

William B. Richardson, Chancellor

### Louisiana Agricultural Experiment Station

David J. Boethel, Vice Chancellor and Director

### Louisiana Cooperative Extension Service

Paul D. Coreil, Vice Chancellor and Director

**Pub. AC-6 (2M) 2/09**

Issued in furtherance of Cooperative Extension work, Acts of Congress of May 8 and June 30, 1914, in cooperation with the United States Department of Agriculture. The Louisiana Cooperative Extension Service provides equal opportunities in programs and employment.

The LSU AgCenter wishes to acknowledge the significant contribution of Tim Prather from the University of Tennessee for his contribution of literature in safety hazards found in this publication under best management practices and also published in a larger publication, *Agritourism in Focus* (PB1754), published by the University of Tennessee Extension, with permission.



EXPLANATION OF 2008  
**LIMITATION OF LIABILITY LAW**  
ON AGRITOURISM OPERATIONS  
IN LOUISIANA  
**La. R.S. 9: 2795.5**

Louisiana law makes a person responsible for injuries that occur as a result of that person's negligence, imprudence, lack of skill, total disregard for the safety of others and for intentionally harming another person. The law also makes a person responsible for any defect or condition in his or her property that causes injury if the defect or condition was known and the injury could have been prevented by the exercise of reasonable care. These standards are not new. They date back to the days of the Roman Empire.

These rules of law mean that each day business owners carrying out the day-to-day operations of their businesses risk getting sued by customers or visitors for injuries that occur on the business premises or as a result of the business operations. Owners of agritourism businesses face the same risks, but at a higher level.

Agritourism involves hosting curious visitors, many of whom are new to a farm, ranch or forestry setting and the unique equipment and facilities associated with a working agricultural or forestry operation. This unfamiliarity with uneven terrain, animals that are not kept as pets and the operation of large equipment substantially increases the risk of injury and, of course, lawsuits.

In response to the vulnerability for lawsuits and the problem with obtaining liability insurance, the Louisiana legislature passed House Bill 633 by Representative Anders as Act 591 of 2008; thereby enacting the **Agritourism Limited Liability Law** (R.S. 9:2795.4). This law is intended to limit the liability of agritourism professional for injuries that occur through no fault of the agritourism professional. A copy of the complete law is found at the end of this explanation.

The law defines agritourism, who is an agritourism professional, who is a participant in an agritourism activity, and what constitutes an inherent risk of an agritourism activity. Examples of integral conditions, dangers, or hazards are rough terrain, vines and other vegetation that someone may trip on, the behavior of wild or domestic animals, and risks associated with the normal and proper use of machinery and equipment.

The decision as to what type of activities are "agritourism activities" is left to the commissioner of agriculture and forestry to make by regulation. Those regulations may be found in the Louisiana Administrative Code at (LAC 7:XLV.101, 103,105). The current text of the regulations may be found at the end of this explanation.

In order to be eligible for coverage under this law, an agritourism professional engaging in one or more agritourism activity as defined by the commissioner, must submit a plan of operation for each agritourism activity to the director of the extension service of the Louisiana State University Agricultural Center and the director must approve the plan.

Upon approval of the plan, the agritourism professional will be eligible for coverage under the law so long as: (1) the law is in effect, (2) the particular activity or type of activity is included in the regulations as an agritourism activity, and (3) the agritourism professional is conducting business in accordance with the plan.

To invoke the limitation of liability provided by this law, an agritourism professional must post and maintain a sign or signs that contain a warning notice in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice must be in black letters, with each letter a minimum of one inch in height. The warning must also be in any contract signed by the agritourism professional for the providing of professional services, instructions, or the rental of equipment and the warning must be in clearly readable print. The warning sign and the warning on the contract must read as follows:

#### **WARNING**

**Under Louisiana law, R.S. 9:2795.5, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity.**

HOWEVER, additional warning signs at the entrance and the site of the agritourism activity may be needed. If there is a particularly dangerous condition or an animal with known dangerous propensities the agritourism profession must eliminate the danger, keep the participants away, or post conspicuous signs warning of the particular danger. For example, if the agritourism professional has a creek or stream on the property, knows that there is a deep hole in the streambed that is hard to see, and knows that participants walk down the streambed then the agritourism must either fill up the hole, or take steps to prevent participants from walking that portion of the streambed, or post a warning at the hole. Another example, if the agritourism activity involves hiking or walking through woods or fields and wild hogs are known to be in the vicinity the agritourism professional must, at a minimum, post warning signs about the danger posed by the wild hogs.

Even under the law, an agritourism professional may still be liable for injuries caused by his or her willful or wanton disregard for the safety of the participants, intentionally injuring a participant, or failing to protect against a particularly known danger. Another risk that an agritourism professional may be liable for is injury caused to a participant by another participant, especially if the use of equipment is involved.



