

**As Introduced**

**130th General Assembly  
Regular Session  
2013-2014**

**S. B. No. 334**

**Senators Jones, Peterson**

**Cosponsors: Senators Hite, Beagle, Gardner, Manning, Cafaro, Gentile**

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**A B I L L**

To amend sections 303.21, 519.21, 1711.57, and 1  
5713.30 and to enact section 901.80 of the Revised 2  
Code to limit the authority of a board of county 3  
commissioners or board of township trustees to 4  
prohibit agritourism through zoning, to apply 5  
current agricultural use valuation to land used 6  
for agritourism for property tax purposes, to 7  
establish immunity in a civil action for 8  
agritourism providers, and to authorize the 9  
Director of Agriculture to adopt rules regarding 10  
amusement rides at agritourism locations. 11

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 303.21, 519.21, 1711.57, and 5713.30 12  
be amended and section 901.80 of the Revised Code be enacted to 13  
read as follows: 14

**Sec. 303.21.** (A) Except as otherwise provided in division (B) 15  
of this section, sections 303.01 to 303.25 of the Revised Code do 16  
not confer any power on any county rural zoning commission, board 17  
of county commissioners, or board of zoning appeals to prohibit 18  
the use of any land for agricultural purposes or the construction 19

or use of buildings or structures incident to the use for 20  
agricultural purposes of the land on which such buildings or 21  
structures are located, and no zoning certificate shall be 22  
required for any such building or structure. 23

(B) A county zoning resolution, or an amendment to such 24  
resolution, may in any platted subdivision approved under section 25  
711.05, 711.09, or 711.10 of the Revised Code, or in any area 26  
consisting of fifteen or more lots approved under section 711.131 27  
of the Revised Code that are contiguous to one another, or some of 28  
which are contiguous to one another and adjacent to one side of a 29  
dedicated public road, and the balance of which are contiguous to 30  
one another and adjacent to the opposite side of the same 31  
dedicated public road regulate: 32

(1) Agriculture on lots of one acre or less; 33

(2) Buildings or structures incident to the use of land for 34  
agricultural purposes on lots greater than one acre but not 35  
greater than five acres by: set back building lines; height; and 36  
size; 37

(3) Dairying and animal and poultry husbandry on lots greater 38  
than one acre but not greater than five acres when at least 39  
thirty-five per cent of the lots in the subdivision are developed 40  
with at least one building, structure, or improvement that is 41  
subject to real property taxation or that is subject to the tax on 42  
manufactured and mobile homes under section 4503.06 of the Revised 43  
Code. After thirty-five per cent of the lots are so developed, 44  
dairying and animal and poultry husbandry shall be considered 45  
nonconforming use of land and buildings or structures pursuant to 46  
section 303.19 of the Revised Code. 47

Division (B) of this section confers no power on any county 48  
rural zoning commission, board of county commissioners, or board 49  
of zoning appeals to regulate agriculture, buildings or 50

structures, and dairying and animal and poultry husbandry on lots 51  
greater than five acres. 52

(C) Such sections confer no power on any board of county 53  
commissioners, county rural zoning commission, or board of zoning 54  
appeals to prohibit in a district zoned for agricultural, 55  
industrial, residential, or commercial uses, the use of any land 56  
for: 57

(1) A farm market where fifty per cent or more of the gross 58  
income received from the market is derived from produce raised on 59  
farms owned or operated by the market operator in a normal crop 60  
year. However, a board of county commissioners, as provided in 61  
section 303.02 of the Revised Code, may regulate such factors 62  
pertaining to farm markets as size of the structure, size of 63  
parking areas that may be required, set back building lines, and 64  
egress or ingress, where such regulation is necessary to protect 65  
the public health and safety. 66

(2) Biodiesel production, biomass energy production, or 67  
electric or heat energy production if the land on which the 68  
production facility is located qualifies as land devoted 69  
exclusively to agricultural use under sections 5713.30 to 5713.37 70  
of the Revised Code for real property tax purposes. As used in 71  
division (C)(2) of this section, "biodiesel," "biomass energy," 72  
and "electric or heat energy" have the same meanings as in section 73  
5713.30 of the Revised Code. 74

(3) Biologically derived methane gas production if the land 75  
on which the production facility is located qualifies as land 76  
devoted exclusively to agricultural use under sections 5713.30 to 77  
5713.37 of the Revised Code for real property tax purposes and if 78  
the facility that produces the biologically derived methane gas 79  
does not produce more than seventeen million sixty thousand seven 80  
hundred ten British thermal units, five megawatts, or both. 81

As used in division (C)(3) of this section, "biologically derived methane gas" has the same meaning as in section 5713.30 of the Revised Code.

