

AMENDMENTS TO LB329

(Amendments to Standing Committee amendments, AM1042)

Introduced by Schilz, 47.

1 1. Strike amendments 1 to 5 and all amendments thereto and insert
2 the following new amendment:

3 1. Strike the original sections and insert the following new
4 sections:

5 Section 1. Sections 1 to 7 of this act shall be known and may be
6 cited as the Nebraska Agritourism Promotion Act.

7 Sec. 2. The purposes of the Nebraska Agritourism Promotion Act are
8 to:

9 (1) Promote tourism and rural economic development by encouraging
10 owners of farms, ranches, and other rural land, including agricultural,
11 historical, ecological, cultural, and natural attractions, to allow
12 access to members of the public for educational, entertainment, and
13 recreational purposes;

14 (2) Promote a better understanding by visitors of agricultural
15 operations and features, including the production of livestock and
16 agricultural products, the land and other natural attributes, and
17 wildlife; and

18 (3) Encourage agritourism activities by limiting civil liability of
19 owners of farms, ranches, and other rural land.

20 Sec. 3. For purposes of the Nebraska Agritourism Promotion Act:

21 (1) Agritourism activities include any one or any combination of the
22 following: Hunting, fishing, swimming, boating, canoeing, kayaking,
23 tubing, water sports, camping, picnicking, hiking, backpacking,
24 bicycling, horseback riding, nature study, birding, farm, ranch, and
25 vineyard tours and activities, harvest-your-own activities, waterskiing,
26 snow-shoeing, cross-country skiing, visiting and viewing historical,

1 ecological, archaeological, scenic, or scientific sites, and similar
2 activities;

3 (2) Fee means the amount of money asked in return for an invitation
4 or permission to enter the premises;

5 (3) Inherent risks means those conditions, dangers, or hazards that
6 are an integral part of land or waters used for agritourism activities,
7 including the following:

8 (a) Surface and subsurface conditions and natural conditions of
9 land, vegetation, and waters;

10 (b) The behavior of wild or domestic animals;

11 (c) The ordinary dangers of structures or equipment ordinarily used
12 in farming or ranching operations when such structures or equipment are
13 used for farming or ranching purposes; and

14 (d) The potential of a participant to act in a negligent way that
15 may contribute to injury to the participant or others whether by failing
16 to follow safety procedures or failing to act with reasonable caution
17 while engaging in an agritourism activity.

18 Inherent risks does not include any act or omission occurring while
19 the actor was under the influence of alcohol or illegal drugs or any
20 action, activity, process, or condition that would otherwise be a
21 violation of any other statute or rule or regulation of the State of
22 Nebraska, a state regulatory body, or a political subdivision;

23 (4) Owner includes any person who is a tenant, lessee, occupant, or
24 person in control of the premises or any agent of such a person whose
25 gross annual income from agritourism activities does not exceed five
26 hundred thousand dollars;

27 (5) Participant means an individual who engages in agritourism
28 activities on premises owned by another but does not include an owner of
29 the premises or any agent, employee, or contractor of the owner;

30 (6) Person means an individual, corporation, limited liability
31 company, partnership, unincorporated association, or other legal or

1 commercial entity and does not include a governmental entity or political
2 subdivision; and

3 (7) Premises includes land, roads, pathways, trails, water,
4 watercourses, private ways, and buildings and structures attached to the
5 land outside of cities and villages and does not include land zoned
6 commercial, industrial, or residential.

7 Sec. 4. (1) Except as provided in section 5 of this act, an owner
8 who allows a participant on the owner's premises for agritourism
9 activities shall not be liable for injury to or death of the participant
10 or damage to the participant's property resulting solely from an inherent
11 risk on the owner's premises.

12 (2) Except as provided in section 5 of this act, no participant or
13 participant's representative shall maintain an action against or recover
14 for injury to or death of the participant or damage to the participant's
15 property resulting solely from an inherent risk on the owner's premises
16 when such owner allows the participant on the owner's premises for
17 agritourism activities.

18 Sec. 5. Nothing in the Nebraska Agritourism Promotion Act limits
19 any liability of an owner:

20 (1) Who has actual knowledge of a particular dangerous condition on
21 the owner's premises and does not make the particular danger known to the
22 participant if the particular danger is a proximate cause of injury to or
23 death of the participant or damage to the participant's property;

24 (2) Who reasonably should have known of a particular dangerous
25 condition of equipment used or kept on the owner's premises and does not
26 make the particular danger known to the participant if the particular
27 danger is a proximate cause of injury to or death of the participant or
28 damage to the participant's property;

29 (3) Who fails to properly train or supervise or improperly or
30 inadequately trains or supervises employees who are actively involved in
31 agritourism activities and an act or omission of the employee resulting

1 from improper or inadequate training or supervision is a proximate cause
2 of injury to or death of the participant or damage to the participant's
3 property; or

4 (4) Who commits an act or omission that is a proximate cause of
5 injury to or the death of the participant or damage to the participant's
6 property if the act or omission:

7 (a) Constitutes willful or wanton disregard for the safety of the
8 participant;

9 (b) Constitutes gross negligence; or

10 (c) Was intentional.

11 Sec. 6. (1) Nothing in section 4 of this act limits any liability
12 of an owner who receives a fee for allowing a participant on the premises
13 if the owner fails to do at least one of the following:

14 (a) Post and maintain signage containing the warning as described in
15 subsection (2) of this section in a clearly visible and conspicuous
16 location at or near the entrance to the property used for agritourism
17 activities; or

18 (b) Include the warning as described in subsection (2) of this
19 section in any written contract between the owner of the property and
20 each participant allowed on the premises for a fee. Such warning shall be
21 in a conspicuous location within the contract and be written in not less
22 than twelve-point boldface type.

23 (2) The warning notice shall read as follows: WARNING - Under
24 Nebraska law, an owner of property, including lands and waters, is not
25 liable for the injury to or death of the participant in agritourism
26 activities or damage to the participant's property resulting solely from
27 the inherent risks of such activities. Inherent risks include, without
28 limitation, the risk of animals and land and water conditions, the
29 ordinary dangers of structures or equipment ordinarily used in farming or
30 ranching operations, and the potential for you or another participant to
31 act in a negligent manner that may contribute to your own injury or

1 death. You are assuming the risk of participating in the agritourism
2 activities for which you are entering the owner's premises.

3 Sec. 7. Nothing in the Nebraska Agritourism Promotion Act limits
4 the obligation of a participant entering upon or using premises of
5 another for agritourism activities to exercise due care in his or her use
6 of such premises and in his or her agritourism activities on the
7 premises.