In summary, the Louisiana Agritourism Law is intended to protect an agritourism professional from liability because of an injury suffered by a participant if the injury is solely the result of a condition, danger, or hazard that is an integral part of the agritourism activity.

HOWEVER, THERE IS NO ABSOLUTE FREEDOM FROM LIABILITY. Failure to post the warning signs and to place the warning in contracts prevents the law from being used to avoid liability. Further, as stated above, there are several situations where an agritourism professional may still be liable for injuries suffered by a participant.

REMEMBER, there is no way to prevent lawsuits, but the posting of warning signs; making participants aware of the inherent dangers; explaining safe ways of participating; stopping unsafe participation; correcting, eliminating, isolating, or warning of especially dangerous conditions or animals, and having regard for the safety of participants can shield an agritourism professional from liability under the Agritourism Law.

HOWEVER, this law is not a guarantee of freedom from lawsuit or liability and it **does not** take the place of liability insurance.

**§2795.5. Limitation of liability; agritourism activities; definitions; exceptions; required warning**

A. As used in this Section, the following terms shall have the following meanings, unless the context requires otherwise:

(1) "Agritourism" means the travel or visit by the general public to, or the practice of inviting the general public to travel to or visit, a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation for the purpose of enjoyment, education, or participation in the activities of the farm, ranch, or other agricultural, aquacultural, horticultural, or forestry operation.

(2) "Agritourism activities" means those activities related to agritourism as defined in rules and regulations adopted by the commissioner of agriculture and forestry in accordance with the Administrative Procedure Act, and which the conduct of any such activity is set forth in a plan of operation approved by the director of the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center or his designee.

(3) "Agritourism professional" means any person and his employees or authorized agents who offers or conducts one or more agritourism activities for agritourism purposes.

(4) "Inherent risks of agritourism activity" means those conditions, dangers, or hazards that are an integral part of an agritourism activity, including surface and subsurface conditions of land and water; natural conditions of vegetation; the behavior of wild or domestic animals; those arising from the form or use of structures or equipment ordinarily used on a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation; and the mistakes or negligent acts of a participant that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

(5) "Participant" means any person, other than an agritourism professional, who engages in an agritourism activity, even if that person did not pay to participate in the agritourism activity.

B.(1) Except as provided in Paragraph (2) of this Subsection, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in Subsection C of this Section is posted as required and, except as provided in Paragraph (2) of this Subsection, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities. In any action for damages arising out of an agritourism activity against an agritourism professional, the agritourism professional shall plead the provisions of this Section as an affirmative defense.

(2) Nothing contained in Paragraph (1) of this Subsection prevents or limits the liability of an agritourism professional, if the agritourism professional does any one or more of the following:

(a) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission caused injury, damage, or death to the participant.

(b) Intentionally injures the participant.

(c) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facility upon which the participant sustained injuries because of a dangerous latent condition, including but not limited to the dangerous propensity of a particular animal used in such activity, which was known or should have been known to the agritourism professional and for which warning signs have not been conspicuously posted.

(d) Any limitation on liability provided in Paragraph (1) of this Subsection to an agritourism professional is in addition to any other limitation of liability otherwise provided by law.

(3) Nothing contained in Paragraph (1) of this Subsection shall prevent or limit the liability of an agritourism professional under liability provisions as set forth in the Louisiana Products Liability Act, R.S. 9:2800.51 through 2800.60.

C.(1) Every agritourism professional shall post and maintain signs that contain the warning notice specified in Paragraph (2) of this Subsection and shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice shall consist of a sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, shall contain in clearly readable print the warning notice specified in Paragraph (2) of this Subsection.

(2) The signs and contracts described in Paragraph (1) of this Subsection shall contain the following notice of warning:

**"WARNING**

Under Louisiana law, R.S. 9:2795.5, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity."

(3) Failure to comply with the requirements concerning warning signs and notices provided in this Subsection shall prevent an agritourism professional from invoking the limitation of liability provided by this Section.

## **Part XLV. Agritourism**

### **Chapter 1. Agritourism Activities; Plans of Operation**

#### **§101. Definitions**

- A. The words and terms defined in R.S. 9:2795.5 are applicable to this Chapter.
- B. The following words and terms are defined for the purposes of this Chapter.

*Agricultural Operation*—a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

*Agritourism Plan of Operation*—a planning document that will assist agritourism professionals in identifying and addressing possible inherent risks on their operations through recommended best management practices. Components of the plan will include listing of activities, their risks, suggestions for minimizing those risks, and a plan for the location of warning signs.

*Commissioner*—the Commissioner of Agriculture and Forestry for Louisiana.

*Department*—the Louisiana Department of Agriculture and Forestry.

#### **§103. Agritourism Activities**

- A. Agritourism activities are activities engaged in by a participant for one or more of the purposes of enjoyment of, education about, or participation in, the activities of an agricultural operation.

