



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

## **States' Agritourism Statutes**

**Arkansas**

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## States' Agritourism Statutes

### STATE OF ARKANSAS

#### Ark. Code Ann. §§ 2-11-101 through 2-11-107

*Current through the end of the 2016 Second Extraordinary, 2016 Fiscal, and 2016 Third Extraordinary Sessions of the 90<sup>th</sup> Arkansas General Assembly*

#### **§ 2-11-101. Title**

This chapter shall be known and may be cited as the "Agritourism Act".

#### **§ 2-11-102. Legislative Intent – Construction – Purpose**

(a) It is the intent of this chapter to:

- (1) Promote rural tourism and rural economic development by encouraging owners or operators of farms, ranches, and other rural land or attractions, including historic, cultural, and natural attractions, to invite members of the public to view, observe, and participate in the operations and attractions for educational, entertainment, or recreational purposes; and
- (2) Encourage agritourism activities by limiting civil liability of those engaged in agritourism or providing the activities of agritourism.

(b) This chapter shall be liberally construed to carry out the purposes described in subsection (a) of this section.

#### **§ 2-11-103. Definitions**

As used in this chapter:

- (1) "Agribusiness operation" means an agricultural, horticultural, viticultural, forestry, dairy, livestock, poultry, bee, or any other farm, ranch, plantation, or range business operation;
- (2)(A) "Agritourism activity" means an interactive or passive activity carried out with or without payment to an agritourism activity operator on a farm, ranch, or agribusiness operation related to agriculture, food production, historic traditions, or nature-watching conducted by an agritourism activity operator for the education, entertainment, or recreation of participants.

(B) "Agritourism activity" includes without limitation:

- (i) A farming or ranching activity;
- (ii) The viewing of historic, cultural, or natural attractions;
- (iii) A harvest-your-own activity;
- (iv) Nature-watching; and
- (v) An activity involving an animal exhibition at an agricultural fair.

(C) "Agritourism activity" does not include:

- (i) A roadside fruit and vegetable stand; or
  - (ii) An operation exclusively devoted to the sale of merchandise or food at retail;
- (3) "Agritourism activity operator" means an individual or entity that provides the facilities and equipment necessary to participate in an agritourism activity;
- (4) "Inherent risk" means dangers or conditions that are an integral part of an agritourism activity, including without limitation:
  - (A) The propensity of a wild or domestic animal to behave in ways that may result in injury, harm, or death to persons on or around the wild or domestic animal;
  - (B) Hazards such as surface and subsurface conditions;
  - (C) Natural conditions of land, vegetation, and waters;
  - (D) Ordinary dangers of structures or equipment used in farming or ranching operations; and
  - (E) The potential of a participant to act in a negligent way that may contribute to injury to the participant or others, whether failing to follow safety procedures or failing to act with reasonable caution while engaging in the agritourism activity; and
- (5) "Participant" is defined as a person, other than the agritourism activity operator, who engages in an agritourism activity.

#### **§ 2-11-104. Assumption of Risk by Participant**

Except as provided in § 2-11-105, a participant assumes the inherent risk of an agritourism activity by engaging in the agritourism activity.

#### **§ 2-11-105. Liability of Agritourism Activity Operator**

This chapter shall not prevent or limit the liability of an agritourism activity operator if the agritourism activity operator or an agent of the agritourism activity operator:

- (1) Commits an act or omission of gross negligence concerning the safety of a participant that proximately causes injury, damage, or death to the participant;
- (2) Has actual knowledge of a dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in the activity that proximately causes injury, damage, or death to the participant and does not make the danger known to the participant that proximately causes injury, damage, or death to the participant;
- (3) Intentionally injures a participant; or
- (4) Commits other acts, errors, or omissions that constitute willful or wanton misconduct, gross negligence, or criminal conduct that proximately causes injury, damage, or death.

#### **§ 2-11-106. Limitation of Liability**

(a) An agritourism activity operator or participant is not liable for damages arising from the personal injury or death of a participant if:

- (1) The injury or death results from an inherent risk; and
- (2) The warning contained in § 2-11-107 is posted.

(b) The limitation of liability provided by this section is in addition to any other limitation of liability provided by law.

#### **§ 2-11-107. Warning Required**

(a) At each agritourism activity, the agritourism activity operator shall post and maintain signage in a clearly visible location at or near the main entrance to the agritourism activity and in black letters at least one inch (1") in height containing the following warning:

"WARNING -- Under Arkansas law, an agritourism activity operator is not liable for the injury or death of a participant in an agritourism activity resulting from the inherent risk of agritourism activities. Inherent risks include without limitation the risk of animals, weather, land conditions, and the potential for you as a participant to act in a negligent way that may contribute to your own injury or death. You are assuming the risk of participating in this agritourism activity."

(b) The agritourism activity operator shall include, in clearly visible print, the warning contained in subsection (a) of this section in a written contract between the agritourism activity operator and each participant.

(c) At each agritourism activity, the agritourism operator shall post and maintain signage of a specific or known hazard in the particular area on or surrounding the agritourism activity.