

An Agricultural & Food Law Consortium Webinar

Agritourism, Zoonotic Diseases and Legal Liability



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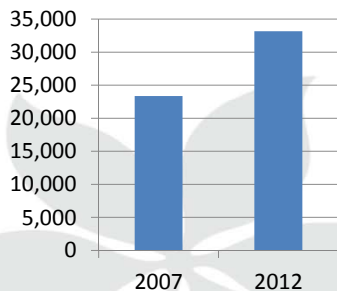
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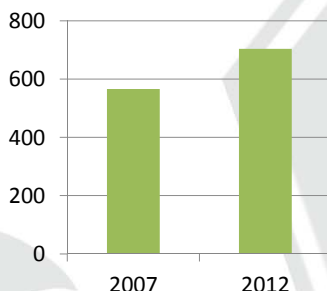
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Agritourism and Agriculture

Farms with agritourism income



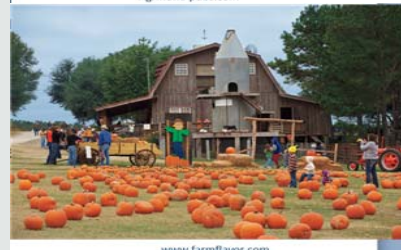
Agritourism income (millions)



Source: U.S. Census of Agriculture



Agrinews-pubs.com



www.farmflavor.com



Agritourism and Risk

10 Pumpkin Patches for Family Fun



Three Minnesota Petting Zoo Visitors Sick With E. Coli

BY NEWS DESK | OCTOBER 26, 2013

The Minnesota Department of Health has confirmed that at least three children have been infected with E. coli O157:H7 after coming into contact with cattle and goats at Dehn's Pumpkins in Dayton, MN.

The children are aged 15 months to 7 years, and one child has been hospitalized with hemolytic uremic syndrome (HUS), a severe kidney disease associated with E. coli infection. All three visited the pumpkin patch petting zoo on Oct. 12 or 13 and became ill on Oct. 16 or 18.



Rosemount family wins \$7.5 million E. coli settlement

ROSEMOUNT, Minn. (KMSP) - A jury awarded \$7.5 million to a Rosemount, Minnesota family after a young girl contracted e-coli from a petting zoo at Dehn's Pumpkins in Dayton.

Back in 2013, Emma Heidish spent a month overcoming a potentially deadly form of kidney disease which caused her kidneys to shut down and required surgery and near constant dialysis.

On Tuesday, a Hennepin County jury found the owners of the farm where she got E. coli, Dehn's Pumpkins in Dayton, negligent for not taking steps to prevent their animals from transmitting diseases and awarded Emma \$7.5 million.

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Today's Webinar

1. Agritourism and Animal Contact Carrie Klumb

- Background
- Outbreaks Investigations
- Best Practices

2. Zoonotics and Legal Liability Peggy Hall

- State sanitation laws
- Liability protection laws
- Liability insurance

3. So what?

- Implications for farms
- Outreach efforts



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Agritourism, Zoonotic Diseases, and Legal Liability

Minnesota Department of Health (MDH) | Upper Midwest Agricultural Safety & Health Center (UMASH)

Carrie Klumb, MPH | Epidemiologist



What is Agritourism?

- Commercial enterprise at a working farm or ranch conducted for the enjoyment of visitors that generates supplemental income for the owner

OR

- Any farm that is open to the public at least some parts of the year



Agrinews-pubs.com



www.farmflavor.com

Agritourism as the Next Frontier in Agriculture

- **2007 Ag Census**
 - 23,350 farms in U.S. with agritourism income
 - \$566 million in income
- **2012 Ag Census**
 - 33,160 farms in U.S. with agritourism income
 - \$704 million in income
- **24% increase in income over 5 years**

Source: www.nass.usda.gov

What responsibilities comes with adding agritourism to a farm operation?

- **Keep visitors safe from injury**
- **Reduce the risk of a foodborne illnesses**
 - Proper food licensing and following food safety guidelines
- **Reduce the risk of visitors getting sick from animal contact at the farm**
- **Provide visitors with a great experience**
- **Protect farm's assets**



www.itsnature.org

Agritourism and Animal Contact

Background

Why should we interact with farm animals?

