

HOUSE BILL NO. 1142

Introduced by

Representatives DeKrey, Drovdal, Kaldor

Senators Klein, Uglen, O'Connell

1 A BILL for an Act to create and enact a new chapter to title 53 of the North Dakota Century
2 Code, relating to agritourism liability.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** A new chapter to title 53 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 In this chapter, unless the context otherwise requires:

8 1. "Agritourism" means any activity customarily carried out on a working or historical
9 farm, ranch, forestry operation, or winery, if members of the general public are invited
10 to view or allowed to participate, with or without fees or charges, in the activities for
11 educational, recreational, or entertainment purposes.

12 2. "Inherent risk" means:

13 a. Any condition, danger, or hazard that is a normal and customary part of an
14 agritourism operation, including:

15 (1) Surface and subsurface conditions of the land;

16 (2) Surface and subsurface conditions of the water;

17 (3) Natural conditions of vegetation;

18 (4) The behavior of wild or domestic animals; and

19 (5) Structures and equipment; and

20 b. Any act of negligence on the part of a participant, including failing to follow
21 instructions or failing to exercise reasonable caution while engaging in
22 agritourism.

23 3. "Participant" means a member of the general public who is invited to view or allowed
24 to participate in agritourism, with or without fees or charges.

1 **Notice regarding liability - Requirements.**

2 The owner or operator of any facility at which agritourism occurs shall post in a conspicuous
3 location on the premises and include in each written contract pertaining to an individual's
4 participation in agritourism a notice indicating that under the laws of this state, the owner or
5 operator is not liable for any injury to or for the death of a participant if the injury or death results
6 from an inherent risk, as defined in this chapter.

7 **Participant in agritourism - Assumption of risk.**

8 Except as otherwise provided, a participant assumes all inherent risks of agritourism. In any
9 action for damages arising from an individual's participation in agritourism, the owner or
10 operator of the facility at which the activity occurred may plead assumption of risk by the
11 participant as an affirmative defense.

12 **Liability of owner or operator.**

13 This chapter does not prevent or limit the liability of the owner or operator of an agritourism
14 facility if the owner or operator:

- 15 1. Willfully injures a participant;
16 2. Has actual knowledge of a dangerous condition on the premises, does not make the
17 condition known to the participant, and the participant is injured as a result; or
18 3. Provides faulty equipment to a participant and the participant is injured as a result.