B. The commissioner has defined certain activities as agritourism activities when such activities are conducted in relation to an agricultural operation. The defining of an activity as an agritourism activity also includes the enjoyment of, education about or participation in closely related activities even though such closely related activities may not be specifically listed in the definition. For example, an agricultural craft tour or visit includes such things as attending on-site lectures, hands on participation in the making of an art or craft article, and purchase of an article.

1. The commissioner may add or remove activities to or from the list of agritourism activities from time to time by publishing a supplemental list of agritourism activities in the Potpourri Section of the *Louisiana Register* and by updating the list of activities on the department's website.

2. Interested persons may request activities to be added or deleted from the list of agritourism activities.

a. All such requests shall be submitted in writing to the department by letter or e-mail. Each request shall provide the name, address, and contact information for the person making the request, a description of the activity, and how it is related to an agricultural operation.

b. The commissioner shall make the determination as to whether the activity will be added or deleted from the list of agritourism activities. The requesting party shall be notified of the commissioner's decision.

C. A list of the agritourism activities shall be published annually in the Potpourri Section of the February issue of the *Louisiana Register* and on the department's website.

D. The initial annual listing of agritourism activities established by the commissioner is listed below.

<b>Annual Listing of Agritourism Activities in Accordance with LAC 7:XLV.101-105</b>	
Notice: The activities listed below are agritourism activities only when conducted in relation to an agricultural operation as defined in LAC 7:XLV.101.	
Agricultural Crafts Tours and Visits	Farm/Ranch Vacations
Agricultural Exhibits Tours and Visits	Farmers Markets/on Farm Sales/Roadside Stands Visits and Participation
Agricultural Fairs and Festivals Visits and Participation	Fishing
Agricultural Operations Planting, Harvesting and Working Activities	Game/Exotic Farm Animal Tours and Visits
Agricultural Operations Tours and Visits	Garden/Nursery Tours and Visits Guided Crop Tours and Visits
Bed and Breakfasts Tours, Visits, and Stays	Hiking/Packing Trips Historical Tours of or Visits to Former Agricultural Operations
Bird Watching	
Boating/Swamp Tours	Horseback/Pony Riding
Camping/Picnicking	Hunting
Christmas Tree Farms Visits and Tree Cutting	Hunting/Working Dog Trials/Training
Corn/Hay Bale/Other Mazes Visits and Participation	Petting Zoos Tours, Visits, and Interaction with Animals
Crop Harvesting at U-Pick Operations	Pumpkin Patch Visits and Participation
Educational Tours and Visits	Skeet Shooting
Equine Activity [as defined in R.S. 9:2795.3(A)(3)] Attendance and Participation	Wagon Rides Attendance and Participation Winery Tours and Visits
Farm Animal Activity [as defined in R.S. 9:2795.1(A)(3)] Attendance and Participation	Youth Camp Stays and Participation

**§105. Procedure for Submission of Plan of Operation**

A. Any agritourism professional who conducts an agritourism activity and seeks to avail himself of R.S. 9:2795.5 shall submit a written and completed agritourism plan of operation for each such activity to the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center for approval. Multiple activities may be included in the plan. The agritourism plan of operation may be sent to Dora Ann Hatch, LSU AgCenter, 11959 Highway 9, Homer, LA 71040.

1. An agritourism professional who adds an agritourism activity after his agritourism plan of operation has been approved shall submit an agritourism plan of operation for the new activity to the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center for approval.

2. An agritourism plan of operation shall be submitted for each separate agricultural operation where agritourism activities are to be conducted.

B. The agritourism plan of operation shall include:

1. the name, physical address, mailing address, and telephone number of the agritourism professional;

2. the name under which the agritourism professional will operate, the physical address, mailing address and telephone number of the agricultural operation, if different than the information provided for the agritourism professional;

3. the business structure, (sole proprietorship, partnership, corporation, limited liability company, joint venture, or other structure);

4. the physical location of the agricultural operation;

5. the nature of the agritourism activities to be conducted at the location;

6. the known inherent risks to participants in the agritourism activities;

7. the best management practices, including the placement of warning signs, to be used by the agritourism professional for reducing these risks and for warning participants of the risks;

8. any other information requested by the Louisiana Cooperative Extension Service of the Louisiana State University Agricultural Center.

C. An agritourism professional, upon approval and implementation of his agritourism plan of operation, shall be presumed to be conducting an agritourism activity for each activity listed on an approved agritourism plan of operation.



# Agritourism Fact Sheet

**What is agritourism?** It is a business venture located on a working farm, ranch, or agricultural enterprise that provides an "experience" for visitors while generating supplemental income for the owner.

**Agritourism Limited Liability Law La R.S. 9:2795.5**

- Passed in 2008
- Provides limits to liability for certain agritourism ventures
- Requires completion of a plan of operation identifying risks
- Law is voluntary
- More information at: [www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism)

Agritourism operators who use animals as part of their agritourism venture are subject to the requirements of the [Animal Welfare Act](#) regulations.