Today most people don't live on or visit farms. Agricultural exhibits that include animals teach people about farm life.

People can learn about:

- Living or working on a farm
- Where their food comes from
- Animal behavior
- The human-animal bond



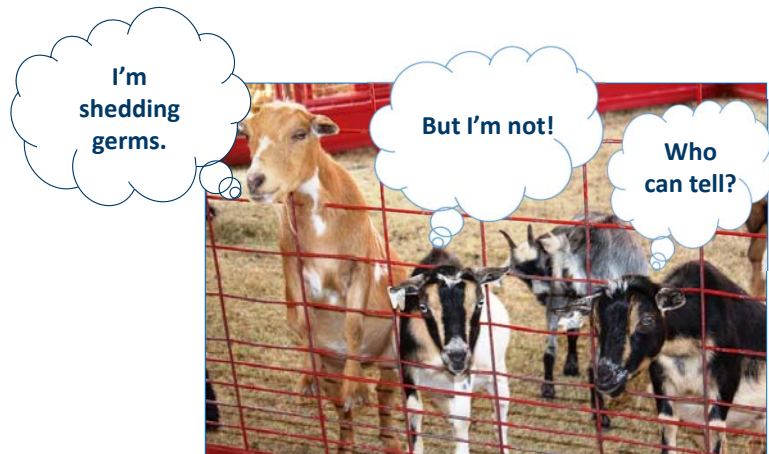
Animal Contact Comes with Risks

- Animals can be unpredictable and sometimes dangerous
- Injuries include being stepped on, pushed over, pinned, kicked, scratched, or bitten



Animal Contact Comes with Risks Diseases – How do people get sick from animals?

- Healthy animals can carry germs
- Many germs are normal in healthy animals. They carry them naturally and typically do not get sick
- We can't tell by looking which animals might have these germs



How do people get sick from animals?



- Germs are in animal feces
- Germs spread to the animal's fur skin, and environment
- People touch the animals or the environment and then accidentally get germs in their mouths
- This is called the fecal-oral transmission route
- Accidental ingestion of an animal's germs can be direct or indirect

Direct animal contact

- People touch animals directly with their hands
- People then accidentally transfer the germs to their mouths



Indirect animal contact



- Indirect contact occurs when hands or mouth come into contact with contaminated surfaces, such as railings or animal bedding
- People then accidentally transfer the germs to their mouths

How else could people ingest germs?

- Putting contaminated objects such as pacifiers or water bottles in their mouth
- Eating contaminated foods, which occurs when germs from the environment are stirred up and settle on food or drinks



Main Problem

- Healthy animals can shed germs that may make people sick
- Most visitors don't understand this inherent risk



City Folk vs. Farm Folk

- Visitors may be misled by close contact between owners & their animals
- Visitors don't realize they are more likely to get sick because they have no immunity, unlike most farmers
- However, farmers can get sick too!



Why are we worried?

- Most infections cause diarrhea, vomiting, stomach cramps, & fever
- Sometimes infections cause severe illness
- *E.coli* O157:H7 infections may cause Hemolytic Uremic Syndrome (HUS).
- Lengthy hospitalizations and long-term effects common
- 5% of HUS cases fatal
- Children <5 years old at highest risk



