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States' Agritourism Statutes:

Louisiana



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7 La. Admin. Code Pt XLV, 101, 103, 105 and La. Stat. Ann. § 9:2795.5

Current through rules published in Louisiana Register Vol. 48, No. 3, March 20, 2022

§ 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.

Annual Listing of Agritourism Activities

in Accordance with LAC 7:XLV.101-105

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
Bird Watching	Historical Tours of or Visits to Former Agricultural Operations
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 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.

§ 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.