If your agritourism venture charges people to see animals, pet them or feed them you need a license as an exhibitor. If you do not have a license from USDA and are engaging in this practice, you could be subject to a \$10,000 fine.

**USDA Certification:** To safeguard your operation, you should call Dr. Lynn Bourgeois, veterinary medical officer with USDA animal care. Dr. Bourgeois can be reached by calling his office at (985) 537-0691 or by calling his cell at (240) 461-9182. He travels the state, so please leave a message. In the event that none of these numbers work call Mike Long at (970) 494-7471 to learn how to become certified. If no answer, call the main number (970) 494-7478 and ask to speak with someone concerning USDA certification under the Animal Welfare Act.

The process requires completion of an application and an inspection. During the inspection, officials will check on husbandry issues, veterinary care program, where animals live and review how animal food is stored.

**Successful agritourism ventures have:**

- Something to see
- Something to do
- Something to buy

**Benefits:**

- Educate people about farming and its importance to the economy and health of Americans
- Cash flow increase for farmers
- Opportunity to keep seasonal workers year round

**LSU AgCenter Agritourism Resources:** [www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism)

LSU AgCenter Blog Site  
<http://louisianaagritourism.blogspot.com>

Quarterly newsletter  
[http://www.lsuagcenter.com/en/community/community\\_dev/Agritourism/newsletters/](http://www.lsuagcenter.com/en/community/community_dev/Agritourism/newsletters/)

Workshops  
[www.LSUAgCenter.com/onlinestore](http://www.LSUAgCenter.com/onlinestore)

Farm tours  
Bed & Breakfasts  
Roadside stands & markets  
U-pick operations  
On-farm sales  
Festivals or fairs  
Farmers Markets  
Agriculture related crafts/gifts  
Guided crop tours  
Garden/nursery tours  
Winery tours  
Historical agricultural exhibits  
Exotic animal farm  
Farm visits & stays  
Agritourism ventures included in agritourism limited liability legislation:  
Canoeing, paddling  
Mazes (corn, hay)  
Holiday visits/tours  
Hay rides  
Barn dances  
Petting zoo  
Photography/painting  
Camping & picnicking  
Habitat improvement projects  
Bird watching  
Wildlife viewing  
Hunting dog training & competition  
Trap & skeet shooting  
Fee fishing  
Fee hunting  
Farm skills/ farm work  
Christmas Tree Farm

\*Before deciding on an agritourism venture, check to see whether the venture is covered under La R.S. 9:2795.5; if it is not, petition the Commissioner of Agriculture for inclusion.

Publications: Available on website, include:  
Agritourism: A New Agricultural Business Enterprise  
Agritourism: Best Management Practices & Plan of Operation  
MarketMaker: [LA.FoodMarketMaker.com](http://LA.FoodMarketMaker.com)  
Includes a free listing for agritourism enterprises

For more information contact:  
Dora Ann Hatch  
LSU AgCenter  
Agritourism Coordinator  
11959 Hwy. 9  
Homer, LA 71040  
Office: (318) 927-9654 x 229  
Cell: (318) 355-3192  
[dhatch@agcenter.lsu.edu](mailto:dhatch@agcenter.lsu.edu)



# Agritourism Fact Sheet

## Resource Guide for Agritourism Entrepreneurs

<p><a href="http://www.lsuagcenter.com/agritourism">www.lsuagcenter.com/agritourism</a> is a website maintained by the LSU AgCenter to provide information on how to start and grow an agritourism business. The site includes information on the limited liability agritourism legislation passed in 2008 by the Louisiana Legislature. There are also free PDF copies of publications: <i>Agritourism: A New Agricultural Business Enterprise and Agritourism: Best Management Practices &amp; Plan of Operation</i>.</p>	Free
<p><a href="http://www.louisianaagritourism.blogspot.com/">http://www.louisianaagritourism.blogspot.com/</a> is a blog featuring agritourism in Louisiana.</p>	Free
<p><a href="http://www.NationalAgLawCenter.org">www.NationalAgLawCenter.org</a> National Agricultural Law Center is the only agricultural law research and information facility that is independent, national in scope, and directly connected to the national agricultural information network. The Center also covers food law. The Center is staffed by a team of law and research professors, lawyers, other specialists, and graduate assistants from the University of Arkansas School of Law Graduate Program in Agricultural Law.</p>	Free information on website.
<p><a href="http://www.AgandFoodLaw.com">www.AgandFoodLaw.com</a> The United States Agricultural &amp; Food Law and Policy Blog is the comprehensive news, research, and information blog resource for the nation's agricultural community.</p>	Free information on website.
<p><a href="http://www.latour.lsu.edu">www.latour.lsu.edu</a> is a Louisiana tourism data website maintained by the Louisiana Sea Grant College program at LSU and the Louisiana Office of tourism, Department of Culture, Recreation, and Tourism. The purpose of this site is to make research available. The site contains recent statistical data, resource materials such as impact reports, demographic projections, industry trends, and links to various tourism websites.</p>	Free downloads
<p><a href="http://www.crt.state.la.us/">http://www.crt.state.la.us/</a> is the state website for the Louisiana Department of Culture, Recreation, and Tourism. This site contains information on the state's mission and the impact of tourism on the state's economy.</p>	Free downloads
<p><a href="http://www.sfc.ucdavis.edu/agritourism">http://www.sfc.ucdavis.edu/agritourism</a> is the Small Farm Center at the University of California at Davis website that contains resource guides and fact sheets to assist farmers interested in agritourism.</p>	Free downloads



