

Senate File 356 - Enrolled

Senate File 356

AN ACT

LIMITING CIVIL LIABILITY FOR PERSONS INVOLVED IN AGRICULTURAL
TOURISM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. **461C.10 Limitation on liability.**

The limitation on legal liability provided in this chapter is in addition to any other limitation of legal liability otherwise provided by law, including as provided in chapters 673 and 673A.

Sec. 2. NEW SECTION. **673.6 Limitation on liability.**

The limitation on legal liability provided in this chapter is in addition to any other limitation of legal liability otherwise provided by law, including as provided in chapters 461C and 673A.

Sec. 3. NEW SECTION. **673A.1 Short title.**

This chapter shall be known and may be cited as the "*Iowa Agricultural Tourism Promotion Act*".

Sec. 4. NEW SECTION. **673A.2 Purpose.**

1. The general assembly finds all of the following:

a. Agriculture is a vital part of this state's economy, culture, and history.

b. An increasing number of Iowans are removed from day-to-day farm life and associated agricultural experiences.

c. Agricultural tourism provides a valuable opportunity for the general public to understand farm life and associated agricultural experiences.

d. Farming includes a number of hazards which cannot be removed for the benefit of visitors to a farm without detracting from the farm experience visitors receive, including the daily experience of working on a farm.

2. The general assembly declares that uncertainty regarding the potential liability associated with places on a farm and the inherent risks of farming have a negative impact upon the establishment and success of agricultural tourism and its benefits to the people of this state.

Sec. 5. NEW SECTION. 673A.3 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Agricultural tourism farm*" means a farm to which members of the public are invited to visit by or on behalf of an agricultural tourism farmer or agricultural tourism professional, for the purpose of allowing members of the public to experience places on a farm and participate in farming activities, regardless of whether a member of the public pays for the visit.

2. "*Agricultural tourism farmer*" means a farmer who owns or leases an agricultural tourism farm.

3. "*Agricultural tourism professional*" means a person who is engaged in managing a visit by a member of the public to an agricultural tourism farm, including any agricultural tourism activity conducted on the premises of an agricultural tourism farm, regardless of whether the person receives compensation.

4. a. "*Agricultural tourist*" means a person who enters on to the premises of an agricultural tourism farm as a visitor to experience places on the farm and participate in farming activities pursuant to an invitation by or on behalf of an agricultural tourism farmer or agricultural tourism professional, regardless of whether the person provides compensation in exchange for the visit.

b. "*Agricultural tourist*" does not mean any of the following:

(1) An employee of, agent of, or person receiving compensation from an agricultural tourism farmer, agricultural tourism professional, or person engaged in farming the agricultural tourism farm.

(2) (a) A family member of an agricultural tourism farmer, agricultural tourism professional, or person engaged in farming the agricultural tourism farm.

(b) As used in subparagraph division (a), "*family member*" means a spouse, child, grandchild, parent, sibling, niece, or nephew, or the spouse of a child, grandchild, parent, sibling, niece, or nephew.

(3) A social guest of an agricultural tourism farmer, agricultural tourism professional, or person engaged in farming the agricultural tourism farm.

5. "*Claim*" means a claim, counterclaim, cross-claim, complaint, cross-complaint, or cause of action recognized by the Iowa rules of civil procedure and brought in court on account of allegation of an injury, loss, or death.

6. *a.* "*Farm*" means land, including buildings or other structures, and improvements used to produce or process a farm commodity, if all of the following apply:

(1) The land is owned or leased by a farmer.

(2) At least ten thousand dollars was generated from the production of farm commodities produced on the land in the last year.

b. "*Farm*" includes but is not limited to a farm field, orchard, nursery, greenhouse, garden, elevator, seedhouse, barn, warehouse, animal feeding operation structure, winery, brewery, distillery, or any personal property located on the land including machinery or equipment used in the production of a farm commodity.

7. "*Farm animal*" means any of the following:

a. An animal belonging to the bovine, caprine, ovine, or porcine species; farm deer as defined in section 170.1; ostriches, rheas, or emus; turkeys, chickens, or other poultry; fish or other aquatic organisms confined in private waters for human consumption; or bees.

b. A horse, pony, mule, jenny, donkey, or hinny.

8. "*Farm commodity*" means a farm crop or farm animal produced or maintained on a farm.

9. "*Farm crop*" means a plant used for food, animal feed, fiber, or oil, including any of the following:

a. A forage or cereal plant, including but not limited to

alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, wheat, and grasses used for forage or silage.

b. Edible or ornamental produce, including but not limited to fruit such as apples, cherries, peaches, pears, berries, and grapes; vegetables such as asparagus, broccoli, and carrots; lentils; tubers; squashes and pumpkins; gourds; and flowers.

10. "*Farmer*" means a person who holds any of the following:

a. An ownership or leasehold interest in land used for farming.

b. An equity interest in a business entity that holds land for use in farming as any of the following:

(1) A family farm corporation, authorized farm corporation, family farm limited partnership, limited partnership, family farm limited liability company, authorized limited liability company, family trust, or authorized trust, all as defined in section 9H.1.

(2) A limited liability partnership as defined in section 486A.101.

11. "*Farming*" means to do any of the following:

a. Produce a farm commodity, including by doing any of the following:

(1) Planting, nurturing, maintaining, inspecting, exhibiting, harvesting, handling, storing, or moving a farm crop.

