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States' Agritourism Statutes:

Wisconsin



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Wis. Stat. Ann. § 895.524 to 895.525

Current through 2021 Act 257 and Acts 259-264, 266, and 267, published April 16, 2022.

895.524. Participation in an agricultural tourism activity; limitations on civil liability, assumption of risk

(1) Definitions. In this section:

(a) “Agricultural tourism activity” means an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows members of the general public, whether or not for a fee, to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.

(b) “Agricultural tourism provider” means a person who operates, provides, or demonstrates an agricultural tourism activity.

(c) “Participant” means an individual, other than an agricultural tourism provider, who observes or participates in an agricultural tourism activity.

(d) “Property” means the real property where an agricultural tourism activity takes place and the buildings, structures, and improvements on that real property.

(e) “Risk inherent in an agricultural tourism activity” means a danger or condition that is an integral part of an agricultural tourism activity, including all of the following:

1. The surface and subsurface conditions of land and the natural condition of vegetation and water on the property.
2. The unpredictable behavior of wild, domestic, or farm animals on the property.
3. The ordinary dangers of structures or equipment ordinarily used where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised.
4. The possibility that a participant in an agricultural tourism activity may act in a negligent manner, including by failing to follow instructions given by the agricultural tourism operator or by failing to exercise reasonable caution while



engaging in the agricultural tourism activity, that may contribute to the injury to that participant or to another participant.

(2) Immunity from liability. (a) Subject to par. (b), an agricultural tourism provider is immune from civil liability for injury to or the death of an individual who is participating in an agricultural tourism activity on property owned, leased, or managed by the agricultural tourism provider if all of the following apply:

1. The participant is injured or killed as a result of a risk inherent in an agricultural tourism activity.

2. The agricultural tourism provider posts and maintains, in a clearly visible location at each entrance to the property where the agricultural tourism activity takes place or at the location of each agricultural tourism activity, a sign that contains the following notice in black lettering, each letter a minimum of one inch in height, on a white background: “Notice: A person who observes or participates in an agricultural tourism activity on this property assumes the risks inherent in the agricultural tourism activity. Risks inherent in the agricultural tourism activity may include conditions on the land, the unpredictable behavior of farm animals, the ordinary dangers associated with equipment used in farming operations, and the potential that a participant in the agricultural tourism activity may act in a negligent way that may contribute to injury or death. The agricultural tourism provider is not liable for the injury or death of a person involved in an agricultural tourism activity resulting from those inherent risks.”

(b) 1. Subject to subd. 2., an agricultural tourism provider is not immune from civil liability for injury to or the death of a participant if any of the following applies:

a. The agricultural tourism provider acts with a willful or wanton disregard for the safety of the participant. In this subd. 1.a., “willful or wanton disregard” means conduct committed with an intentional or reckless disregard for the safety of others, such as by failing to exercise ordinary care to prevent a known danger or to discover a danger.

b. The agricultural tourism provider intentionally causes the participant's injury or death.

2. Any person who asserts that the acts or omissions of an agricultural tourism provider satisfy the elements under subd. 1.a. or b. has the burden of proving that assertion by clear and convincing evidence.

(3) Appreciation of conditions and risk of participation in an agricultural tourism activity. A participant in an agricultural tourism activity engaged in on property owned or leased by an agricultural tourism provider who offers facilities to the general public for participation in agricultural tourism activities accepts the risks inherent in the agricultural tourism activity of which the ordinary prudent person is or should be aware.



(4) Effect on related provision. Nothing in this section affects the limitation of a property owner's liability under s. 895.52.

895.525. Participation in recreational activities; restrictions on civil liability, assumption of risk

(1) Legislative purpose. The legislature intends by this section to establish the responsibilities of participants in recreational activities in order to decrease uncertainty regarding the legal responsibility for deaths or injuries that result from participation in recreational activities and thereby to help assure the continued availability in this state of enterprises that offer recreational activities to the public.

(2) Definitions. In this section:

(a) “Agricultural tourism activity” means an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.

(b) “Recreational activity” means any activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. “Recreational activity” does not include participating in an alpine sport at a ski area, as those terms are defined in s. 167.33, but includes hunting, fishing, trapping, camping, bowling, billiards, picnicking, exploring caves, nature study, dancing, bicycling that is not biking, as defined in s. 167.33(1)(ar), horseback riding, horseshoe-pitching, bird-watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, recreational aviation, as defined in s. 895.52(1)(hm), ballooning, curling, throwing darts, hang gliding, hiking, sleigh riding, snowmobiling, skating, participation in water sports, weight and fitness training, sightseeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, participating in an agricultural tourism activity, sport shooting, and participating in an alpine sport outside a ski area, as those terms are defined in s. 167.33, and any other sport, game or educational activity.

(3) Appreciation of risk. A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities accepts the risks inherent in the recreational activity of which the ordinary prudent person is or should be aware. In a negligence action for recovery of damages for death, personal injury or property damage, conduct by a participant who accepts the risks under this subsection is contributory negligence, to which the comparative negligence provisions of s. 895.045 shall apply.



(4) Responsibilities of participants. (a) A participant in a recreational activity engaged in on premises owned or leased by a person who offers facilities to the general public for participation in recreational activities is responsible to do all of the following:

1. Act within the limits of his or her ability.
2. Heed all warnings regarding participation in the recreational activity.
3. Maintain control of his or her person and the equipment, devices or animals the person is using while participating in the recreational activity.
4. Refrain from acting in any manner that may cause or contribute to the death or injury to himself or herself or to other persons while participating in the recreational activity.

(b) A violation of this subsection constitutes negligence. The comparative negligence provisions of s. 895.045 apply to negligence under this subsection.

(4m) Liability of contact sports participants. (a) A participant in a recreational activity that includes physical contact between persons in a sport involving amateur teams, including teams in recreational, municipal, high school and college leagues, may be liable for an injury inflicted on another participant during and as part of that sport in a tort action only if the participant who caused the injury acted recklessly or with intent to cause injury.

(b) Unless the professional league establishes a clear policy with a different standard, a participant in an athletic activity that includes physical contact between persons in a sport involving professional teams in a professional league may be liable for an injury inflicted on another participant during and as part of that sport in a tort action only if the participant who caused the injury acted recklessly or with intent to cause injury.

(5) Effect on related provisions. Nothing in this section affects the limitation of property owners' liability under s. 895.52 or the limitation of school districts' liability, of school boards' liability, and of liability of governing bodies of charter schools under s. 895.523.

