

CHAPTER 2013-179

Committee Substitute for Committee Substitute for Senate Bill No. 1106

An act relating to agritourism; amending s. 570.96, F.S.; providing legislative intent; restricting a local government's ability to regulate agritourism activity on agricultural land; amending s. 570.961, F.S.; revising the definition of the term "agritourism activity," changing the term "agritourism professional" to "agritourism operator," and adding a definition of the term "inherent risks of agritourism activity"; creating s. 570.963, F.S.; limiting the liability of an agritourism operator, his or her employer or employee, or the owner of the underlying land on which the agritourism activity occurs if certain conditions are met; creating s. 570.964, F.S.; requiring that signs and contracts notify participants of certain inherent risks and the assumption of that risk; preventing an agritourism operator, his or her employer, and any employee, and the owner of the underlying land from invoking the privileges of immunity if certain conditions are not met; providing criteria for the notice; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 570.96, Florida Statutes, is amended to read:

570.96 Agritourism.—

(1) It is the intent of the Legislature to eliminate duplication of regulatory authority over agritourism as expressed in this section. Except as otherwise provided for in this section, and notwithstanding any other provision of law, a local government may not adopt an ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under s. 193.461. This subsection does not limit the powers and duties of a local government to address an emergency as provided in chapter 252.

(2) The Department of Agriculture and Consumer Services may provide marketing advice, technical expertise, promotional support, and product development related to agritourism to assist the following in their agritourism initiatives: Enterprise Florida, Inc.; convention and visitor bureaus; tourist development councils; economic development organizations; and local governments. In carrying out this responsibility, the department shall focus its agritourism efforts on rural and urban communities.

Section 2. Section 570.961, Florida Statutes, is amended to read:

570.961 Definitions.—As used in ss. ~~570.96-570.964~~ ~~570.96-570.962~~, the term:

(1) “Agritourism activity” means any agricultural related activity consistent with a bona fide carried out on a farm or ranch or in a working forest which ~~that~~ allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy ~~rural~~ activities, including farming, ranching, historical, cultural, or harvest-your-own, or nature-based activities and attractions. An agritourism activity does not include the construction of new or additional structures or facilities intended primarily to house, shelter, transport, or otherwise accommodate members of the general public. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

(2) “Agritourism operator professional” means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

(3) “Farm” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products, including land used to display plants, animals, farm products, or farm equipment to the public.

(4) “Farm operation” has the same meaning as defined in s. 823.14.

(5) “Inherent risks of agritourism activity” means those dangers or conditions that are an integral part of an agritourism activity including certain hazards, such as surface and subsurface conditions, natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and the ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. The term also includes the potential of a participant to act in a negligent manner that may contribute to the injury of the participant or others, including failing to follow the instructions given by the agritourism operator or failing to exercise reasonable caution while engaging in the agritourism activity.

Section 3. Section 570.963, Florida Statutes, is created to read:

570.963 Liability.—

(1) Except as provided in subsection (2), an agritourism operator, his or her employer or employee, or the owner of the underlying land on which the agritourism occurs are not liable for injury or death of, or damage or loss to, a participant resulting from the inherent risks of agritourism activities if the notice of risk required under s. 570.964 is posted as required. Except as provided in subsection (2), a participant, or a participant’s representative, may not maintain an action against or recover from an agritourism operator, his or her employer or employee, or the owner of the underlying land on which the agritourism occurs for the injury or death of, or damage or loss to, an agritourism participant resulting exclusively from any of the inherent risks of agritourism activities.

(2) In the event of the injury or death of, or damage or loss to, an agritourism participant, subsection (1) does not prevent or limit the liability of an agritourism operator or his or her employer or employee or the owner of the underlying land on which the agritourism occurs if he or she:

(a) Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant; or

(b) Intentionally injures the participant.

(3) The limitation on legal liability afforded by this section to an agritourism operator or his or her employer or employee or the owner of the underlying land on which the agritourism occurs is in addition to any limitations of legal liability otherwise provided by law.

Section 4. Section 570.964, Florida Statutes, is created to read:

570.964 Posting and notification.—

(1)(a) Each agritourism operator shall post and maintain signs that contain the notice of inherent risk specified in subsection (2). A sign shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The notice of inherent risk must consist of a sign in black letters, with each letter a minimum of 1 inch in height, with sufficient color contrast to be clearly visible.

(b) Each written contract entered into by an agritourism operator for the provision of professional services, instruction, or the rental of equipment to a participant, regardless of whether the contract involves agritourism activities on or off the location or at the site of the agritourism activity, must contain in clearly readable print the notice of inherent risk specified in subsection (2).

(2) The sign and contract required under subsection (1) must contain the following notice of inherent risk:

WARNING

Under Florida law, an agritourism operator is not liable for injury or death of, or damage or loss to, a participant in an agritourism activity conducted at this agritourism location if such injury, death, damage, or loss results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury, death, damage, or loss. You are assuming the risk of participating in this agritourism activity.

(3) Failure to comply with the requirements of this subsection prevents an agritourism operator, his or her employer or employee, or the owner of the underlying land on which the agritourism occurs from invoking the privileges of immunity provided by this section.

Section 5. This act shall take effect July 1, 2013.

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.