<p><a href="http://www.naturalresources.msstate.edu/resources/agritourism.html">http://www.naturalresources.msstate.edu/resources/agritourism.html</a> is the website of Mississippi State University which contains links to resources in other states.</p>	<p>Free downloads</p>
<p><a href="http://www.economics.nrcs.usda.gov/altenterprise/resmanual.html">http://www.economics.nrcs.usda.gov/altenterprise/resmanual.html</a> is the website featuring <i>Alternative Enterprises and Agritourism: Farming for Profit and Sustainability Resource Manual</i> –The Resource Manual contains 2,300 pages of reference material. It is divided into 20 chapters and 37 subchapters to guide you to a subject of interest. Among the most interesting parts of this manual are the 200 pages devoted to <u>success stories</u> in agritourism.</p>	<p>Free downloads</p>
<p><a href="http://www.ces.purdue.edu/extbusiness/stories/PB1754.pdf">http://www.ces.purdue.edu/extbusiness/stories/PB1754.pdf</a> <i>Agritourism in Focus, A Guide for Tennessee Farmers</i>, Extension PB 1754 from the University of Tennessee has 10 chapters and an appendix that deals with topics of agritourism operations. This publication is written in workbook style and is an excellent resource to begin your business plan.</p>	<p>Free downloads</p>
<p><a href="http://www.sare.org/publications/naf2/naf2.pdf">http://www.sare.org/publications/naf2/naf2.pdf</a> The <i>New American Farmer</i> is available on this website. It contains success stories of on-farm operations.</p>	<p>Free downloads</p>
<p><u>The New Farmers’ Market</u> by Vance Corum, Marcie Rosenzweig &amp; Eric Gibson, 2001. This book covers the latest tips and trends from leading sellers, managers, and market planners to best display and sell product. Its available thought the sustainable agriculture network.</p>	<p>Order</p>
<p><a href="http://resourcesfirstfoundation.org/aea/">http://resourcesfirstfoundation.org/aea/</a> is a website with an on-line tool to help farmers evaluate their resources when considering alternative enterprises or agritourism potential for their farms. This site was developed with resources from NRCS.</p>	<p>FREE</p>

Contact: [Dora Ann Hatch](#), LSU AgCenter Agritourism Coordinator, for more information. Revised 7/11.

# Agritourism Workbook



**Agritourism** is a business venture located on a working farm, ranch, or agricultural enterprise that provides an “experience” for visitors while generating supplemental income for the owner.

Experiences provided to visitors usually take the form of educational or entertainment discovery and learning in a nature or agricultural based environment. For this reason, agritourism is also referred to as “agri-entertainment” and “agro-tourism.”

Dora Ann Hatch

LSU AgCenter Agritourism Coordinator

(318) 927-9654 Extension 229 dhatch@agcenter.lsu.edu

Website: [www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism)

Blog site: <http://www.louisianaagritourism.blogspot.com>

## Benefits of Agritourism?

Agritourism can provide many benefits to the agricultural landowner. Which of the following would benefit you?

- Cash flow during the off-season
- Provide opportunity to sell products grown and harvested in your agricultural venue
- Opportunity to sell products grown and Harvested in your agricultural operation
- Opportunity to share your passion of agriculture with others.



## Agritourism is a Business:

What type of agritourism business do you plan to operate? Check all that apply.

- To add supplemental cash flow
- To diversify farm income to make a profit
- To provide educational fun and enjoyment to others without making a profit

## Suggested Steps in Planning Your Agritourism Business

**Determine your agritourism interests-**There are many different types of agritourism ventures that are appropriate for a farm, ranch or other agricultural enterprise. From the list below, choose the ventures that best match the characteristics of your family, farm workers and land.

The list below can be found in “Agritourism in Focus, A Guide for Tennessee Farmers”, Tennessee Extension Publication PB1754.

