

HOUSE BILL NO. 2362

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RUZICKA (Sponsor), LOEHNER, MUNZLINGER,
SCHLOTTACH, DAY, VIEBROCK, HOBBS AND SMITH (150) (Co-sponsors).

4910L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 537, RSMo, by adding thereto five new sections relating to the agritourism promotion act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto five new sections, to be known as sections 537.850, 537.853, 537.856, 537.859, and 537.862, to read as follows:

537.850. 1. Sections 537.850 to 537.862 shall be known and may be cited as the "Agritourism Promotion Act".

2. As used in sections 537.850 to 537.862, the following terms shall mean:

(1) "Agritourism activity", any activity which allows members of the general public for recreational, entertainment, or educational purposes to view or enjoy rural activities, including but not limited to farming activities, ranching activities, or historic, cultural, or natural attractions. An activity may be an agritourism activity whether or not the participant pays to participate in the activity. An activity is not an agritourism activity if the participant is paid to participate in the activity;

(2) "Department", the state department of agriculture;

(3) "Director", the director of the department of agriculture;

(4) "Inherent risks of a registered agritourism activity", those dangers or conditions which are an integral part of such agritourism activity, including but not limited to certain hazards such as surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and ordinary dangers of structures or equipment ordinarily used in farming or ranching operations. Inherent

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 risks of a registered agritourism activity also includes the potential of a participant to act
18 in a negligent manner that may contribute to injury to the participant or others, such as
19 failing to follow instructions given by the registered agritourism operator or failing to
20 exercise reasonable caution while engaging in the registered agritourism activity;

21 (5) "Participant", any person who engages in a registered agritourism activity;

22 (6) "Registered agritourism activity", any agritourism activity registered with the
23 director of the department of agriculture under section 537.853, and any rules
24 promulgated thereunder;

25 (7) "Registered agritourism location", a specific parcel of land which is registered
26 with the director of the department of agriculture under section 537.853, and any rules
27 promulgated thereunder, and where a registered agritourism operator engages in
28 registered agritourism activities;

29 (8) "Registered agritourism operator", any person who is engaged in the business
30 of providing one or more agritourism activities and is registered with the director of the
31 department of agriculture under section 537.853, and any rules promulgated thereunder.

537.853. 1. Any person who is engaged in the business of providing one or more
2 agritourism activities may register with the director of the department of agriculture. The
3 registration shall contain all of the following:

4 (1) Information describing the agritourism activity which the person conducts or
5 intends to conduct;

6 (2) Information describing the location where the person conducts or intends to
7 conduct such agritourism activity.

8 2. The department shall maintain a list of all registered agritourism operators, the
9 registered agritourism activities conducted by each operator, and the registered
10 agritourism location where the operator conducts such activities. Such list shall be made
11 available to the public. The department shall promote and publicize registered agritourism
12 operators, activities, and locations to advance the purpose of sections 537.850 to 537.862
13 by promoting and encouraging tourism.

14 3. Registration under this section shall be for a period of two years.

15 4. A registration fee not to exceed one hundred dollars may be imposed on an
16 applicant to cover the actual administrative costs associated with such registration under
17 this section.

537.856. 1. At every registered agritourism location, the registered agritourism
2 operator shall post and maintain signage which contains the warning notice specified in
3 subsection 3 of this section. The requirements of this section shall be deemed satisfied if
4 such signage is placed in a clearly visible location at or near the registered agritourism

5 location. The warning notice shall appear on the sign in black letters, with each letter to
6 be at least one inch in height.

7 **2. Every written contract entered into by a registered agritourism operator for the**
8 **providing of a registered agritourism activity shall contain in clearly readable print the**
9 **warning notice and language specified in subsection 3 of this section.**

10 **3. The required signage under this section shall contain the following warning**
11 **notice:**

12 **"WARNING: Under Missouri law, there is no liability for an injury or death of a**
13 **participant in a registered agritourism activity conducted at this registered agritourism**
14 **location if such injury or death results from the inherent risks of such agritourism activity.**
15 **Inherent risks of agritourism activities include, but are not limited to, the potential of you**
16 **as a participant to act in a negligent manner that may contribute to your injury or death**
17 **and the potential of another participant to act in a negligent manner that may contribute**
18 **to your injury or death. You are assuming the risk of participating in this registered**
19 **agritourism activity."**

20 **4. Upon request, the registered agritourism operator shall provide to any**
21 **participant a written description of the registered agritourism activity, as set forth in the**
22 **registration under section 537.853 for which sections 537.850 to 537.862 limits the**
23 **registered agritourism operator's liability at the registered agritourism location.**

537.859. 1. Any participant is assuming the inherent risks of a registered
2 **agritourism activity when such participant engages in such agritourism activity. Except**
3 **as provided in subsection 2 of this section, a registered agritourism operator is not liable**
4 **for injury to or death of a participant resulting from the inherent risks of agritourism**
5 **activities so long as the warning contained in section 537.856 is posted as required and,**
6 **except as provided in subsection 2 of this section, no participant or participant's**
7 **representative shall maintain an action against or recover from a registered agritourism**
8 **operator for injury, loss, damage, or death of the participant resulting exclusively from any**
9 **of the inherent risks of agritourism activities.**

10 **2. Nothing in sections 537.850 to 537.862 shall prevent or limit the liability of a**
11 **registered agritourism operator if the registered agritourism operator:**

12 **(1) Injures the participant by willful or wanton conduct; or**

13 **(2) Has actual knowledge of a dangerous condition in the land, facilities, or**
14 **equipment used in the registered agritourism activity or the dangerous propensity of a**
15 **particular animal used in such activity and does not make such dangerous condition known**
16 **to a participant and such dangerous condition causes the participant to sustain injuries.**

17 **3. In any action for damages for personal injury, death, or property damage arising**
18 **from the operation of a registered tourism activity in which an owner or operator is named**
19 **as a defendant, it shall be an affirmative defense to that liability that:**

20 **(1) The injured person assumed the risk;**

21 **(2) The injured person deliberately disregarded conspicuously posted signs, verbal**
22 **instructions, or other warnings regarding safety measures during the activity; or**

23 **(3) Any equipment, animals, or appliance used by the injured person during the**
24 **activity were used in a manner or for a purpose other than that for which a reasonable**
25 **person should have known they were intended.**

537.862. 1. There is hereby created in the state treasury the "Agritourism Fee
2 **Fund", which shall consist of any moneys appropriated to the fund and registration fees**
3 **collected under section 537.853. The state treasurer shall be custodian of the fund. In**
4 **accordance with sections 30.170 and 30.180, the state treasurer may approve**
5 **disbursements. Upon appropriation, money in the fund shall be used solely for the**
6 **administration of sections 537.850 to 537.862.**

7 **2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
8 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
9 **general revenue fund.**

10 **3. The state treasurer shall invest moneys in the fund in the same manner as other**
11 **funds are invested. Any interest and moneys earned on such investments shall be credited**
12 **to the fund.**

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