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States' Agritourism Statutes:

Montana



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Mont. Code Ann. § 27-1-751 to 27-1-754

Current through the 2021 Session of the Montana Legislature.

27-1-751. Short title

Sections 27-1-751 through 27-1-754 may be cited as the “Montana Recreation Responsibility Act”.

27-1-752. Definitions

As used in 27-1-751 through 27-1-754, the following definitions apply:

- (1) “Agritourism” means a form of commercial enterprise that links agricultural production or agricultural processing with tourism in order to attract visitors to a farm, ranch, or other agricultural business for purposes of entertaining or educating the visitors.
- (2) “Inherent risks” means those dangers or conditions that are characteristic of, intrinsic to, or an integral part of any sport or recreational activity and that cannot be prevented by the use of reasonable care.
- (3) “Provider” means a person, corporation, partnership, or other business entity, including a governmental entity as defined in 2-9-111, that promotes, offers, or conducts a sport or recreational opportunity for profit or otherwise.
- (4) “Sport or recreational opportunity” means any sporting activity, whether undertaken with or without permission, including but not limited to baseball, softball, football, soccer, basketball, bicycling, hiking, swimming, boating, hockey, dude ranching, nordic or alpine skiing, snow boarding, snow sliding, mountain climbing, river floating, whitewater rafting, canoeing, kayaking, target shooting, hunting, fishing, backcountry trips, horseback riding and other equine activity, snowmobiling, off-highway vehicle use, agritourism, an on-farm educational opportunity, and any similar recreational activity.

27-1-753. Limitation on liability in sport or recreational opportunity

- (1) A person who participates in any sport or recreational opportunity assumes the inherent risks in that sport or recreational opportunity, whether those risks are known or unknown, and is legally responsible for all injury or death to the



person and for all damage to the person's property that result from the inherent risks in that sport or recreational opportunity.

(2) A provider is not required to eliminate, alter, or control the inherent risks within the particular sport or recreational opportunity that is provided.

(3)(a) Sections 27-1-751 through 27-1-754 do not preclude an action based on the negligence of the provider if the injury, death, or damage is not the result of an inherent risk of the sport or recreational opportunity.

(b) This section does not prohibit a written waiver or release entered into prior to engaging in a sport or recreational opportunity for damages or injuries resulting from conduct that constitutes ordinary negligence or for risks that are inherent in the sport or recreational opportunity.

(c) Any waiver or release for a sport or recreational opportunity must:

(i) state known inherent risks of the sport or recreational opportunity; and

(ii) contain the following statement in bold typeface: By signing this document you may be waiving your legal right to a jury trial to hold the provider legally responsible for any injuries or damages resulting from risks inherent in the sport or recreational opportunity or for any injuries or damages you may suffer due to the provider's ordinary negligence that are the result of the provider's failure to exercise reasonable care.

(d) Any waiver or release for a sport or recreational opportunity may still be challenged on any legal grounds.

(e) Any waiver or release for a sport or recreational opportunity executed in compliance with this section is not prohibited by or subject to the provisions of 28-2-702.

(4) Sections 27-1-751 through 27-1-754 do not apply to a cause of action based on the design, manufacture, provision, or maintenance of sports or recreational equipment or products or safety equipment used incidental to or required by the sport or recreational activity.

27-1-754. Recreational activity--applicability exceptions

Sections 27-1-751 through 27-1-753 do not apply to duties, responsibilities, liability, or immunity related to:

(1) recreational use of waters or land, as provided in 23-2-321;



- (2) snowmobiling, as provided in 23-2-653 and 23-2-654;
- (3) skiing, as provided in Title 23, chapter 2, part 7;
- (4) off-highway vehicle operation, as provided in 23-2-822;
- (5) instruction in firearms and hunter safety or hunter education, as provided in 27-1-721;
- (6) equine activity, as provided in 27-1-727;
- (7) sponsored rodeo and similar events, as provided in 27-1-733;
- (8) amusement rides, as provided in 27-1-743 and 27-1-744;
- (9) recreational use of land, as provided in 23-2-907, 70-16-302, 77-1-805, 87-1-265, and 87-1-286;
- (10) wildcrafting, as provided in 76-10-106; and
- (11) placement of a sign or marker warning of a hazard in water legally accessible to the public, as provided in 87-1-287.