Agritourism and Animal Contact

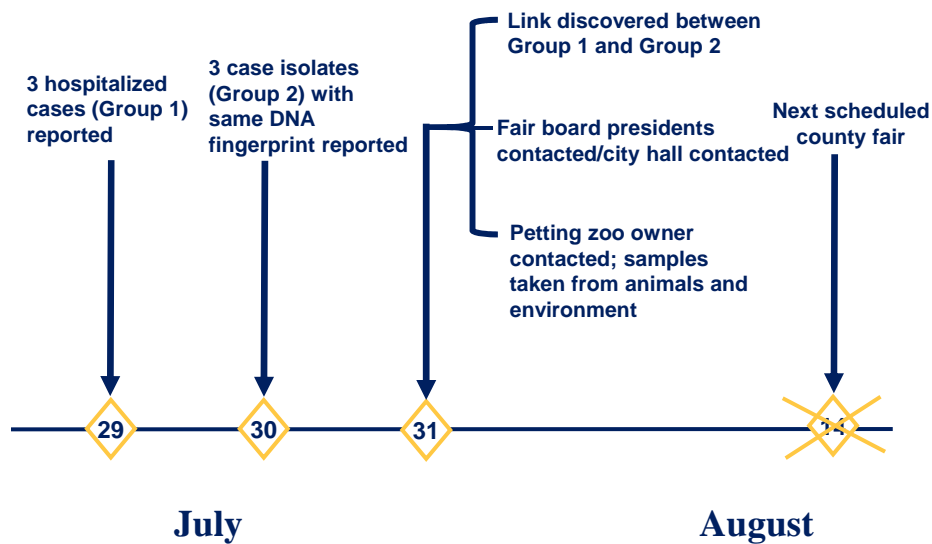
Outbreaks Investigations

Outbreaks from animals occur in the U.S. each year

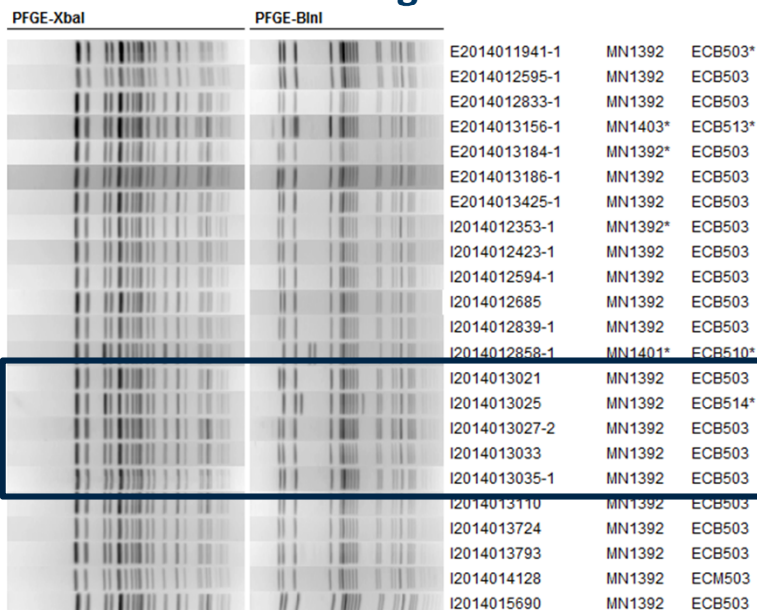
- 255 different outbreaks, with >5,100 illnesses, >500 hospitalizations through 1996-2014
- ~ 50% of these outbreaks occurred at a fair, farm or petting zoo
- 2012 *E. coli* O157 outbreak occurred at a large county fair in North Carolina
 - 106 illnesses
 - 11 hospitalized (avg. 12 days)
 - 7 children developed HUS
 - 1 child died



E. coli O157 Outbreak at Minnesota County Fairs Investigation Timeline



E. coli O157 Petting Zoo Outbreak DNA Fingerprint, 2014



Goat sample
Calf sample
Alpaca sample
Trailer sample
Trailer sample

- Pulsed-field Gel Electrophoresis (PFGE) or DNA fingerprinting is a tool used in outbreaks
- Draws a link between animals/environment and the people that got sick

Outbreak Information Requests

**MINNESOTA GOVERNMENT
DATA PRACTICES ACT RELEASE FORM**

I, _____, understand that under Minnesota Statutes Section 13.3805 (2003) any epidemiologic information maintained by the Minnesota Department of Health, from which I may be identified, is classified as private data, that is, accessible only to me or those whom I designate.

Understanding my rights under the Minnesota Government Data Practices Act, I authorize the Commissioner of Health, her agents, and attorneys, to make accessible for review and/or to photocopy and send all records about me concerning _____

Re: _____ (condition, diagnosis, treatment, incident, outbreak, etc.)

