

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 329**

FINAL READING

Introduced by Schilz, 47; Coash, 27; Harr, 8; Groene, 42; Davis, 43;  
McCollister, 20.

Read first time January 15, 2015

Committee: Natural Resources

- 1 A BILL FOR AN ACT relating to tourism; to adopt the Nebraska Agritourism
- 2 Promotion Act.
- 3 Be it enacted by the people of the State of Nebraska,

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

3           Sec. 2. The purposes of the Nebraska Agritourism Promotion Act are  
4 to:

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

10          (2) Promote a better understanding by visitors of agricultural  
11 operations and features, including the production of livestock and  
12 agricultural products, the land and other natural attributes, and  
13 wildlife; and

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

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

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

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

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

30          (a) Surface and subsurface conditions and natural conditions of  
31 land, vegetation, and waters;

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

2       (c) The ordinary dangers of structures or equipment ordinarily used  
3 in farming or ranching operations when such structures or equipment are  
4 used for farming or ranching purposes; and

5       (d) The potential of a participant to act in a negligent way that  
6 may contribute to injury to the participant or others whether by failing  
7 to follow safety procedures or failing to act with reasonable caution  
8 while engaging in an agritourism activity;

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

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

16       (6) Person means an individual, corporation, limited liability  
17 company, partnership, unincorporated association, or other legal or  
18 commercial entity and does not include a governmental entity or political  
19 subdivision; and

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

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

29       (2) Except as provided in section 5 of this act, no participant or  
30 participant's representative shall maintain an action against or recover  
31 for injury to or death of the participant or damage to the participant's

1 property resulting from an inherent risk on the owner's premises when  
2 such owner allows the participant on the owner's premises for agritourism  
3 activities.

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

6       (1) Who fails to exercise reasonable care to protect against the  
7 particular dangers of structures or equipment used or kept on the owner's  
8 premises;

9       (2) Who has actual knowledge of a particular dangerous condition on  
10 the owner's premises and does not make the particular danger known to the  
11 participant if the particular danger is a proximate cause of injury to or  
12 death of the participant or damage to the participant's property;

13       (3) Who reasonably should have known of a particular dangerous  
14 condition of equipment used or kept on the owner's premises and does not  
15 make the particular danger known to the participant if the particular  
16 danger is a proximate cause of injury to or death of the participant or  
17 damage to the participant's property;

18       (4) Who fails to properly train or supervise or improperly or  
19 inadequately trains or supervises employees who are actively involved in  
20 agritourism activities and an act or omission of the employee resulting  
21 from improper or inadequate training or supervision is a proximate cause  
22 of injury to or death of the participant or damage to the participant's  
23 property; or

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

27       (a) Constitutes willful or wanton disregard for the safety of the  
28 participant;

29       (b) Constitutes gross negligence;

30       (c) Was intentional;

31       (d) Did not constitute an inherent risk;

1       (e) Occurred while the owner or the owner's employees were under the  
2 influence of alcohol or illegal drugs; or

3       (f) Would otherwise be a violation of any other statute or rule or  
4 regulation of the State of Nebraska, a state regulatory body, or a  
5 political subdivision.

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

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

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

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

29       Sec. 7. Nothing in the Nebraska Agritourism Promotion Act limits  
30 the obligation of a participant entering upon or using premises of  
31 another for agritourism activities to exercise due care in his or her use

1 of such premises and in his or her agritourism activities on the  
2 premises.