(2) Producing, breeding, maintaining, handling, confining, moving, inspecting, or exhibiting a farm animal.

b. Engage in an on-farm processing operation in which the form or condition of a farm commodity originating from the farm is changed and prepared or packaged for human use, including but not limited to a dairy, creamery, winery, brewery, distillery, cannery, bakery, butcher shop, smokehouse, or tannery.

12. *a.* "*Inherent risk of farming*" means a danger or hazard that is an integral part of being in a particular place on a farm or participating in a specific farming activity, if the danger or hazard would be reasonably foreseeable by a person generally familiar with that type of farm or farming activity.

b. "*Inherent risk of farming*" includes but is not limited

to a condition or use of the land, including improvements, and any machinery, equipment, or tack, employed in the production or maintenance of farm commodities on the land, the processing of commodities on the same land as they were produced, and the behavior of farm animals or other domestic or wild animals which are present on the land.

13. "*Person engaged in farming*" means an individual contributing physical labor or making management decisions related to any of the following:

a. The production or maintenance of a farm commodity on a farm.

b. The on-farm processing of a farm commodity produced or maintained on that same farm.

Sec. 6. NEW SECTION. 673A.4 **Limitation on liability — inherent risk of farming.**

1. Subject to the conditions of this chapter, an agricultural tourism farmer, an agricultural tourism professional, or a person engaged in farming the agricultural tourism farm is not liable for any act or omission causing injury, loss, or death suffered by an agricultural tourist if all of the following apply:

a. The injury, loss, or death was caused while the agricultural tourist was visiting the agricultural tourism farm.

b. The act or omission that caused the injury, loss, or death was associated with an inherent risk of farming.

2. Subject to the conditions of this chapter, an agricultural tourism farmer, an agricultural tourism professional, or a person engaged in farming on the agricultural tourism farm is not liable for any injury, loss, or death suffered by an agricultural tourist, if any of the following apply:

a. The agricultural tourist contributed to the injury, loss, or death of that agricultural tourist or to another agricultural tourist.

b. The agricultural tourist failed to comply with reasonable verbal or written instructions or warnings provided by the agricultural tourism farmer, the agricultural tourism professional, or a person engaged in farming.

c. The injury, loss, or death occurred at a place where a reasonable person would not enter as part of a visit to the agricultural tourism farm. A legible and conspicuous notice that the place is not part of a visit is sufficient to satisfy this requirement.

Sec. 7. NEW SECTION. 673A.5 Limitation on liability — affirmative defense.

1. In any claim alleging an act or omission causing injury, loss, or death suffered by an agricultural tourist on an agricultural tourism farm, it is an affirmative defense that an agricultural tourism farmer, an agricultural tourism professional, or a person engaged in farming the agricultural tourism farm is not liable pursuant to section 673A.4.

2. The affirmative defense described in subsection 1 is in addition to any other limitation of legal liability otherwise provided by law, including as provided in chapters 461C and 673.

Sec. 8. NEW SECTION. 673A.6 Limitation on liability — notice required.

1. As a condition of being able to plead an affirmative defense as provided in section 673A.5, a notice of the inherent risk of farming must have been provided to an agricultural tourist prior to an alleged injury, loss, or death caused by the agricultural tourism farmer, agricultural tourism professional, or person engaged in farming the agricultural tourism farm.

2. A notice required by this section must have been posted on the premises of an agricultural tourism farm. The notice must have been posted in a conspicuous location where the agricultural tourist was first allowed to enter the premises of an agricultural tourism farm. The notice must have appeared in black letters a minimum of one inch high and in the following form:

IOWA AGRICULTURAL TOURISM PROMOTION ACT

IOWA CODE CHAPTER 673A

You are visiting a working farm as a participant who is either observing or contributing to the success of farming activities. Under Iowa law you are assuming liability for any hazard that you may encounter. A hazard includes inherent risk

of participating in a farming activity or disregarding written or verbal instructions. Farming includes dangerous conditions present on land and in structures, unpredictable behavior of farm animals, dangers associated with the operation of equipment and machinery, and potential wrongful acts of another visitor. Be careful.

3. A notice required by this section must have been included in any written contract entered into by the agricultural tourist and either the agricultural tourism farmer or agricultural tourism professional. A notice required by this section must have been included in any written waiver which must be signed and dated by an agricultural tourist. The notice must have included the same language provided in subsection 2 and printed in twelve point boldface type.

Sec. 9. NEW SECTION. **673A.7 Limitation on liability — exceptions.**

The limitation on liability provided in section 673A.4 and the affirmative defense authorized under section 673A.5 do not apply to the extent that all of the following conditions are met:

1. An injury, loss, or death suffered by an agricultural tourist was caused by the act or omission of an agricultural tourism farmer, an agricultural tourism professional, or a person engaged in farming on the agricultural tourism farm.

2. The act or omission described in subsection 1 was any of the following:

a. Illegal.

b. Intentional.

c. The result of willful misconduct, gross negligence or incompetence amounting to such lack of care as to amount to wanton neglect for the safety of another, or recklessness.

d. Due to intoxication by alcohol, a drug, or a combination of such substances.

e. The result of a failure to notify an agricultural tourist of a dangerous latent condition on the farm, including a building or other structure, or equipment or machinery regardless of whether it was operational, if the dangerous latent condition was known or should have been known by the agricultural tourism farmer or agricultural tourism

professional.

f. A condition or event existing at the agricultural tourism farm that was not reasonably foreseeable by a person generally familiar with farming, even though such condition or farming activity would have been foreseeable at another type of agricultural tourism farm.

JAKE CHAPMAN
President of the Senate

PAT GRASSLEY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 356, Eighty-ninth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2021

KIM REYNOLDS
Governor