Representative of: Agency, Ministry, etc.: _____

(Address) _____ (City) _____ (State) _____ (Zip)

The person or entity to whom I am releasing this information will use it now and in the future to _____

I understand that copies of my records may be released to the above-named party before I have had an opportunity to review either the records or the Department of Health's evaluation of the records.

I agree and hold harmless the Commissioner of Health, her agents and her attorneys for revealing or releasing these records.

These records may not be re-released without a separate and specific authorization. This authorization expires 90 days from the date of my signature.

If the data subject is a minor or deceased, I attest that I am authorized to sign on the minor's or the decedent's behalf.

Name of subject/guardian, decedent: _____ Guardian's or representative's relationship to subject: _____

Address: _____

Signature of subject/guardian, representative: _____ Date: _____

Witness: _____

September 19, 2014

MN Department of Health
ATTN: Release of Information
P.O. Box 64975
St. Paul, MN 55164-0975

RE: _____
Request Pursuant to the Minnesota Government Data Practices Act
Our File No: 17813.0001

Dear Records Custodian:

Our office has been retained by _____ as parents and natural guardians of _____ to represent them in relation to injuries sustained by _____ as a result of an e-coli infection traced to the Zerebko Zoo Tram at the Rice County Fair. Enclosed please find the authorization signed by _____. Please provide the following information pursuant to the Minnesota Government Data Practices Act:

- Complete copies of any and all documents relating to e-coli infections from Zerebko Zoo Tram for the period of June 1, 2014 to the present including, but not limited to, inspection reports, complaints, statements, investigation files and final reports.

I would appreciate receiving these records by October 3, 2014, if possible. If repayment for copies is required, please contact me and I will submit payment immediately. Thank you for your assistance in this matter and if you need any additional information regarding my request, please do not hesitate to contact me.

Very truly yours,

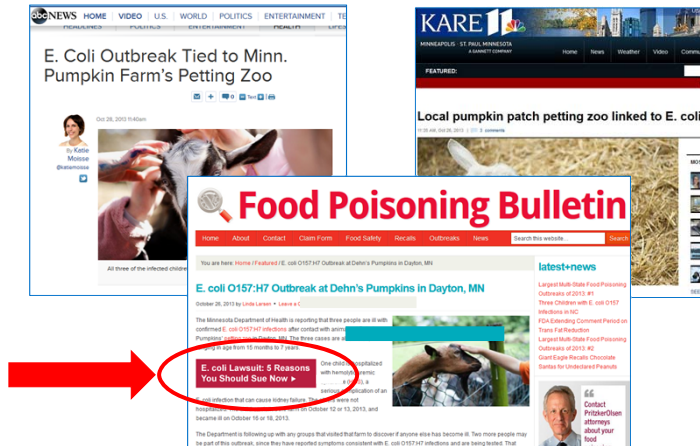
Anna C. Rebeck

RJR:ris
Enc.
cc: _____ via e-mail

Gerrald L. Maschhaus** | John M. (Jack) Fleck** | John Chuck Peterson | Marcus J. Christensen** | Renee C. Tetzlaff** | Alan D. Plinning*
George E. Lind (Civnet)* | Jennifer G. Lohman* | Janet Green-Meandering* | Nicholas J. Maxwell | Andrew J. Lester | Christine W. Healy (CSCD-2013)
*Board Certified as Civil Trial Specialist by the National Board of Trial Advocacy and/or the Minnesota State Bar Association. **Also admitted in South Dakota. ***Also admitted in Iowa. ****Also admitted in Florida, Illinois & Missouri. *****Qualified ADR Neutral. *Member of the American Board of Trial Advocates

What do these outbreaks mean for operators?

- An outbreak can have a significant impact on both finances & reputation
- A HUS case can have health care costs nearing \$1 million. In Minnesota, a recent jury trial awarded \$7.5 million to the family of a girl who became ill with *E. coli* and HUS after visiting an agritourism farm
- Outbreaks get picked up by the media & lawsuits are common



Agritourism and Animal Contact: Best Practices

We want people to interact with and enjoy animals.
How can we improve safety while maintaining the fun?

