

TITLE 6
ACTIONS IN PARTICULAR CASES

CHAPTER 30
IDAHO AGRITOURISM PROMOTION ACT

6-3001. SHORT TITLE. This act shall be known as the "Idaho Agritourism Promotion Act."

[6-3001, added 2013, ch. 177, sec. 1, p. 412.]

6-3002. PURPOSE. The legislature finds that agriculture plays a substantial role in the economy, culture and history of Idaho. As an increasing number of Idahoans are removed from day-to-day agricultural experiences, agritourism provides a valuable opportunity for the general public to interact with, experience and understand agriculture. Inherent risks exist on farms and ranches, the elimination of which would diminish the agritourism experience. Uncertainty of potential liability associated with inherent risks has a negative impact on the establishment and success of agritourism operations.

[6-3002, added 2013, ch. 177, sec. 1, p. 412.]

6-3003. DEFINITIONS. As used in this chapter, the term:

(1) "Agritourism activity" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities including, but not limited to, farming, ranching, historic, cultural, on-site educational programs, recreational farming programs that may include on-site hospitality services, guided and self-guided tours, bed and breakfast accommodations, petting zoos, farm festivals, corn mazes, harvest-your-own operations, hayrides, barn parties, horseback riding, fee fishing and camping. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

(2) "Agritourism professional" means any person who is engaged in the business of providing one (1) or more agritourism activities, whether or not for compensation.

(3) "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions, natural conditions of land, vegetation, waters, the behavior of wild or domestic animals and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

(4) "Participant" means any person, other than the agritourism professional, who engages in an agritourism activity.

(5) "Person" means an individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government or any other group acting as a unit.

[6-3003, added 2013, ch. 177, sec. 1, p. 412.]

6-3004. LIABILITY. (1) Except as provided in subsection (2) of this section, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in section 6-3005, Idaho Code, is posted as required and, except as provided in subsection (2) of this section, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage or death of the participant resulting from any of the inherent risks of agritourism activities. In any action for damages against an agritourism professional for agritourism activities, the agritourism professional must plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

(2) Nothing in subsection (1) of this section prevents or limits the liability of an agritourism professional if the agritourism professional does any one (1) or more of the following:

- (a) Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage or death to the participant;
- (b) Has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities or equipment used in the activity or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage or death to the participant.

(3) Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

[6-3004, added 2013, ch. 177, sec. 1, p. 412.]

6-3005. WARNING REQUIRED. (1) Every agritourism professional must post and maintain signs that contain the warning notice specified in subsection (2) of this section. The sign must be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The warning notice must consist of a sign in black letters, with each letter to be a minimum of one (1) inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, must contain in clearly readable print the warning notice specified in subsection (2) of this section.

(2) The signs and contracts described in subsection (1) of this section must contain the following notice of warning:

WARNING

Under Idaho law, there are risks associated with agritourism, which could lead to injury or death. You are assuming these risks. Section 6-3004, Idaho Code.

(3) Failure to comply with the requirements concerning warning signs and notices provided in this section shall prevent an agritourism professional from invoking the privileges of immunity provided by the provisions of this chapter.

[6-3005, added 2013, ch. 177, sec. 1, p. 413.]

6-3006. TAXATION STATUS. The use of a farm or ranch to conduct an agritourism activity shall not affect the assessment of the property as land actively devoted to agriculture as provided in section 63-604, Idaho Code.

[6-3006, added 2013, ch. 177, sec. 1, p. 413.]