

HOUSE BILL No. 2844

By Representatives Patterson, Barbieri-Lightner, Feuerborn, Goico, Hill, Holland, Jack, Long-Mast, J. Miller, Osborne, Ostmeyer, Pauls, Phelps, Showalter, Svaty and J. Williams

2-11

11 AN ACT concerning agriculture; enacting the agritourism promotion act.

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

14 Section 1. This act may be cited and shall be known as the agritourism
15 promotion act.

16 Sec. 2. The purpose of this act is to promote rural tourism and rural
17 economic development by encouraging owners of farms and ranches to
18 invite members of the public to observe and participate in such operations
19 for recreational or entertainment purposes. The provisions of this act shall
20 be liberally construed to effectuate the purpose of this act.

21 Sec. 3. As used in this act:

22 (a) "Agritourism operator" means an owner, tenant, lessee, occupant,
23 operator or employee of a farm or ranch who invites members of the
24 public to observe or participate in such operations for recreational or
25 entertainment purposes;

26 (b) "agritourism activity" means any activity conducted to allow mem-
27 bers of the public to observe or participate in farming or ranching activ-
28 ities whether or not the participant pays to participate in the activity;

29 (c) "consumer" means any adult or child who engages in an agri-
30 tourism activity but shall not include any employee of an agritourism
31 operator;

32 (d) "medical treatment" means and includes allowances for all rea-
33 sonable expenses for necessary health care rendered by practitioners li-
34 censed by the state board of healing arts to practice any branch of the
35 healing arts or licensed psychologists, surgical, x-ray and dental services,
36 including prosthetic devices and necessary ambulance, hospital and nurs-
37 ing services;

38 (e) "noneconomic damages" means pain and suffering, disability, dis-
39 figurement and any accompanying mental anguish; and

40 (f) "personal injury action" means any action for damages for personal
41 injury or death.

42 Sec. 4. In any personal injury action brought against an agritourism
43 operator, an injured consumer may bring an action against an agritourism

1 operator to recover noneconomic damages only if the agritourism oper-
2 ator failed to exercise reasonable care and the injured consumer incurs
3 medical treatment having a reasonable value of \$2,000 or more, or the
4 injury consists in whole or in part of permanent disfigurement, a fracture
5 to a weight bearing bone, a compound, comminuted displaced or com-
6 pressed fracture, loss of a body member, permanent injury within rea-
7 sonable medical probability, permanent loss of a bodily function or death.
8 For the purpose of this section, the charges actually made for medical
9 treatment expenses shall not be conclusive as to reasonable value of such
10 expenses. Evidence that the reasonable value of such expenses was an
11 amount different from the amount actually charged shall be admissible
12 in all actions to which this subsection applies.

13 Sec. 5. In any personal injury action brought against an agritourism
14 operator, an injured consumer's recovery shall be reduced by the con-
15 sumer's comparative negligence, including, but not limited to, the con-
16 sumer's failure to follow instructions given by an agritourism operator or
17 failing to exercise reasonable care while engaging in the agritourism
18 activity.

19 Sec. 6. In any personal injury action brought against an agritourism
20 operator, an agritourism operator shall not be liable for surface and sub-
21 surface condition; natural conditions of land, vegetation and waters; or
22 the ordinary dangers of structures or equipment used in farming or ranch-
23 ing operations. This limitation on liability shall not apply where an agri-
24 tourism operator has actual knowledge of a dangerous condition in land
25 or waters, or a dangerous condition in a structure or equipment, and fails
26 to make such dangerous condition known to the consumer and such dan-
27 gerous condition causes the consumer to sustain injury.

28 Sec. 7. Any limitation on legal liability afforded to an agritourism
29 operator by this act shall be in addition to any other limitation of liability
30 otherwise imposed by law. Nothing in this act shall be construed to limit,
31 restrict or impede application of K.S.A. 58-3202 *et seq.*, and amendments
32 thereto, to any person.

33 Sec. 8. (a) For taxable years commencing on and after December 31,
34 2003, and December 31, 2004, there shall be allowed as a credit against
35 the tax liability of a taxpayer imposed under the Kansas income tax act,
36 an amount equal to 25% of the cost of liability insurance paid by an
37 agritourism operator who operates an agritourism activity on the effective
38 date of this act. For taxable years commencing December 31, 2005, De-
39 cember 31, 2006, and December 31, 2007, the agritourism operator shall
40 be allowed as a credit as provided in this subsection an amount equal to
41 15% of the cost of liability insurance paid by the agritourism operator
42 during any such taxable year. No tax credit claimed pursuant to this sub-
43 section shall exceed \$2,000. If the amount of such tax credit exceeds the

1 taxpayer's income tax liability for such taxable year, the amount thereof
2 which exceeds such tax liability may be carried over for deduction from
3 the taxpayer's income tax liability in the next succeeding taxable year or
4 years until the total amount of tax credit has been deducted from tax
5 liability, except that no such tax credit shall be carried forward for de-
6 duction after the third taxable year succeeding the taxable year in which
7 the tax credit is claimed.

8 (b) For the first two taxable years commencing after a taxpayer opens
9 such taxpayer's business, after the effective date of this act, there shall be
10 allowed as a credit against the tax liability of a taxpayer imposed under
11 the Kansas income tax act, an amount equal to 25% of the cost of liability
12 insurance paid by the agritourism operator who starts an agritourism ac-
13 tivity after the effective date of this act. For the third, fourth and fifth
14 taxable years commencing after the taxpayer's business opens, the agri-
15 tourism operator shall be allowed as a credit as provided in this subsec-
16 tion, an amount equal to 15% of the cost of liability insurance paid by the
17 agritourism operator during any such taxable year. No tax credit claimed
18 pursuant to this subsection shall exceed \$2,000. If the amount of such tax
19 credit exceeds the taxpayer's income tax liability for such taxable year, the
20 amount thereof which exceeds such tax liability may be carried over for
21 deduction from the taxpayer's income tax liability in the next succeeding
22 taxable year or years until the total amount of tax credit has been deducted
23 from tax liability, except that no such tax credit shall be carried forward
24 for deduction after the third taxable year succeeding the taxable year in
25 which the tax credit is claimed.

26 Sec. 9. This act shall take effect and be in force from and after its
27 publication in the statute book.