



Ohio Legislative Service Commission

Bill Analysis

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S.B. 334

130th General Assembly
(As Introduced)

Sens. Jones and Peterson, Hite, Beagle, Gardner, Manning, Cafaro, Gentile

BILL SUMMARY

- Defines "agritourism," "agritourism provider," "participant," and "risk inherent in an agritourism activity."
- Revises the definition of "land devoted exclusively to agricultural use" for purposes of the statutes that govern current agricultural use valuation of real property for real property tax assessment to include land devoted exclusively to agritourism under certain circumstances.
- States that county and township zoning laws confer no authority to prohibit the use of any land for agritourism.
- Provides that an agritourism provider is immune from liability in a civil action for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in an agritourism activity.
- Provides circumstances where an agritourism provider is not immune from liability in a civil action.
- Authorizes the Director of Agriculture to adopt rules establishing standards for amusement rides at agritourism locations that are consistent with standards adopted by the American Camp Association, and exempts amusement rides that are subject to those rules from existing law governing amusement rides.

CONTENT AND OPERATION

Agritourism

Current agricultural use valuation

For purposes of the statutes that govern current agricultural use valuation (CAUV) of real property for real property tax assessment, current law defines "land devoted exclusively to agricultural use" to mean land devoted exclusively to specified activities or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government. The bill adds agritourism to the specified activities in the definition if either of the following applies:

(1) Tracts, lots, or parcels of land totaling not less than ten acres were devoted exclusively to agritourism, during the three calendar years prior to the year in which application is filed for CAUV and through the last day of May of that year, if the land on which the agritourism is located is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or

(2) Tracts, lots, or parcels of land totaling less than ten acres were devoted exclusively to agritourism, during the time period described above, if agritourism activities produced an average yearly gross income of at least \$2,500 during that three-year period or there is evidence of an anticipated gross income of that amount from those activities during the tax year in which application is made or if the land was devoted to and qualified for payments or other compensation under a federal land retirement or conservation program.¹

County and township zoning

The bill states that the County Rural Zoning and Township Zoning Laws confer no power on a board of county commissioners, county rural zoning commission, board of zoning appeals, township zoning commission, or board of township trustees, as applicable, to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses the use of any land for agritourism.²

¹ R.C. 5713.30(A) and (K).

² R.C. 303.21(C)(4) and 519.21(C)(4).



Immunity from liability in a civil action

The bill defines the following terms:³

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

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

(3) "Participant" means an individual, other than an agritourism provider, who observes or participates in an agritourism activity.

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

(a) The surface and subsurface conditions of land;

(b) The behavior of wild or domestic animals;

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

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

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

The bill also incorporates the definition of agritourism in the laws regarding CAUV and the County Rural Zoning and Township Zoning Laws.⁴

³ R.C. 901.80(A).

⁴ R.C. 303.31(C)(4), 519.21(C)(4), and 5713.30(K).



Under the bill, an agritourism provider is immune from liability in a civil action for any harm a participant sustains during an agritourism activity if the participant is harmed as a result of a risk inherent in an agritourism activity.⁵ An agritourism provider is not immune from civil liability for harm sustained by a participant if either of the following applies:⁶

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

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

Amusement rides

The bill authorizes the Director of Agriculture to adopt rules in accordance with the Administrative Procedure Act establishing standards for amusement rides at agritourism locations that are consistent with standards adopted by the American Camp Association.⁷ It then exempts amusement rides that are subject to those rules from existing law governing amusement rides.⁸ That law requires the operator of an amusement ride to be issued a permit by the Director and to obtain liability insurance. It also requires amusement rides to be inspected and establishes permit and inspection fees.⁹

HISTORY

ACTION	DATE
Introduced	05-07-14

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⁵ R.C. 901.80(B).

⁶ R.C. 901.80(C).

⁷ R.C. 901.80(D).

⁸ R.C. 1711.57(K).

⁹ R.C. 1711.53 and 1711.54.