Animal - visitor interactions

Increases risk of injury and likelihood of getting manure on clothes, shoes, hands



Pet animals through/over barriers. Reduces potential for contamination and injury

Cleaning and disinfection

Cleaning and disinfection are two separate processes. Both must be done to remove germs

What to clean and disinfect?

- **Surfaces in the animal area that visitors can touch, such as railings and barriers**

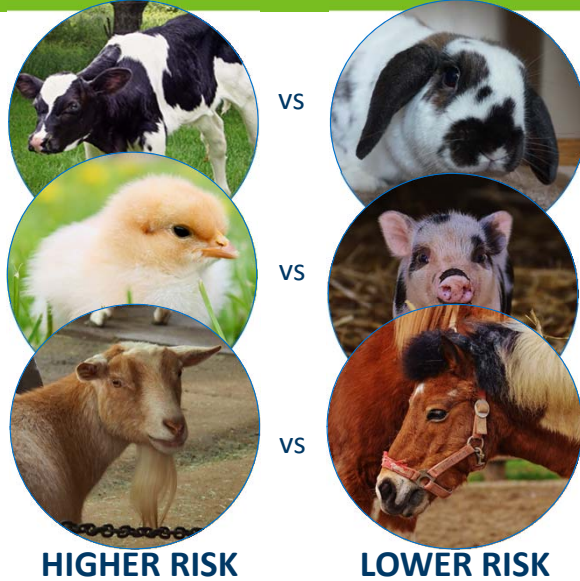
When to clean and disinfect?

- **Daily**
- **When manure or visible debris is noticed**



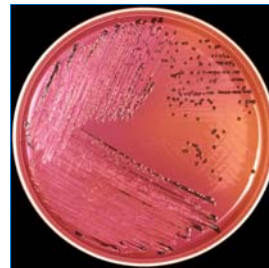
Animal care and management

- Carefully choosing the types of animals at the venue can reduce the possibility of disease & injury
- Some species or ages of animals are more likely to carry germs. This means they are riskier for some people



Can veterinarian test a venue's animals for germs?

- This isn't recommended as a way to determine if an animal can be exhibited
- Most of the germs we worry about are considered normal in farm animals, so a positive test would not be surprising
- Additionally, some of the germs are only shed in the feces from time to time. A negative test doesn't mean the animal is germ-free



Visitor and Staff Education Important

- Staff should understand and know how to follow the national guidelines
- Staff should be able to educate visitors
- Visitors should understand the inherent risk of interacting with animals
- Visitors should take steps to minimize their risks through:
 - Handwashing
 - No food, drink or other hand-to-mouth activities
 - Remove shoes and change clothes once home



The Best Prevention Method

Handwashing

Handwashing

- Handwashing is the best prevention step visitors can take to reduce their risk of getting sick!
- Key points to improve hand hygiene:
 - Verbal reminders from staff
 - Large signs with prominent messages
 - Staff at the exit area
 - Convenient, clean and close facilities
 - Adequate running water



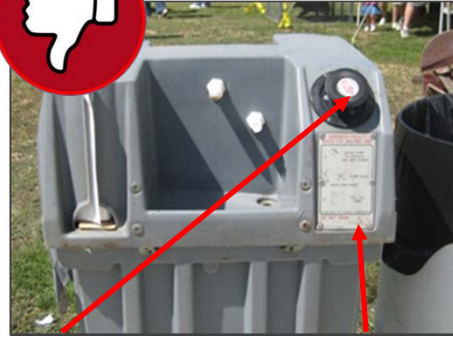
Location of handwashing stations

- Location of stations is crucial
- Position handwashing stations at the exit & within the traffic flow to maximize the number of people using them
- Stations should also be located in food concession areas
- Independent handwashing stations that are located away from bathrooms can help families supervise their children's handwashing



Type and design

- Stations should be accessible to children, adults, and those with disabilities



Hand pump!

Needs instructions!

