

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: February 21, 2025

Check all that apply:

Bill Number: HB 521

Original Correction
Amendment Substitute

Sponsor: Sen. John Block

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Short Title: Agritourism Promotion Act

Analysis: Peter James O’Connor

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Here's a concise synopsis of the **Agritourism Promotion Act**:

Agritourism Promotion Act – New Mexico

Proposed Bill 521, the *Agritourism Promotion Act*, aims to boost agritourism in New Mexico by defining agritourism activities and limiting the liability of agritourism operators under specific conditions. Agritourism includes activities that allow the public to engage with rural, agricultural, and cultural experiences like farming, ranching, winemaking, and farm-to-table events.

Section 1 – Provides for the short title of the Act as Agritourism Promotion Act.

Synopsis of Section 2 – Definitions

This section outlines key definitions used in the *Agritourism Promotion Act*:

- **Agritourism:** Recreational, entertainment, or educational activities that allow the public to experience rural life, including farming, ranching, historic or cultural sites, natural attractions, harvesting, winemaking, farm-to-table experiences, and similar agricultural activities.
- **Agritourism Location:** A specific parcel of land where agritourism activities are conducted.
- **Agritourism Operator:** A person or business engaged in providing one or more agritourism activities.
- **Inherent Risks of Agritourism:** Natural or unavoidable hazards associated with agritourism, such as uneven terrain, natural land and water conditions, interaction with wild or domestic animals, exposure to farm equipment, and typical dangers from farming or ranching operations. This also includes risks arising from a participant's own negligence.
- **Participant:** An individual taking part in agritourism activities who is responsible for their own safety and is expected to follow posted rules and instructions.

Synopsis of Section 3 – Limited Liability for Agritourism Operators

This section establishes limited liability protections for agritourism operators in New Mexico. Operators are generally not liable for injuries or deaths resulting from the inherent risks of

agritourism, provided they post the required warning notice as outlined in Section 4. Participants or their representatives cannot sue or seek damages for injuries or deaths caused solely by these inherent risks or by known dangerous conditions that the operator has clearly communicated. However, the liability protection does not apply if the operator:

1. Engages in willful, wanton, or reckless behavior that causes harm.
2. Fails to warn participants about known dangers on the land, in equipment, or involving animals, leading to injury or death.
3. Intentionally causes harm to a participant.

The section also requires agritourism operators to carry insurance coverage and clarifies that the liability limits are in addition to other protections under state law. Operators can also use the defense of "assumption of risk" in legal actions related to agritourism activities.

Synopsis of Section 4 – Posting of Notice

This section mandates that agritourism operators in New Mexico must post warning signs to inform participants of the inherent risks associated with agritourism activities. The signs must be displayed at all entry points and key activity sites, with lettering at least one inch tall, placed in clearly visible locations. The warning must state that under New Mexico law, operators are not liable for injuries or deaths resulting from the inherent risks of agritourism, which include dangers related to land, equipment, animals, and participant negligence. Failure to post these warnings as required will prevent operators from claiming legal immunity under the Agritourism Promotion Act.

Synopsis of Section 5 – Rulemaking

This section authorizes the Office of the Superintendent of Insurance to establish rules regarding liability insurance for agritourism operators. The rules will address the accessibility of insurance, including the development of state-backed insurance programs and the implementation of tiered insurance requirements based on the size and type of agritourism operations.

Synopsis of Section 6 – Severability Clause

This section ensures that if any part of the *Agritourism Promotion Act* is found to be invalid or unenforceable by a court, the remaining provisions will continue to be effective. The invalidation of one part will not impact the application of the rest of the Act to other situations or individuals.

Section 7 – provides a law effective date of July 1, 2025.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented. NA

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section. NA

SIGNIFICANT ISSUES Although limiting the liability of state actors (police, paramedics, etc.) to gross negligence, recklessness and intentional tortious conduct is common, HB 521 appears to be unique in attempting to limit liability for actors in a private industry, i.e., agritourism operators, by providing them an escape from liability for simple negligence.

PERFORMANCE IMPLICATIONS NA

ADMINISTRATIVE IMPLICATIONS NA

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP SB 415 proposes \$350,000 be allocated to New Mexico State for a Agritourism academic program. It would support SB 521 because it would create a source of graduates ready to promote New Mexico Agritourism.

TECHNICAL ISSUES None identified.

OTHER SUBSTANTIVE ISSUES NA

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL Status quo.

AMENDMENTS