<ul style="list-style-type: none"> <li><input type="checkbox"/> Bed and Breakfasts</li> <li><input type="checkbox"/> Bicycle trails and rentals</li> <li><input type="checkbox"/> Bird watching</li> <li><input type="checkbox"/> Boating, canoeing, kayaking, tubing or rafting</li> <li><input type="checkbox"/> Camping</li> <li><input type="checkbox"/> Catering services</li> <li><input type="checkbox"/> Cave tours</li> <li><input type="checkbox"/> Children's camps</li> <li><input type="checkbox"/> Classes, clinics or demonstrations (farming, ranch skills, cooking, planting, harvesting, fishing, hunting, wildlife viewing)</li> <li><input type="checkbox"/> Community supported agriculture (CSA)</li> <li><input type="checkbox"/> Corn canon</li> <li><input type="checkbox"/> Corn maze (educational, haunted)</li> <li><input type="checkbox"/> Cut your own Christmas trees</li> <li><input type="checkbox"/> Dairy shares</li> <li><input type="checkbox"/> Display gardens (flowers, greenery, herbs)</li> <li><input type="checkbox"/> Educational or technical tours</li> <li><input type="checkbox"/> Event hosting (birthday parties, family reunions, corporate retreats, receptions, weddings)</li> <li><input type="checkbox"/> Farm or ranch work experience</li> <li><input type="checkbox"/> Farm stays</li> <li><input type="checkbox"/> Fee fishing</li> <li><input type="checkbox"/> Fee hunting (dove, duck, goose, pheasant, turkey, deer, small game)</li> <li><input type="checkbox"/> Festivals (seasonal, harvest, food, holiday)</li> <li><input type="checkbox"/> Game preserve or guided hunts</li> <li><input type="checkbox"/> Goat walk</li> <li><input type="checkbox"/> Go-carting</li> <li><input type="checkbox"/> Guided crop tours</li> <li><input type="checkbox"/> Guiding and outfitting</li> <li><input type="checkbox"/> Habitat improvement projects</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Hay bale maze</li> <li><input type="checkbox"/> Hay rides</li> <li><input type="checkbox"/> Hiking trails</li> <li><input type="checkbox"/> Historical museum and displays</li> <li><input type="checkbox"/> Haunted barn or house</li> <li><input type="checkbox"/> Horseback trail riding</li> <li><input type="checkbox"/> Hunting dog training and competitions</li> <li><input type="checkbox"/> Laser tag</li> <li><input type="checkbox"/> Living history events</li> <li><input type="checkbox"/> Mountain biking</li> <li><input type="checkbox"/> Off-road vehicle driving areas</li> <li><input type="checkbox"/> On-farm retailing</li> <li><input type="checkbox"/> Pack trips</li> <li><input type="checkbox"/> Paint ball</li> <li><input type="checkbox"/> Petting zoo</li> <li><input type="checkbox"/> Photography/painting</li> <li><input type="checkbox"/> Picnic area</li> <li><input type="checkbox"/> Playground</li> <li><input type="checkbox"/> Pony rides</li> <li><input type="checkbox"/> Pumpkin painting</li> <li><input type="checkbox"/> Refreshment sales</li> <li><input type="checkbox"/> Rent a cow or tree</li> <li><input type="checkbox"/> Roadside markets, Farmers Markets</li> <li><input type="checkbox"/> Rock climbing or rappelling</li> <li><input type="checkbox"/> Rodeos</li> <li><input type="checkbox"/> School tours or activities</li> <li><input type="checkbox"/> Self-guided driving tours</li> <li><input type="checkbox"/> Shooting range (firearm or moving target)</li> <li><input type="checkbox"/> Sorghum maze</li> <li><input type="checkbox"/> Swimming area</li> <li><input type="checkbox"/> Pick-your-own operations</li> <li><input type="checkbox"/> Wagon rides</li> <li><input type="checkbox"/> Wilderness experiences</li> <li><input type="checkbox"/> Wildlife viewing</li> <li><input type="checkbox"/> Winery tour or wine tasting</li> <li><input type="checkbox"/> Working farm stays</li> </ul>
--	---

In Louisiana, only certain agritourism activities are covered by the limited liability agritourism law; go to the LSU AgCenter website: [www.lsuagcentr.com/agritourism](http://www.lsuagcentr.com/agritourism) to learn more.

**Assess Your Personality-** Agritourism entrepreneurs must be a “jack of all trades.” They must be able to assess their enterprise with a business mind, share knowledge that is fun and educational and have good people skills. Check all that apply below.

- Are you a good communicator?
- Are you patient?
- Are you organized?
- Can you adapt to change?

If the answer to the majority of these questions is yes, then you are a good candidate for agritourism. If you did not score well, then agritourism may still be in your future, but you will need help from others to have a successful agritourism business.

**Identify Labor Force-** Many people will be needed to help you launch your agritourism venture. Some of those people may be your family, farm workers, neighbors or new people you hire. Use the chart below to organize your workforce.

Provide name and description of individual	Their assets	Their role in operation	Time they will give

**Identify Your Financial Goals-** It is important to understand the connection between a good idea and a financially feasible idea. Start your new venture without debt; use what you have and determine if you are suited for agritourism before borrowing money.

Develop a business plan to start an agritourism venture with little capital investment from yourself, friends, family or banking institutions. Test the venture and then adjust your business plan accordingly. Find your financial comfort zone by answering these questions:

- Do I have cash on hand to start a business?
- Will I need to get a loan?
- Do I feel comfortable borrowing money?