Notes about hand sanitizer

- Sanitizer can kill some germs but don't work against norovirus & *Cryptosporidium*
- If hands are visibly dirty, sanitizer won't work
- Sanitizer is NOT a replacement for handwashing
- Use sanitizer that is 60% alcohol or higher until you can get to a sink



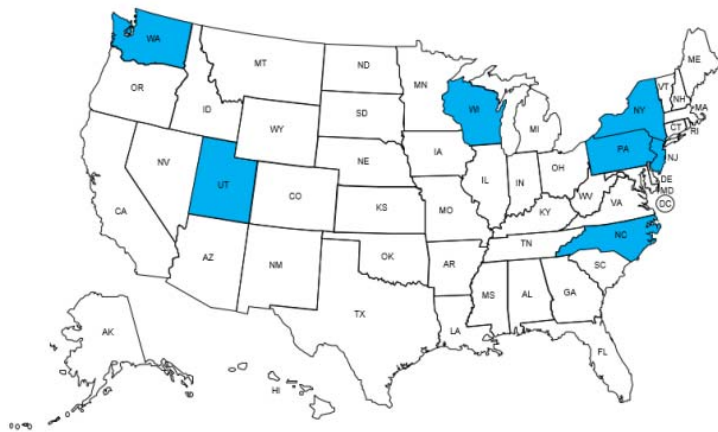
Zoonotics and Legal Liability



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State Sanitation Laws



■ States with Hand Sanitation Laws for Animal Contact Exhibits



Centers for Disease Control and Prevention
Office for State, Tribal, Local and Territorial Support

TABLE. Laws requiring hand sanitation stations at animal contact exhibits in seven states — United States, March–April 2016

State	Citation	Applicable facilities	Handwashing station required	Sign recommending sanitation or indicating risk required
New Jersey	N.J. Admin. Code Sect. 2:76-2A.13	Farm-based recreational activities at commercial farms	Yes*	Yes†
New York	N.Y. McKinney's Public Health Law Sect. 1311; N.Y. McKinney's Public Health Law Sect. 12	Public establishments featuring animals	Yes	Yes
New York	N.Y. McKinney's General Business Law Sect. 399-ff	Petting zoos	Yes	Yes
New York	N.Y. Comp. Codes Rules and Regulations, Title 10, Sect. 7-5.1 - 5.15	Petting zoos at agricultural fairgrounds	Yes	Yes [§]
North Carolina	N.C. Gen. Stat. Ann. Sect. 106-520.1-72 N.C. Admin. Code 52K.0101-0702	Animal exhibitions at agricultural fairs	Yes	Yes
Pennsylvania	3 Pa. Code Sect. 2501-2504	Animal exhibitions	Yes	Yes
Utah	Utah Admin. Code R58-6; R58-19-4	Public exhibitions of poultry	Yes	Yes
Washington	Wash. Admin. Code Sect. 246-100-192; 246-100-070	Animal venue operators	Yes	Yes
Wisconsin	Wis. Admin. Code DHS Sect. 178.03, 178.18, 178.08, 178.07; Wis. Stat. Ann. Sect. 254.47	Petting zoos at campgrounds	Yes	Yes

* New Jersey's law recommends and requires handwashing stations for commercial farms seeking to receive the protections of the New Jersey Right to Farm Act, NJSA 4:1C-1 et seq.

† New Jersey's law does not specifically mention signs but requires that visitors be advised to sanitize their hands, which is likely done via signage.

[§] Per N.Y. McKinney's General Business Law [§] 399-ff, which applies to petting zoos in the state, New York's law requires recommending hand sanitation to patrons.

From Hoss, et al, *State Laws Requiring Hand Sanitation Stations at Animal Contact Exhibits — United States, March–April 2016, Morbidity and Mortality Weekly Report* Vol. 66 No. 1, US Dept. of Health and Human Services/Centers for Disease Control and Prevention, Jan. 13, 2017

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State Sanitation Laws

Handwashing facilities

- Station consisting of running water, soap, paper towels, trash cans
- Antibacterial wipes
- Waterless hand sanitizers
- Adequate hand cleansing facilities

Location of facilities

- Within 10 feet of exhibit
- Within 50 feet of exhibit
- Conveniently located
- Near the exit

Signs

- Location of handwashing station
- Recommend handwashing
- Encourage handwashing
- Explanation of health risks
- Specific warnings

