

MAINE STATE LEGISLATURE

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L.D. 1605

Date: 3/27/12

Majority

(Filing No. H-839)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1214, L.D. 1605, Bill, "An Act To Promote Agricultural Activity in Maine by Limiting the Liability for Agritourism Activities"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 7 MRSA c. 8-E is enacted to read:

CHAPTER 8-E

AGRITOURISM ACTIVITIES

§251. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Agritourism activity. "Agritourism activity" means any agricultural activity carried out on a farm or ranch that members of the general public are allowed to view or participate in, including farming, ranching, historical and cultural activities, harvest-your-own activities and attractions related to farming or ranching. An activity is an agritourism activity whether or not the participant pays to view or participate in the activity.

2. Agritourism professional. "Agritourism professional" means a person who is engaged in the business of farming or ranching and provides one or more agritourism activities, whether or not for compensation.

3. Farm or ranch. "Farm" or "ranch" means the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.

4. Farming or ranching. "Farming" or "ranching" means primarily engaging in the commercial production of agricultural products as a livelihood and includes dairy farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing,

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1 cultivating, growing and harvesting fruit, produce or floricultural or horticultural
2 commodities; or any practices on a farm or ranch that are incident to or in conjunction
3 with these farming operations.

4 **5. Inherent risks of agritourism activity.** "Inherent risks of agritourism activity"
5 means those dangers or conditions that are an integral part of an agritourism activity,
6 including but not limited to:

7 A. Certain hazards including surface and subsurface conditions and natural
8 conditions of land, vegetation and waters;

9 B. The behavior of wild and domestic animals, including but not limited to the
10 depositing of manure;

11 C. Ordinary dangers of structures or equipment ordinarily used in farming and
12 ranching; and

13 D. The potential for injury to a participant or others if the participant acts in a
14 negligent manner, including failing to follow instructions given by an agritourism
15 professional or failing to exercise reasonable caution while engaging in an
16 agritourism activity.

17 **6. Participant.** "Participant" means any person, other than the agritourism
18 professional, who engages in an agritourism activity, whether or not a fee is paid to view
19 or participate in the agritourism activity.

20 **§252. Liability**

21 **1. No liability.** Except as provided in subsection 2, an agritourism professional is
22 not liable for any property damage or damages arising from the personal injury of a
23 participant resulting from the inherent risks of agritourism activities. Except as provided
24 in subsection 2, a participant or participant's representative may not make any claim or
25 recover from an agritourism professional for property damage or damages for personal
26 injury resulting from the inherent risks of agritourism activities. A participant expressly
27 assumes the risk and legal responsibility for any property damage or damages arising
28 from personal injury that results from the inherent risk of agritourism activities. A
29 participant has the sole responsibility for knowing the range of that person's ability to
30 participate in an agritourism activity. It is the duty of a participant to act within the limits
31 of the participant's own ability, to heed all warnings and refrain from acting in a manner
32 that may cause or contribute to the injury of any person or damage to any property.

33 **2. Exceptions.** Nothing in subsection 1 prevents or limits the liability of an
34 agritourism professional if the agritourism professional:

35 A. Commits an act or omission that constitutes negligence or reckless disregard for
36 the safety of others, and that act or omission causes an injury. For purposes of this
37 section, "reckless" has the same meaning as "recklessly," as defined in Title 17-A,
38 section 35, subsection 3, paragraph A;

39 B. Has actual knowledge or reasonably should have known of a dangerous condition
40 of the land, facilities or equipment used in an agritourism activity or the dangerous
41 propensity of a particular animal used in the agritourism activity and does not make
42 the danger known to a participant, and the danger causes an injury; or