Assessing your financial resources can be difficult. In most cases, it's a good idea to involve other family members and outside professionals to assist you in making that decision.

So, when do you want to start your business?

- 1-2 years
- 1-3 years
- 3-5 years
- 5 years or more

**Evaluate your land resources** – take a look at your land and consider these questions.

- Do you have sufficient property resources for the agritourism venture and parking?
- Is your venture located near the market you hope to attract?
- Are directions to your location easy to give?
- What changes to your property will be necessary to accommodate your new venture?
- Will it be affordable to create the venture using existing resources?
- Is it possible to open your business for a trial run without making any major changes or investments?

Which of the following best describes your land?

- Planted in crops
- Raising livestock

- Ponds or creeks
- Rivers, bayous, swamps
- Fishing available
- Wildlife
- Topography: rolling hills, flat land, etc.
- Forestlands
- Native plants
- Hiking trails

Describe your assets in terms of infrastructure:

- Tractors
- Wagons
- Farm tools
- Power tool equipment for construction
- Cabins
- Barns
- Stables
- Pens
- Fenced land
- Roads within the property
- ATV vehicles

**Estimate your time and labor needs** – Anyone beginning an agritourism venture will need the full support of his or her family. The time and energy needed to run an operation will require work and support from the whole family.

- Will my family be involved? If so, who and to what extent?
- Can I use workers who already work on the farm? If so, how?
- Will I need to hire additional workers? If so, where will I find part time workers?

**Feasibility Study**-Now that you have a clear vision of your goals, it's time to see if there is a market for your agritourism venture. How do you do this? There are three ways:

- Hire a marketing firm and pay for the service
- Consult a local Small Business Development Center and ask if they offer the service
- Do the research yourself with these tools:

- Consult chambers of commerce, tourism boards, and state tourism centers to see what types of agritourism ventures exist in your area.
- If you are hoping to attract school age children, survey schools to see if they are interested in what you plan to offer. Ask school officials how many classes would come if for example you had a petting zoo field trip?
- If similar agritourism businesses exist in the area, observe how busy they are and if the owners are approachable, ask for their input.
- Look at the U.S. Census records to determine the age classifications of people in your market area. The U. S. Census has a quick facts page that provides age classifications at <http://quickfacts.census.gov/qfd/states/00000.html>
- The Louisiana Office of Culture, Recreation, and Tourism and the Louisiana Sea Grant College Program at Louisiana State University offer travel resources and economic data online at: [www.latour.lsu.edu](http://www.latour.lsu.edu)

**Answer these questions:**

- List the towns within one hour of your location.
- Do they have a tourism office?
- What major highways are located near you?
- What is the population of towns within a one hour radius?

**Identify safety issues-** The Louisiana Legislature passed a limited liability law for agritourism in 2008 (La R.S. 9:2795.5). This law is voluntary and does not eliminate the need for agritourism operators to purchase limited liability insurance. To learn more log onto: [www.lsuagcenter.com/agritourism](http://www.lsuagcenter.com/agritourism)

Whether you take advantage of the agritourism limited liability law or not you will need to answer these questions:

- Are you aware that most people have never visited an agriculture operation and don't understand danger?
- Is your facility handicapped accessible?
- Do you have restrooms?
- Do you have hand-washing areas? If not, do you plan to offer hand sanitizers?



- Are ponds or other dangerous areas fenced off from visitors?
- If your mode of on farm transportation is a wagon, what safety features do they have?
- Do wagons have high rails to keep children in?
- Are the steps into moving forms of transportation (wagons) safe and secure?
- Are people in place to assist visitors who might have difficulty with activities?
- If you are open at night, do you have lighting?
- Is there a plan in place to care for someone who has an accident?

The LSU AgCenter’s publication, “Agritourism: Best Management Practices & Plan of Operation,” can serve as a guide. The plan of operation required by La R.S. 9:2795.5, the Louisiana agritourism limited liability law, must be completed before an operation can be certified. This certification is voluntary. Completing a plan of operation allows an agritourism operator to think about potential safety issues and how to mitigate them.

## **Licenses Needed-**

- Check with local parish governments to see if there are zoning restrictions where you plan to operate.
- Check with local parish government about any licenses that may be necessary.
- Comply with USDA regulations if you use animals in your operation. Agritourism operators who use animals as part of their agritourism venture are subject to the requirements of the Animal Welfare Act regulations.

If your agritourism venture charges people to see animals, pet them or feed them you need a license as an exhibitor. If you do not have a license from USDA and are engaging in this practice, you could be subject to a \$10,000 fine.

To safeguard your operation, you should call Dr. Lynn Bourgeois, veterinary medical officer with USDA animal care. Dr. Bourgeois can be reached by calling his office at (985) 537-0691 or by calling his cell at (240) 461-9182. He travels the state, so please leave a message. In the event that none of these numbers work call Mike Long at (970) 494-7471 to learn how to become certified. If no answer, call the main number (970)

494-7478 and ask to speak with someone concerning USDA certification under the Animal Welfare Act.