(4) Agritourism. As used in division (C)(4) of this section, "agritourism" has the same meaning as in section 901.80 of the Revised Code.

**Sec. 519.21.** (A) Except as otherwise provided in division (B) of this section, sections 519.02 to 519.25 of the Revised Code confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no zoning certificate shall be required for any such building or structure.

(B) A township zoning resolution, or an amendment to such resolution, may in any platted subdivision approved under section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:

(1) Agriculture on lots of one acre or less;

(2) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres by: set back building lines; height; and size;

(3) Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five per cent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under section 4503.06 of the Revised Code. After thirty-five per cent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Revised Code.

Division (B) of this section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres.

(C) Such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for:

(1) A farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in section 519.02 of the Revised Code, may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety.

(2) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37

of the Revised Code for real property tax purposes. As used in 145  
division (C)(2) of this section, "biodiesel," "biomass energy," 146  
and "electric or heat energy" have the same meanings as in section 147  
5713.30 of the Revised Code. 148

(3) Biologically derived methane gas production if the land 149  
on which the production facility is located qualifies as land 150  
devoted exclusively to agricultural use under sections 5713.30 to 151  
5713.37 of the Revised Code for real property tax purposes and if 152  
the facility that produces the biologically derived methane gas 153  
does not produce more than seventeen million sixty thousand seven 154  
hundred ten British thermal units, five megawatts, or both. 155

As used in division (C)(3) of this section, "biologically 156  
derived methane gas" has the same meaning as in section 5713.30 of 157  
the Revised Code. 158

(4) Agritourism. As used in division (C)(4) of this section, 159  
"agritourism" has the same meaning as in section 901.80 of the 160  
Revised Code. 161

**Sec. 901.80. (A) As used in this section:** 162

(1) "Agritourism" means an educational, entertainment, or 163  
recreational activity that takes place on a working farm or 164  
agricultural or horticultural operation and that allows or invites 165  
members of the general public to observe, participate in, or enjoy 166  
that activity. "Agritourism" includes historic and cultural 167  
agriculture activities, self-pick farms, or farmer's markets when 168  
they are conducted in conjunction with farm operations. 169

(2) "Agritourism provider" means a person who owns, operates, 170  
provides, or sponsors an agritourism activity or an employee of 171  
such a person who engages in or provides agritourism activities 172  
whether or not for a fee. 173

(3) "Participant" means an individual, other than an 174

agritourism provider, who observes or participates in an 175  
agritourism activity. 176

(4) "Risk inherent in an agritourism activity" means a danger 177  
or condition that is an integral part of an agritourism activity, 178  
including all of the following: 179

(a) The surface and subsurface conditions of land; 180

(b) The behavior of wild or domestic animals; 181

(c) The ordinary dangers associated with structures or 182  
equipment ordinarily used in farming or ranching operations; 183

(d) The possibility of contracting illness resulting from 184  
physical contact with animals, animal feed, animal waste, or 185  
surfaces contaminated by animal waste; 186

(e) The possibility that a participant may act in a negligent 187  
manner, including by failing to follow instructions given by the 188  
agritourism provider or by failing to exercise reasonable caution 189  
while engaging in the agritourism activity that may contribute to 190  
injury to that participant or another participant. 191

(B) In a civil action, an agritourism provider is immune from 192  
liability for any harm a participant sustains during an 193  
agritourism activity if the participant is harmed as a result of a 194  
risk inherent in an agritourism activity. 195

(C) An agritourism provider is not immune from civil 196  
liability for harm sustained by a participant if either of the 197  
following applies: 198

(1) The agritourism provider acts with a willful or wanton 199  
disregard for the safety of the participant and proximately causes 200  
harm to the participant. 201

(2) The agritourism provider purposefully causes harm to the 202  
participant. 203

(D) The director of agriculture may adopt rules in accordance 204

with Chapter 119. of the Revised Code establishing standards for 205  
amusement rides at agritourism locations that are consistent with 206  
standards adopted by the American camp association. 207

**Sec. 1711.57.** Sections 1711.50 to ~~1711.57~~ 1711.56 of the 208  
Revised Code do not apply to any of the following: 209

