

North Carolina Agritourism Limited Liability Law

Each day, business owners risk getting sued for carrying out their business's day-to-day operations. Owners of agritourism businesses face the same risk: Often, they host curious visitors, many of whom are new to a farm setting and agritourism, and the unique equipment and facilities associated with them. These conditions leave both visitors and owners ripe for mishaps, which, in turn, can lead to legal disputes. In response to this growing vulnerability, the state of North Carolina passed the **Agritourism Limited Liability Law**. Simply put: this law is intended to **limit** an agritourism business owner's **openness to a lawsuit**: in other words, its **liability**.

How does this law work?

Under this law, agritourism business owners can limit their liability by doing the following:

1. **Posting** clear, visible signs stating the risks of visiting their facilities. These signs should state the following, verbatim:

Warning

Under North Carolina law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity.

2. **Including** the above warning in all written contracts or liability waivers for visitors to read and sign.

Other ways to limit liability

Business owners can take other precautions, as well. To name a few, they can:

- Post signs near unsafe areas, such as ponds, lakes, and streams, with a "No Swimming or Wading" sign;
- Post signs near high risk areas such as equipment storage areas with a "Keep Out" sign;
- Use fences and locks to close off areas from public access; and
- Provide easy access to hand washing and sanitizing stations.

The Limited Liability Law is not a guarantee.

North Carolina's Agritourism Limited Liability Law can help limit liability, but is **not** absolute protection against a lawsuit. For instance, posted warning signs **will not protect you if**:

- You are negligent;
- You have not taken reasonable measures to ensure that your property is safe.

Negligence is often determined in a court of law. Therefore, an agritourism business owner's best defense is to post limited liability warning signs, include those warnings in all contracts, and do everything possible to provide a safe environment for customers.

How do you get a Limited Liability Warning Sign?

While business owners can write their own signs, stating the Limited Liability Law verbatim signs are also available for purchase through the NC Agritourism Networking Association (ANA)

To get a sign through the ANA:

Visit www.ncagr.com/markets/agritourism/ANAmision.htm, and click on *ANA Membership Application*. The ANA is a statewide network of businesses and individuals, who share common interests.

For more on the 2005 Limited Liability Law, visit:

<http://www.ncleg.net/Sessions/2005/Bills/House/HTML/H329v6.html>

For more information, contact:

Annie Baggett

Marketing Division

NC Department of Agriculture & Consumer Services

919-707-3120

annie.baggett@ncagr.gov

<http://www.ncagr.com/markets/agritourism/index.htm>

Your local NC Cooperative Extension Office:

<http://www.ces.ncsu.edu/local-county-center/>

For farmers outside of North Carolina go to <http://nationalaglawcenter.org/state-compilations/agritourism/> and select your state to see your local agritourism statutes.

Adapted from http://davidwballard.com/liability_law.doc.pdf

North Carolina Department of Agriculture and Consumer Services