Penalties

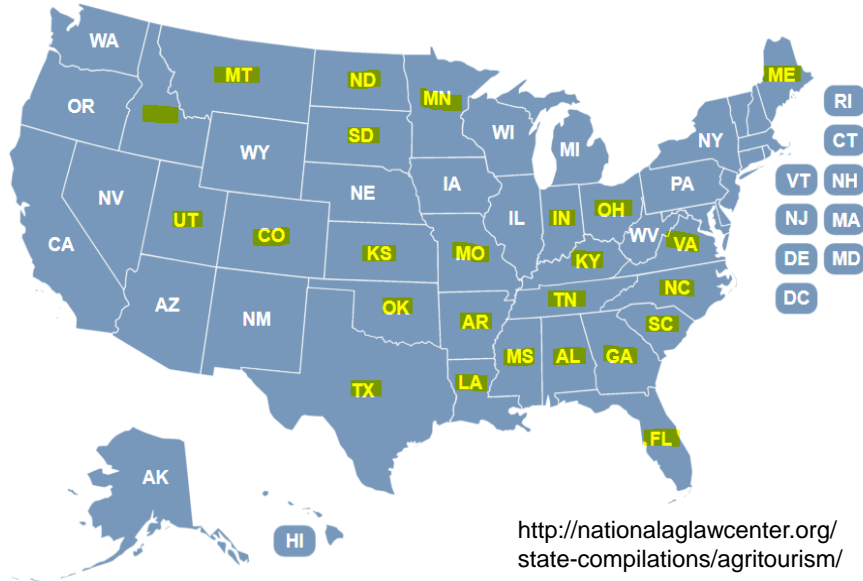
- Up to \$500 fine
- Up to \$5,000 fine
- \$25 to \$250 fine
- Misdemeanor charges
- Loss of Right-to-Farm protections



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Agritourism Liability Protection Laws

25 states provide statutory liability protection for agritourism operators



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Agritourism Liability Protection Laws



Agritourism Liability Protection Laws

*What is an
“agritourism
activity”?*

Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

Oklahoma Stat. § 5-15

Those dangers or conditions that are an integral part of an agritourism activity

including certain hazards,
including surface and subsurface conditions,
natural conditions of land, vegetation, waters,
the behavior of wild or domestic animals
and ordinary dangers of structures or equipment ordinarily used in
farming and ranching operations.

Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner 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.

Idaho Agritourism Promotion Act, Idaho Stat. § 6-3001 to 6-3006

**What are
“inherent
risks” of
agritourism
activities?**

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A danger or condition that is an integral part of an agritourism activity, including all of the following:

- (a) The surface and subsurface conditions of land;
- (b) The behavior or actions of wild animals not kept by or under the control of an agritourism provider;
- (c) The behavior or actions of domestic animals other than vicious or dangerous dogs as defined in section 955.11 of the Revised Code;
- (d) The ordinary dangers associated with structures or equipment ordinarily used in farming or ranching operations;
- (e) The possibility of contracting illness resulting from physical contact with animals, animal feed, animal waste, or surfaces contaminated by animal waste;**
- (f) The possibility that a participant may act in a negligent manner, including by failing to follow instructions given by the agritourism provider or by failing to exercise reasonable caution while engaging in the agritourism activity that may contribute to injury to that participant or another participant.

Ohio Revised Code § 901.80

What are
“inherent
risks” of
agritourism
activities?



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Requirements
for agritourism
providers

1. Post warning signs near agritourism activities (most states)
2. Waiver signed by participant (TX, KY)
3. Registration with Dept. of Ag. (MO)
4. *Approved Agritourism Plan of Operation (LA)*

Plan to include the known inherent risks to participants in the agritourism activities; 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; any other information requested by the Louisiana Cooperative Extension Service



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Nothing [in the statute] prevents or limits the liability of an agritourism professional if the agritourism professional:

- (1) commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death of the participant;
- (2) has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the activity, or the dangerous propensity of a particular animal used in such activity;
- (3) intentionally injures the participant; or
- (4) fails to comply with the notice requirement

**Exceptions
to liability
protection**

Minnesota Stat. § 604A.40




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What about Insurance?