(A) A private facility; 210

(B) A single-passenger coin-operated ride that is manually, 211  
mechanically, or electrically operated, is customarily placed 212  
either singly or in groups in a public location, and does not 213  
normally require the supervision or services of an amusement ride 214  
operator; 215

(C) Nonmechanized playground equipment, including swings, 216  
stationary spring-mounted animal features, rider-propelled 217  
merry-go-rounds, climbers, slides, rock climbing walls, 218  
trampolines, and swinging gates, except where an admission fee is 219  
charged for usage or an admission fee is charged to areas where 220  
such equipment is located; 221

(D) Devices regulated or licensed by the federal aviation 222  
administration or the federal railroad administration in the 223  
United States department of transportation, the department of 224  
transportation, or the bureau of motor vehicles in the department 225  
of public safety; 226

(E) Vessels regulated by the department of natural resources 227  
under Chapters 1547. and 1548. of the Revised Code or under the 228  
jurisdiction of the United States coast guard; 229

(F) Tractors, trucks, or similar vehicles at competition 230  
events; 231

(G) Automobiles or motorcycles at competition events; 232

(H) Animals ridden in competitive events or shows; 233



(I) Physical fitness devices;	234
(J) Devices to which the definition of "safe operation" in section 1711.50 of the Revised Code does not apply as determined by the director of agriculture, including mechanized bulls, surfboards, zip lines, vertical wind tunnels, skateboard or bicycle rodeo devices, cable wakeboard or ski facilities, or other devices that are not intended or manufactured to secure the rider from threat of physical danger, harm, or loss;	235 236 237 238 239 240 241
<u>(K) Amusement rides that are subject to rules adopted under division (D) of section 901.80 of the Revised Code.</u>	242 243
<b>Sec. 5713.30.</b> As used in sections 5713.31 to 5713.37 and 5715.01 of the Revised Code:	244 245
(A) "Land devoted exclusively to agricultural use" means:	246
(1) Tracts, lots, or parcels of land totaling not less than ten acres to which, during the three calendar years prior to the year in which application is filed under section 5713.31 of the Revised Code, and through the last day of May of such year, one or more of the following apply:	247 248 249 250 251
(a) The tracts, lots, or parcels of land were devoted exclusively to commercial animal or poultry husbandry, aquaculture, algaculture meaning the farming of algae, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers, or the growth of timber for a noncommercial purpose, if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use.	252 253 254 255 256 257 258 259 260
(b) The tracts, lots, or parcels of land were devoted exclusively to biodiesel production, biomass energy production, electric or heat energy production, or biologically derived	261 262 263

methane gas production if the land on which the production 264  
facility is located is contiguous to or part of a parcel of land 265  
under common ownership that is otherwise devoted exclusively to 266  
agricultural use, provided that at least fifty per cent of the 267  
feedstock used in the production was derived from parcels of land 268  
under common ownership or leasehold. 269

(c) The tracts, lots, or parcels of land were devoted to and 270  
qualified for payments or other compensation under a land 271  
retirement or conservation program under an agreement with an 272  
agency of the federal government. 273

(d) The tracts, lots, or parcels of land were devoted 274  
exclusively to agritourism if the land on which the agritourism is 275  
located is contiguous to or part of a parcel of land under common 276  
ownership that is otherwise devoted exclusively to agricultural 277  
use. 278

(2) Tracts, lots, or parcels of land totaling less than ten 279  
acres that, during the three calendar years prior to the year in 280  
which application is filed under section 5713.31 of the Revised 281  
Code and through the last day of May of such year, were devoted 282  
exclusively to agritourism, commercial animal or poultry 283  
husbandry, aquaculture, algaculture meaning the farming of algae, 284  
apiculture, the production for a commercial purpose of field 285  
crops, tobacco, fruits, vegetables, timber, nursery stock, 286  
ornamental trees, sod, or flowers where such activities produced 287  
an average yearly gross income of at least twenty-five hundred 288  
dollars during such three-year period or where there is evidence 289  
of an anticipated gross income of such amount from such activities 290  
during the tax year in which application is made, or were devoted 291  
to and qualified for payments or other compensation under a land 292  
retirement or conservation program under an agreement with an 293  
agency of the federal government; 294

(3) A tract, lot, or parcel of land taxed under sections 295

5713.22 to 5713.26 of the Revised Code is not land devoted 296  
exclusively to agricultural use. 297