The process requires completion of an application and an inspection. During the inspection, officials will check on husbandry issues, veterinary care program, where animals live and review how animal food is stored.

**Taxes-** *The general rule is that sale “of services” and “products” are taxed unless there is a specific exemption in law. Fees and charges for admission to entertainment, amusement or recreational facilities are taxed, thus while your agritourism business maybe educational there is no specific exemption from taxation.*

*There are no taxes on farm products produced by the farmer and sold directly to the shopper/consumer. The jar of honey you produce and bottle when sold by you to the shopper is exempt from taxes. However if an individual or company buys it from the farmer for resale, the product is taxed. Therefore, the middleman is taxed.*

In Louisiana, "Sales of Services" is defined as follows in the Sales Tax Chapter (La. Rev. Stat. Title § 47:301) includes taxation on the:

- The furnishing of sleeping rooms, cottages or cabins by hotels.
- The sale of admissions to places of amusement, to athletic entertainment other than that of schools, colleges, and universities, and recreational events, and the furnishing, for dues, fees, or other consideration of the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic, or recreational facilities.

Taxes on farm products sold directly to consumers. According to La. Rev. Stat. Title §47: 305.

- The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by taxing authorities, provided that such sales are made directly by the producers. When sales of livestock, poultry, and other farm products are made to consumers by any person other than the producer, they are not exempted from the tax imposed by taxing authorities.
- The gross proceeds derived from the sale in this state of livestock at public sales sponsored by breeders' or registry associations or livestock auction markets are exempted from the sales and use tax levied by the state only. When public sales of livestock are made to consumers by any person other than through a public sale sponsored by a breeders' or registry association or a livestock auction market, they are not exempted from the sales and use tax imposed by the state.

This Section shall be construed as exempting race horses entered in races and claimed at any racing meet held in Louisiana, whether the horse claimed was owned by the original breeder or not.

- Every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw product for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade, shall be exempted from any and all provisions of the sales and use tax imposed by a taxing authority, including payment of the tax applicable to the sale, storage, use, transfer, or any other utilization of or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one tax be exacted. For the purposes of this Section, “agricultural commodity” means horticultural, viticulture, poultry, farm and range products, and livestock and livestock products.

**Protect Yourself Legally**-As the owner, it is your responsibility to see that your visitors are safe and protected, but accidents happen. To protect yourself legally, from the actions of people employed by you, you might want to consider becoming a limited liability company (LLC). An LLC is a form of business organization that is a “legal person” having one or more members organized and filing articles with the Secretary of State. As an LLC you are removing liability from you personally for others’ negligence. Legal issues are complex, and you should consult your local attorney for advice in this matter.

**Limited Liability Insurance-** Insurance is a necessity. Be advised that not all companies insure agritourism ventures. The best place to start shopping for insurance is with the company that writes your present insurance. Tell them you are planning to expand your operations and will need more coverage and ask for their suggestions.

**Market Your New Venture-**With your marketing analysis in hand; begin planning your marketing strategy. Where do the people live and work who would like to participate in your agritourism venture? How do you reach them with information? Make a budget and consider the following as possibilities: newspaper ads, television commercials, brochures, flyers, website, blog, Facebook, Twitter, You Tube, personal appearances and word of mouth.

Register your business on the newly developed [MarketMaker](http://MarketMaker.com) website. At LA.FoodMarketMaker.com What does this FREE site do?

- Helps food entrepreneurs and farmers identify potential markets
- Helps consumers find fresh and locally grown food
- Helps farmers and other food-related enterprises connect with other members of the food supply chain

- Provides maps and profiles of farmers and food-related businesses

**Develop a business plan-** Now that you have thought through the process you are ready to formally write the business plan. Many people say, I'm not borrowing money and I know what I want to do, so why do I have to write a business plan? Business plans offer an opportunity to think through your operation and plan for the perfect as well as the not so perfect days when you experience hardships due to equipment failure or employee problems. After you create the plan, consult with a banker even if you don't need the additional funds, it's wise to know whether or not you have a marketable venture.

Free help with business plans are available by contacting Small Business Development Centers. For a Louisiana directory of SBDC log onto: <https://www.lsbdc.org/Default.aspx>

## References:

Mirus, Shannon, Staff Attorney, National Agricultural Law Center  
[www.NationalAgLawCenter.org](http://www.NationalAgLawCenter.org)

*Agritourism in Focus, a Guide for Tennessee Farmers*, Tennessee Extension Publication PB1754.

*Agritourism: A New Agricultural Business Enterprise*, Louisiana State University Agricultural Center Publication AC-5.

*Agritourism: Best Management Practices & Plan of Operation*, Louisiana State University Agricultural Center Publication AC-6