

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 329

Introduced by Schilz, 47.

Read first time January 15, 2015

Committee: Judiciary

- 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 8 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 or attractions, including
7 agricultural, historical, 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, wildlife,
13 and other attractions; and

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

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, pleasure driving, nature study, birding,
21 farm, ranch, and vineyard tours and activities, harvest-your-own
22 activities, waterskiing, snow-shoeing, cross-country skiing, visiting and
23 viewing historical, archaeological, scenic, or scientific sites, and
24 similar 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 used in farming
3 or ranching operations when the structures or equipment are used for a
4 purpose for which a reasonable person should know that the structures or
5 equipment are intended; and

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

10 (4) Owner includes any person who is a tenant, lessee, occupant, or
11 person in control of the premises or any agent of such a person;

12 (5) Participant means an individual who engages in agritourism
13 activities on premises owned by another but does not include an owner of
14 the premises;

15 (6) Person means an individual, governmental entity, political
16 subdivision, corporation, limited liability company, partnership,
17 unincorporated association, or other legal or commercial entity; and

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

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

27 (2) Except as provided in section 5 of this act, a participant or
28 participant's representative may not make a claim against, maintain an
29 action against, or recover for injury to or death of the participant or
30 damage to the participant's property resulting from an inherent risk on
31 the owner's premises from an owner who allows the participant on the

1 owner's premises for agritourism activities.

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

4 (1) Who has actual knowledge of a particular dangerous condition on
5 the premises and does not make the particular danger known to the
6 participant if the particular danger proximately causes injury to or
7 death of the participant or damage to the participant's property;

8 (2) Who reasonably should have known of a particular dangerous
9 condition of equipment used in an agritourism activity and does not make
10 the particular danger known to the participant if the particular danger
11 proximately causes injury to or death of the participant or damage to the
12 participant's property;

13 (3) Who fails to properly train or improperly or inadequately trains
14 employees who are actively involved in agritourism activities and an act
15 or omission of the employee resulting from improper or inadequate
16 training proximately causes injury to or death of the participant or
17 damage to the participant's property; or

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

21 (a) Constitutes willful or wanton disregard for the safety of the
22 participant;

23 (b) Constitutes gross negligence; or

24 (c) Was intentional.

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

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

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

6 (2) The warning notice shall read as follows: WARNING - Under
7 Nebraska law, an owner of property, including lands and waters, is not
8 liable for the injury to or death of the participant in agritourism
9 activities or damage to the participant's property resulting from the
10 inherent risks of such activities. Inherent risks include, without
11 limitation, the risk of animals and land and water conditions and the
12 potential for you or another participant to act in a negligent manner
13 that may contribute to your own injury or death. You are assuming the
14 risk of participating in the agritourism activities for which you are
15 entering the owner's premises.

16 Sec. 7. Nothing in the Nebraska Agritourism Promotion Act creates a
17 duty of care or ground of liability for injury to person or property.

18 Sec. 8. Nothing in the Nebraska Agritourism Promotion Act limits
19 the obligation of a participant entering upon or using premises of
20 another for agritourism activities to exercise due care in his or her use
21 of such premises and in his or her agritourism activities on the
22 premises.