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States' Agritourism Statutes: *Kentucky*



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States' Agritourism Statutes: Kentucky

KY Rev. Stat. § 247.800 to 247.810

Current through the 2023 Regular Session and the Nov. 7, 2023, election.

§ 247.800. Agritourism program --Purposes.

The Department of Agriculture shall manage an agritourism program to be housed in the Office of Agricultural Marketing in the Department of Agriculture. It shall be the purpose of the agritourism program to:

- (1) Promote agritourism in Kentucky to potential visitors, both national and international; and
- (2) Assist in sustaining the viability and growth of the agritourism industry in Kentucky.

§ 247.801. Definitions for KRS 247.800 to 247.810.

As used in KRS 247.800 to 247.810:

(1) "Agritourism" means the act of visiting:

(a) A farm or ranch; or

(b) Any agricultural, horticultural, or agribusiness operation; for the purpose of enjoyment, education, or active involvement in the activities of the farm, ranch, or operation;

(2) "Agritourism activity" means any activity that:

(a) Is carried out on a farm, ranch, agricultural operation, horticultural operation, or agribusiness operation; and

(b) Allows or invites participants to view or participate in activities for recreational, entertainment, or educational purposes. Qualifying activities may include farming, ranching, historic, cultural, civic,



or ceremonial activities, including but not limited to weddings and ancillary events; harvest-your-own operations; farmers' markets; or natural resource-based activities. The activities may qualify as agritourism activities whether or not a participant pays to view or to participate in the activity;

(3)"Agritourism building" means any building or structure or any portion thereof that is used for one (1) or more agritourism activities;

(4)"Agritourism professional" means any person, including employees or authorized agents acting on behalf of the agritourism professional, who is engaged in the business of providing one (1) or more agritourism activities;

(5)"Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity, including certain hazards, such as surface or subsurface conditions; natural conditions of land, vegetation, or water; the behavior of wild or domestic animals; and the ordinary dangers of structures or equipment used in farming and ranching operations; and

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

§ 247.802. Duties of agritourism program.

The agritourism program shall perform all duties necessary to carry out the purposes of KRS 247.800 to 247.810, including but not limited to:

(1) Coordinating efforts to educate the general public about the importance of Kentucky's agricultural heritage and industry;

(2) Providing support, education, and resource materials for all interested persons, to include but not be limited to existing Kentucky agritourism businesses, displaced tobacco farmers and others engaged in agribusiness within the state, and other Kentuckians with the intent of developing an agritourism business. The agritourism program shall provide this assistance in the following areas, to include but not be limited to:

(a) Agritourism opportunities, networks, product development, and entrepreneurship;



- (b) Agritourism funding opportunities, including but not limited to grants, loans, and partnerships; and
- (c) Insurance and infrastructure concerns of the agritourism industry;
- (3) Working and partnering with federal, state, and local organizations to carry out the purposes of KRS 247.800 to 247.810;
- (4) Reporting to the Agritourism Advisory Council, as created in KRS 247.804, annually or at the request of the chair; and
- (5) Considering the recommendations of the Agritourism Advisory Council, in accordance with KRS 247.806(2).

§ 247.804. Agritourism Advisory Council --Membership.

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the agritourism program. The Agritourism Advisory Council shall be composed of:

- (1) One (1) representative from each of the following entities:
 - (a) Department of Agriculture, appointed by the Commissioner of Agriculture;
 - (b) Tourism, Arts and Heritage Cabinet, appointed by the secretary of the cabinet;
 - (c) University of Kentucky College of Agriculture, Food and Environment, appointed by the dean;
 - (d) Kentucky Farm Bureau; and
 - (e) Kentucky Chamber of Commerce;
- (2) The Governor, or a designee;
- (3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and



- (3) Seven (7) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture.

§ 247.806. Duties of Agritourism Advisory Council.

The duties of the Agritourism Advisory Council shall include but not be limited to the following:

- (1) Review and make recommendations on the development of agritourism marketing, based upon the report from the agritourism program in accordance with KRS 247.802; and
- (2) Make recommendations to the agritourism program as necessary, in keeping with the program's purposes stated in KRS 247.800.

§ 247.808. Members of Agritourism Advisory Council appointed by Commissioner - Terms --Chair --Meetings --Vacancies --Compensation.

- (1) Members of the Agritourism Advisory Council appointed by the Commissioner of Agriculture shall be appointed for four (4) year terms. Sitting members shall be eligible for reappointment.
- (2) The Agritourism Advisory Council shall elect a chair and vice chair from its membership.
- (3) The Agritourism Advisory Council shall meet annually or at the request of the chair. A quorum of the council shall consist of eight (8) members, and a majority of members present at any duly called meeting may act upon any matter before it for consideration.
- (4) In the event of a vacancy, the appropriate appointing entity may appoint a replacement member who shall hold office during the remainder of the term so vacated.
- (5) Members of the Agritourism Advisory Council shall serve without compensation.

§ 247.809. Liability of agritourism professionals --Protection --Defenses --Damages.

- (1) Except as provided in subsection (2) of this section:



(a) An agritourism professional is not liable for injury to or death of a participant resulting exclusively from the inherent risks of agritourism activities, so long as:

1. The warning contained in KRS 247.8091 is posted as required; or
2. The agritourism professional has a signed release from the participant indicating that the participant has received written notice of the warning contained in KRS 247.8091; and

(b) 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 against an agritourism professional for agritourism activities, the agritourism professional shall plead the affirmative defense of assumption of the risk of agritourism activities by the participant.

(2) Nothing in subsection (1) of this section prevents or limits the liability of an agritourism professional if the agritourism professional:

(a) 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, loss, damage, or death to the participant; or

(b) Has actual knowledge or reasonably should have known of:

1. A dangerous condition on the land, facilities, or equipment used in the activity; or
2. The dangerous propensity of a particular animal used in the activity; and does not make the danger known to the participant, and the danger proximately causes injury, loss, damage, or death to the participant.

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



§ 247.8091. Warning notices to be posted where agritourism activities are conducted.

(1) Every agritourism professional shall post and maintain signs that contain the warning notice specified in subsection (2) of this section. The signs 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 (1) inch in height. Every written contract entered into by an agritourism professional for the provision 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 subsection (2) of this section.

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

"WARNING

Under Kentucky law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if the injury or death results exclusively from the inherent risks of the agritourism activity and in the absence of negligence. 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 section shall prevent an agritourism professional from invoking the privileges of immunity provided by KRS 247.809.

§ 247.810. Administrative regulations relating to KRS 247.800 to 247.810.

The Department of Agriculture shall promulgate administrative regulations in accordance with KRS Chapter 13A, as necessary to implement the provisions of KRS 247.800 to 247.810.

