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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2564**

02/29/2012 Authored by Shimanski; Anderson, D.; Lohmer; McElfatrick and Anderson, B.,
The bill was read for the first time and referred to the Committee on Agriculture and Rural Development Policy and Finance

1.1 A bill for an act
1.2 relating to civil liability; creating immunity for agritourism activities; proposing
1.3 coding for new law in Minnesota Statutes, chapter 604A.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. [604A.40] AGRITOURISM; IMMUNITY FROM LIABILITY.

1.6 Subdivision 1. Definitions. (a) For the purposes of this section, the terms in
1.7 paragraphs (b) to (h) have the meanings given them.

1.8 (b) "Agricultural products" means any livestock, aquaculture, poultry, horticultural,
1.9 floricultural, viticultural, silvicultural, or other products of a farm or ranch.

1.10 (c) "Agritourism activity" means any activity carried out on a farm or ranch that
1.11 allows organizations or members of the general public, for recreational, entertainment,
1.12 charitable, or educational purposes, to view, enjoy, or participate in rural activities,
1.13 including farming; viticulture; winemaking; ranching; and historical, cultural, farm stay,
1.14 harvest-your-own, or natural activities and attractions. An activity is an agritourism
1.15 activity whether or not the participant pays to participate in the activity.

1.16 (d) "Agritourism professional" means any person who is engaged in the business of
1.17 providing one or more agritourism activities, whether or not for compensation.

1.18 (e) "Farm or ranch" means one or more areas of land used for the production,
1.19 cultivation, growing, harvesting, or processing of agricultural products.

1.20 (f) "Farm stay" means to stay on a farm or ranch as a paying guest in order to
1.21 experience farm, ranch, or rural life.

1.22 (g) "Inherent risks of agritourism activity" mean dangers or conditions that are an
1.23 integral part of an agritourism activity including but not limited to:

2.1 (1) natural hazards and conditions of land, vegetation, and waters including surface
 2.2 and subsurface conditions;

2.3 (2) the behavior of wild or domestic animals; and

2.4 (3) ordinary dangers of structures or equipment ordinarily used in farming or
 2.5 ranching operations.

2.6 Inherent risks of agritourism activity also include the potential of a participant to act
 2.7 in a negligent manner that may contribute to injury, damage, or death of the participant or
 2.8 others, including failing to follow instructions given by an agritourism professional or
 2.9 failing to exercise reasonable care while engaging in the agritourism activity.

2.10 (h) "Participant" means any person, other than an agritourism professional, who
 2.11 engages in an agritourism activity.

2.12 Subd. 2. **Liability limited.** (a) Except as provided in paragraph (b), an agritourism
 2.13 professional is not liable for injury, damage, or death of a participant resulting from the
 2.14 inherent risks of agritourism activities. In any action for damages against an agritourism
 2.15 professional for an agritourism activity, the agritourism professional may plead the
 2.16 affirmative defense of secondary assumption of the risk of the agritourism activity by
 2.17 the participant.

2.18 (b) Nothing in paragraph (a) prevents or limits the liability of an agritourism
 2.19 professional if the agritourism professional:

2.20 (1) commits an act or omission that constitutes negligence or willful or wanton
 2.21 disregard for the safety of the participant, and that act or omission proximately causes
 2.22 injury, damage, or death of the participant;

2.23 (2) has actual knowledge or reasonably should have known of a dangerous condition
 2.24 on the land or in the facilities or equipment used in the activity, or the dangerous
 2.25 propensity of a particular animal used in such activity, and does not make the danger
 2.26 known to the participant, and the danger proximately causes injury, damage, or death of
 2.27 the participant; or

2.28 (3) intentionally injures the participant.

2.29 (c) Any limitation on liability afforded by this section to an agritourism professional
 2.30 is in addition to any other limitations of liability otherwise provided by law.

2.31 Subd. 3. **Optional warning notice.** (a) An agritourism professional may post and
 2.32 maintain signs that contain the warning notice specified in paragraph (b). A sign may be
 2.33 placed in a clearly visible location at the entrance to the agritourism location and at the site
 2.34 of the agritourism activity. The warning notice may be printed in black letters with each
 2.35 letter a minimum of one inch in height. A written contract entered into by an agritourism
 2.36 professional to provide professional services, instruction, or the rental of equipment to

3.1 a participant, whether or not the contract involves agritourism activities on or off the
3.2 location or at the site of the agritourism activity, may contain in clearly readable print the
3.3 warning notice specified in paragraph (b).

3.4 (b) A sign or contract may contain the following notice: "WARNING: Under
3.5 Minnesota law, there is no liability for an injury to or death of a participant in an
3.6 agritourism activity conducted at this agritourism location if such injury or death results
3.7 from the inherent risks of the agritourism activity. Inherent risks of agritourism activities
3.8 include, among others, risks of injury inherent to land, equipment, and animals, as well as
3.9 the potential for you to act in a negligent manner that may contribute to your injury or
3.10 death. You are assuming the risk of participating in this agritourism activity."

3.11 **EFFECTIVE DATE.** This section is effective the day following final enactment
3.12 and applies to actions arising from injury, damage, or death occurring on or after that date.