

SENATE BILL No. 334

By Senators Schmidt, Schodorf, Brownlee and Jordan

1-22

10 AN ACT concerning land; relating to agritourism.

11

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

13 Section 1. This act may be cited as the agritourism promotion act.

14 Sec. 2. The purpose of this act is to promote rural tourism and rural
15 economic development by encouraging owners or operators of farms,
16 ranches, and rural attractions, including historic, cultural, and natural at-
17 tractions, to invite members of the public to view, observe and participate
18 in such operations and attractions for recreational or entertainment pur-
19 poses. This act shall be liberally construed to effectuate that purpose.

20 Sec. 3. As used in this act:

21 (a) "Qualified agritourism operator" means a person designated by
22 the secretary of commerce pursuant to section 4, and amendments
23 thereto.

24 (b) "Specified agritourism activity" means an agritourism activity des-
25 ignated by the secretary of commerce pursuant to section 4, and amend-
26 ments thereto. "Agritourism activity" includes, but is not limited to, any
27 activity conducted to allow members of the public to view or enjoy farm-
28 ing activities, ranching activities, nature or rural culture. An activity may
29 be an agritourism activity whether or not the participant pays to partici-
30 pate in the activity. An activity is not an agritourism activity if the partic-
31 ipant is paid to participate in the activity.

32 (c) "Designated agritourism location" means a specific parcel of land
33 designated by the secretary of commerce pursuant to section 4, and
34 amendments thereto, at which the warning signs required by section 5,
35 and amendments thereto, are posted and where, a qualified agritourism
36 operator engages in specified agritourism activities.

37 (d) "Participant" means any person who engages in an agritourism
38 activity.

39 (e) "Inherent risks of a specified agritourism activity" means those
40 dangers or conditions which are an integral part of such agritourism ac-
41 tivity including, but not limited to, certain hazards such as surface and
42 subsurface conditions; natural conditions of land, vegetation, and waters;
43 the behavior of wild or domestic animals; and ordinary dangers of struc-

1 tures or equipment ordinarily used in farming or ranching operations.
2 “Inherent risks of a specified agritourism activity” also includes the po-
3 tential of a participant to act in a negligent manner that may contribute
4 to injury to the participant or others, such as failing to follow instructions
5 given by the qualified agritourism operator or failing to exercise reason-
6 able caution while engaging in the agritourism activity.

7 Sec. 4. Any person may apply to the secretary of commerce for des-
8 ignation pursuant to this act.

9 (a) Such application shall contain all of the following:

10 (1) Information describing the activity which the applicant intends to
11 conduct as a specified agritourism activity. If the secretary finds that the
12 applicant has satisfied the requirement of this subparagraph, he may des-
13 ignate the activity as a specified agritourism activity.

14 (2) Information describing the specific location at which the applicant
15 intends to conduct the specified agritourism activity. If the secretary finds
16 that the applicant has satisfied the requirement of this subparagraph, he
17 may designate the location a designated agritourism location.

18 (b) In addition to the factors considered above, the secretary in re-
19 viewing an application shall consider whether granting the application will
20 tend to further the purpose of this act by promoting economic develop-
21 ment in the area or region in which the designated agritourism location
22 is situated.

23 (c) The secretary shall maintain a list of all designated agritourism
24 locations and of the specified agritourism activities conducted thereon
25 and qualified agritourism operators engaged therein. Such list shall be
26 made available to the public. The secretary shall promote and publicize
27 the designated agritourism locations to advance the purpose of this act
28 by promoting and encouraging tourism.

29 (d) Each designation granted by the secretary pursuant to this section
30 shall be for a finite period of time as determined by the secretary but
31 shall not be for less than five years unless a shorter period of time is
32 requested by the applicant. ***If the secretary has not approved or de-***
33 ***nied the application within 30 days after the application is filed,***
34 ***then the designation shall be deemed granted for a period of five***
35 ***years.***

36 (e) No fee shall be charged to applicants under this section.

37 Sec. 5. (a) At every designated agritourism location, the qualified
38 agritourism operator shall post and maintain signage which contains the
39 warning notice specified in subsection (c). This section shall be deemed
40 satisfied if such signage is placed in a clearly visible location at or near
41 the designated agritourism location. The warning notice specified in sub-
42 section (c) shall appear on the sign in black letters, with each letter to be
43 a minimum of one inch in height.

1 (b) Every written contract entered into by a qualified agritourism
2 operator for the providing of a specified agritourism activity shall contain
3 in clearly readable print the warning notice and language specified in
4 subsection (c).

5 (c) The signs described in subsection (a) and the contracts described
6 in subsection (b) shall contain the following warning notice:

7 **WARNING**

8 Under Kansas law, there is no liability for an injury or death of a
9 participant in a specified agritourism activity conducted at this des-
10 ignated agritourism location if such injury or death results from the
11 inherent risks of such agritourism activity. Inherent risks of agri-
12 tourism activities include, but shall not be limited to, the potential
13 of you as a participant to act in a negligent manner that may con-
14 tribute to your injury or death and the potential of another partic-
15 ipant to act in a negligent manner that may contribute to your injury
16 or death. You are assuming the risk of participating in this specified
17 agritourism activity.

18 (d) Upon request, the qualified agritourism operator shall provide to
19 any participant a written description of the specified agritourism activity,
20 as set forth pursuant to section 4(a)(2), and amendments thereto, for
21 which this act limits the qualified agritourism operator's liability at each
22 designated agritourism location.

23 Sec. 6. Except as provided in section 7, and amendments thereto,
24 any participant is assuming the inherent risks of a specified agritourism
25 activity when such participant engages in a specified agritourism activity
26 conducted by a qualified agritourism operator at a designated agritourism
27 location. The qualified agritourism operator, pursuant to K.S.A. 60-208,
28 and amendments thereto, shall plead an affirmative defense of assump-
29 tion of risk by the participant.

30 Sec. 7. Nothing in this act shall prevent or limit the liability of a
31 qualified agritourism operator if:

32 (a) The qualified agritourism operator injures the participant by will-
33 ful conduct;

34 (b) the qualified agritourism operator has actual knowledge of a dan-
35 gerous condition in the land, facilities or equipment used in the specified
36 agritourism activity and does not make such dangerous condition known
37 to the participant and such dangerous condition causes the participant to
38 sustain injuries.

39 Sec. 8. Any limitation on legal liability afforded to a qualified agri-
40 tourism operator by this act shall be in addition to any other limitation of
41 legal liability otherwise provided by law. Nothing in this act, nor failure
42 by any person to comply with the provisions of this act, shall be construed
43 to limit, restrict or impede the application of K.S.A. 58-3202, *et seq.*, and

1 amendments thereto, to any person, *and a qualified agritourism op-*
2 *erator entitled to coverage under K.S.A. 58-3202, et seq., and*
3 *amendments thereto, shall be entitled to the full limits of liability*
4 *afforded under K.S.A. 58-3202, et seq., and amendments thereto.*

5 Sec. 9. The secretary of commerce may issue rules and regulations
6 to carry out the provisions of this act.

7 Sec. 10. This act shall take effect and be in force from and after its
8 publication in the statute book.