

Agritourism Civil Liability Reform

Issue

Pennsylvania's long history of agricultural innovation has propelled the Keystone State into a distinction as a national leader in agritourism. Pennsylvania is one of the leading states in the nation in the number of farms that sell directly to consumers, rivaling even California. Agritourism events and activities on farms enhance connections consumers make with the food they eat, the local farmers that produce it, and provides fun and entertainment for families. But many Pennsylvania farmers who need additional income from their farms are hesitant to engage in agritourism enterprises over concerns of civil liability and whether their insurance will protect them for public events. Pennsylvania farmers that have started agritourism businesses have been subjected to lawsuits that stem from accidents that are beyond a farmer's control, such as a trip and fall in a corn maze. Other states have addressed this issue by enacting legislation that reduces a farmer's civil liability for accidents that happen because of risks that are common to a farm. Pennsylvania Farm Bureau is asking for your support of legislation that will help protect agritourism operators.

Background

It's safe to say that agritourism is firmly rooted in Pennsylvania. Corn mazes were first held in Pennsylvania, sparking a trend that has spread nationally. We are a national leader in Christmas tree production, including the popular "choose and cut" activities. According to national Census statistics, Pennsylvania has more than 700 farms that offer agritourism or recreational services as part of their farm business. Agritourism is providing an important economic benefit to these farm families. Agritourism sales topped \$27 million in 2017 with farmers earning, on average, \$38,000 from these types of activities. This is important as the overall agriculture economy is suffering due to low commodity prices. Farmers that can diversify their farm income to offset these roller coaster prices have a better chance of surviving. Plus, farmers offering agritourism are tapping into consumer demands, many of whom want to purchase local and connect with the source of their food.

In some communities, particularly those with quickly expanding suburbs, making a living on the farm through selling traditional commodities is increasingly difficult. The price and availability of land makes that business model no longer profitable. Instead, farm families must focus on direct-to-consumer sales. One of the best ways to market those businesses is by hosting events and activities that encourages families to visit the farm, and showcase the diversity of Pennsylvania agriculture products.

In speaking with farmers, the greatest barrier to starting or even sustaining an agritourism business is our civil liability climate. Traditional farm liability insurance does not cover agritourism and public events. That means farmers must obtain second insurance policies or expensive supplemental lines of coverage. Frivolous lawsuits can drive up insurance premiums, even for accidents that have happened in areas beyond a farmers control. Picking apples or pumpkins in fields—or even cutting your own Christmas tree— present a trip and fall hazard. Animals can be unpredictable, particularly to young, curious visitors. Farmers cannot shield tourists from every hazard. Instead, it's reasonable to expect that visitors need to assume some of the risks that are common for agritourism ventures and a prudent visitor should be able to recognize and protect themselves.

Dozens of other states have protected their farms by passing legislation that offers some civil liability protection. Those laws require that a farmer post multiple warning signs around his or her property warning visitors about the risk of participating in agritourism events. However, those laws also require plaintiffs to demonstrate that the injury they suffered was the result of some form of reckless behavior on the part of a landowner. That provides a basic legal defense a farmer can raise for injuries that are the result of common farm risks. These laws operate much like our Recreational Use of Land and Water Act, which shields landowners for injuries that happen on private property during outdoor recreation activities.

Representative Barb Gleim has introduced House Bill 101, which mirrors legislation enacted in numerous other states, such as New York and Ohio. Farmers in our state are put at a competitive disadvantage because we have failed to provide common-sense liability protection for our farm families. As Pennsylvania communities continue to change, agritourism can be the difference between a farm surviving, and loss of that farm and the aesthetic benefits the farm provides. We are asking for your **strong support** with this important piece of legislation.

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