Pollution exclusions
Infectious disease exclusions

<p>Exclusion Endorsement</p> <p><i>Infectious Diseases, Total</i></p>	<p>With respect to all coverage(s) under this contract, this insurance does not apply to any damages, loss, cost or expense arising out of any:</p> <ul style="list-style-type: none"> A. condition, disease or sickness shown in the Schedule, including any similar or other condition, disease, injury or sickness related thereto, by whatever name known; B. causative agent of any condition, disease, injury or sickness described in subparagraph A. above, regardless of whether such agent gives rise to any such condition, disease, injury or sickness or any other condition, disease, injury or sickness, by whatever name known; or C. actual or attempted counseling or testing for, or containing, detoxifying, mitigating, monitoring or neutralizing of, or responding to, or assessing the effects of any: <ul style="list-style-type: none"> 1. condition, disease, injury or sickness; or 2. causative agent; <p>described in subparagraph A. or B. above, including any:</p> <ul style="list-style-type: none"> • actual or attempted cure, diagnosis, prevention or treatment of any such condition, disease, injury or sickness;
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Implications for Agritourism



Agrinews-pubs.com

Zoonotic diseases present high risks

- To health and safety of visitors
- To viability of agritourism operation

Are agritourism liability protection statutes sufficient?

- Half of our states
- Gray areas

Is insurance coverage available?

- Exclusions and riders

Adoption of best management practices is critical

- How to educate agritourism operators and agritourism visitors?

Outreach Efforts

Resources, online training, in-person trainings

Safer FACES Program!



You are invited

Agritourism 2015 Workshop

Exploring human and environmental health issues at agritourism events and operations, including apple orchards, pumpkin patches, and working farms that host the public.
Topics will include petting zoo safety, food licensing and handling requirements, and more!
Two dates to choose from:

<p>Wednesday, May 13 from 5:30 – 8:30 pm Chanhassen Recreation Center 2310 Coulter Boulevard, Chanhassen, MN 55317</p>	<p>Tuesday, May 19 from 5:30 – 8:30 pm Coon Rapids Civic Center 11155 Robinson Drive NW, Coon Rapids, MN 55433</p>
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This event is FREE and includes a boxed dinner for registered attendees.

Register at <http://www.health.state.mn.us/divs/idepo/dtopics/animal/tour/index.html>
To register over the phone or for questions:
Please contact Carrie Klumb or Joni Scheffel at 651-201-5414

MINNESOTA
MDH
DEPARTMENT OF HEALTH

MINNESOTA
DEPARTMENT OF
AGRICULTURE

Presented by the Minnesota Department of Health and the Minnesota Department of Agriculture
Funded by the Upper Midwest Agricultural Safety and Health Center (UMASH)



Agritourism is growing in popularity across the nation. Protecting the safety of farm visitors is important for both the visitors and for farms hosting these events.

For more information and resources on agritourism safety, visit these sites:

UMASH
umash.umn.edu/agritourism

Integrating Safety into Agritourism
www.safeagritourism.org

CONTACT US

Upper Midwest Agricultural Safety and Health Center (UMASH)
 Phone: 612-625-8836
 Email: umash@umn.edu

Minnesota Department of Health
 Zoonotic Diseases Unit
 Phone: 651-201-5414 or 1-877-676-5414

WHO WE ARE

The Upper Midwest Agricultural Safety and Health Center (UMASH) is a collaboration of the University of Minnesota School of Public Health and College of Veterinary Medicine, the National Farm Medicine Center of the Marzfield Clinic with the Migrant Clinicians Network and the Minnesota Department of Health.



umash.umn.edu/agritourism

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FARMS, FAIRS AND FUN

BE SURE TO WASH YOUR HANDS

Six-step handwashing guide and other tips for farm and fair visitors.

An Agricultural & Food Law Consortium Webinar

Agritourism, Zoonotic Diseases and Legal Liability



Carrie Klumb
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 Asst. Professor, Ohio State University
 Agricultural & Resource Law Program

