

SENATE BILL No. 294

By Senators Schmidt and Schodorf

1-9

AN ACT concerning land; relating to agritourism.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act may be cited as the agritourism promotion act.

Sec. 2. The purpose of this act is to promote rural tourism and rural economic development by encouraging owners or operators of farms, ranches, and rural attractions, including historic, cultural, and natural attractions, to invite members of the public to view, observe and participate in such operations and attractions for recreational or entertainment purposes. This act shall be liberally construed to effectuate that purpose.

Sec. 3. As used in this act:

(a) "Qualified agritourism operator" means a person designated by the secretary of commerce pursuant to section 4, and amendments thereto.

(b) "Specified agritourism activity" means an agritourism activity designated by the secretary of commerce pursuant to section 4, and amendments thereto. "Agritourism activity" includes, but is not limited to, any activity conducted to allow members of the public to view or enjoy farming activities, ranching activities, nature or rural culture. An activity may be an agritourism activity whether or not the participant pays to participate in the activity. An activity is not an agritourism activity if the participant is paid to participate in the activity.

(c) "Designated agritourism location" means a specific parcel of land designated by the secretary of commerce pursuant to section 4, and amendments thereto, at which the warning signs required by section 5, and amendments thereto, are posted and where, a qualified agritourism operator engages in specified agritourism activities.

(d) "Participant" means any person who engages in an agritourism activity.

(e) "Inherent risks of a specified agritourism activity" means those dangers or conditions which are an integral part of such agritourism activity including, but not limited to, certain hazards such as surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming or ranching operations.

1 “Inherent risks of a specified agritourism activity” also includes the po-
2 tential of a participant to act in a negligent manner that may contribute
3 to injury to the participant or others, such as failing to follow instructions
4 given by the qualified agritourism operator or failing to exercise reason-
5 able caution while engaging in the agritourism activity.

6 Sec. 4. Any person may apply to the secretary of commerce for des-
7 ignation pursuant to this act.

8 (a) Such application shall contain all of the following:

9 (1) Information describing the activity which the applicant intends to
10 conduct as a specified agritourism activity. If the secretary finds that the
11 applicant has satisfied the requirement of this subparagraph, he may des-
12 ignate the activity as a specified agritourism activity.

13 (2) Information describing the specific location at which the applicant
14 intends to conduct the specified agritourism activity. If the secretary finds
15 that the applicant has satisfied the requirement of this subparagraph, he
16 may designate the location a designated agritourism location.

17 (b) In addition to the factors considered above, the secretary in review-
18 ing an application shall consider whether granting the application will tend
19 to further the purpose of this act by promoting economic development in
20 the area or region in which the designated agritourism location is situated.

21 (c) The secretary shall maintain a list of all designated agritourism
22 locations and of the specified agritourism activities conducted thereon
23 and qualified agritourism operators engaged therein. Such list shall be
24 made available to the public. The secretary shall promote and publicize
25 the designated agritourism locations to advance the purpose of this act
26 by promoting and encouraging tourism.

27 (d) Each designation granted by the secretary pursuant to this section
28 shall be for a finite period of time as determined by the secretary but
29 shall not be for less than five years unless a shorter period of time is
30 requested by the applicant.

31 (e) No fee shall be charged to applicants under this section.

32 Sec. 5. (a) At every designated agritourism location, the qualified
33 agritourism operator shall post and maintain signage which contains the
34 warning notice specified in subsection (c). This section shall be deemed
35 satisfied if such signage is placed in a clearly visible location at or near
36 the designated agritourism location. The warning notice specified in sub-
37 section (c) shall appear on the sign in black letters, with each letter to be
38 a minimum of one inch in height.

39 (b) Every written contract entered into by a qualified agritourism
40 operator for the providing of a specified agritourism activity shall contain
41 in clearly readable print the warning notice and language specified in
42 subsection (c).

43 (c) The signs described in subsection (a) and the contracts described

1 in subsection (b) shall contain the following warning notice:

2 **WARNING**

3 Under Kansas law, there is no liability for an injury or death of a
4 participant in a specified agritourism activity conducted at this des-
5 ignated agritourism location if such injury or death results from the
6 inherent risks of such agritourism activity. Inherent risks of agri-
7 tourism activities include, but shall not be limited to, the potential
8 of you as a participant to act in a negligent manner that may con-
9 tribute to your injury or death and the potential of another partic-
10 ipant to act in a negligent manner that may contribute to your injury
11 or death. You are assuming the risk of participating in this specified
12 agritourism activity.

13 (d) Upon request, the qualified agritourism operator shall provide to
14 any participant a written description of the specified agritourism activity,
15 as set forth pursuant to section 4(a)(2), and amendments thereto, for
16 which this act limits the qualified agritourism operator's liability at each
17 designated agritourism location.

18 Sec. 6. Except as provided in section 7, and amendments thereto,
19 any participant is assuming the inherent risks of a specified agritourism
20 activity when such participant engages in a specified agritourism activity
21 conducted by a qualified agritourism operator at a designated agritourism
22 location. The qualified agritourism operator, pursuant to K.S.A. 60-208,
23 and amendments thereto, shall plead an affirmative defense of assump-
24 tion of risk by the participant.

25 Sec. 7. Nothing in this act shall prevent or limit the liability of a
26 qualified agritourism operator if:

27 (a) The qualified agritourism operator injures the participant by will-
28 ful conduct;

29 (b) the qualified agritourism operator has actual knowledge of a dan-
30 gerous condition in the land, facilities or equipment used in the specified
31 agritourism activity and does not make such dangerous condition known
32 to the participant and such dangerous condition causes the participant to
33 sustain injuries.

34 Sec. 8. Any limitation on legal liability afforded to a qualified agri-
35 tourism operator by this act shall be in addition to any other limitation of
36 legal liability otherwise provided by law. Nothing in this act, nor failure
37 by any person to comply with the provisions of this act, shall be construed
38 to limit, restrict or impede the application of K.S.A. 58-3202, *et seq.*, and
39 amendments thereto, to any person.

40 Sec. 9. The secretary of commerce may issue rules and regulations
41 to carry out the provisions of this act.

42 Sec. 10. This act shall take effect and be in force from and after its
43 publication in the statute book.