(4) Tracts, lots, or parcels of land, or portions thereof 298  
that, during the previous three consecutive calendar years have 299  
been designated as land devoted exclusively to agricultural use, 300  
but such land has been lying idle or fallow for up to one year and 301  
no action has occurred to such land that is either inconsistent 302  
with the return of it to agricultural production or converts the 303  
land devoted exclusively to agricultural use as defined in this 304  
section. Such land shall remain designated as land devoted 305  
exclusively to agricultural use provided that beyond one year, but 306  
less than three years, the landowner proves good cause as 307  
determined by the board of revision. 308

"Land devoted exclusively to agricultural use" includes 309  
tracts, lots, or parcels of land or portions thereof that are used 310  
for conservation practices, provided that the tracts, lots, or 311  
parcels of land or portions thereof comprise twenty-five per cent 312  
or less of the total of the tracts, lots, or parcels of land that 313  
satisfy the criteria established in division (A)(1), (2), or (4) 314  
of this section together with the tracts, lots, or parcels of land 315  
or portions thereof that are used for conservation practices. 316

(B) "Conversion of land devoted exclusively to agricultural 317  
use" means any of the following: 318

(1) The failure of the owner of land devoted exclusively to 319  
agricultural use during the next preceding calendar year to file a 320  
renewal application under section 5713.31 of the Revised Code 321  
without good cause as determined by the board of revision; 322

(2) The failure of the new owner of such land to file an 323  
initial application under that section without good cause as 324  
determined by the board of revision; 325

(3) The failure of such land or portion thereof to qualify as 326

land devoted exclusively to agricultural use for the current 327  
calendar year as requested by an application filed under such 328  
section; 329

(4) The failure of the owner of the land described in 330  
division (A)(4) of this section to act on such land in a manner 331  
that is consistent with the return of the land to agricultural 332  
production after three years. 333

The construction or installation of an energy facility, as 334  
defined in section 5727.01 of the Revised Code, on a portion of a 335  
tract, lot, or parcel of land devoted exclusively to agricultural 336  
use shall not cause the remaining portion of the tract, lot, or 337  
parcel to be regarded as a conversion of land devoted exclusively 338  
to agricultural use if the remaining portion of the tract, lot, or 339  
parcel continues to be devoted exclusively to agricultural use. 340

(C) "Tax savings" means the difference between the dollar 341  
amount of real property taxes levied in any year on land valued 342  
and assessed in accordance with its current agricultural use value 343  
and the dollar amount of real property taxes that would have been 344  
levied upon such land if it had been valued and assessed for such 345  
year in accordance with Section 2 of Article XII, Ohio 346  
Constitution. 347

(D) "Owner" includes, but is not limited to, any person 348  
owning a fee simple, fee tail, or life estate or a buyer on a land 349  
installment contract. 350

(E) "Conservation practices" are practices used to abate soil 351  
erosion as required in the management of the farming operation, 352  
and include, but are not limited to, the installation, 353  
construction, development, planting, or use of grass waterways, 354  
terraces, diversions, filter strips, field borders, windbreaks, 355  
riparian buffers, wetlands, ponds, and cover crops for that 356  
purpose. 357

(F) "Wetlands" has the same meaning as in section 6111.02 of 358  
the Revised Code. 359

(G) "Biodiesel" means a mono-alkyl ester combustible liquid 360  
fuel that is derived from vegetable oils or animal fats or any 361  
combination of those reagents and that meets the American society 362  
for testing and materials specification D6751-03a for biodiesel 363  
fuel (B100) blend stock distillate fuels. 364

(H) "Biologically derived methane gas" means gas from the 365  
anaerobic digestion of organic materials, including animal waste 366  
and agricultural crops and residues. 367

(I) "Biomass energy" means energy that is produced from 368  
organic material derived from plants or animals and available on a 369  
renewable basis, including, but not limited to, agricultural 370  
crops, tree crops, crop by-products, and residues. 371

(J) "Electric or heat energy" means electric or heat energy 372  
generated from manure, cornstalks, soybean waste, or other 373  
agricultural feedstocks. 374

(K) "Agritourism" has the same meaning as in section 901.80 375  
of the Revised Code. 376

**Section 2.** That existing sections 303.21, 519.21, 1711.57, 377  
and 5713.30 of the Revised Code are hereby repealed. 378