

HOUSE BILL 521

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO TOURISM; ENACTING THE AGRITOURISM PROMOTION ACT;
LIMITING THE LIABILITY OF AN AGRITOURISM OPERATOR IN CERTAIN
CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Agritourism Promotion Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Agritourism Promotion Act:

A. "agritourism" means activities that allow
members of the public, for recreational, entertainment or
educational purposes, to view or enjoy rural activities,
including farming and ranching activities; historic, cultural
or natural attractions; harvesting; winemaking; farm-to-table
activities; and other similar agricultural experiences;

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1 B. "agritourism location" means a specific parcel
2 of land where an agritourism operator engages in agritourism;

3 C. "agritourism operator" means a person who is
4 engaged in the business of providing one or more agritourism
5 activities;

6 D. "inherent risks of agritourism" means dangers or
7 conditions that are an integral part of agritourism, including
8 certain hazards, such as surface and subsurface conditions;
9 natural conditions of land, vegetation, foliage and waters; the
10 behavior or presence of wild or domestic animals; exposure to
11 and use of farm equipment; and ordinary dangers of structures
12 or equipment ordinarily and routinely used in farming or
13 ranching operations. "Inherent risks of agritourism" includes
14 a participant's negligence; and

15 E. "participant" means a person who engages in
16 agritourism and assumes responsibility for the person's own
17 safety while adhering to posted rules and instructions.

18 SECTION 3. [NEW MATERIAL] LIMITED LIABILITY FOR
19 AGRITOURISM OPERATORS.--

20 A. Except as provided in Subsection B of this
21 section, an agritourism operator is not liable for injury to or
22 death of a participant resulting from the inherent risks of
23 agritourism as long as the warning contained in Section 4 of
24 the Agritourism Promotion Act is posted as required. Except as
25 provided in Subsection B of this section, a participant or

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1 participant's representative shall not maintain an action
2 against or recover from an agritourism operator for the loss,
3 injury or death of the participant resulting exclusively from
4 the inherent risks of agritourism or any dangerous condition
5 clearly communicated by the agritourism operator to the
6 participant via signage, waiver acknowledgments, warnings on
7 the operator's website or any other means of communication.

8 B. Subsection A of this section does not limit the
9 liability of an agritourism operator if the agritourism
10 operator:

11 (1) commits an act or omission that
12 constitutes willful, wanton or reckless disregard for the
13 safety of the participant and that act or omission proximately
14 causes injury or death to the participant;

15 (2) has actual knowledge or reasonably should
16 have known of a dangerous condition on the land or in the
17 facilities or equipment or the dangerous propensity of a
18 particular animal used in the course of agritourism and does
19 not make the danger known to the participant and the danger
20 proximately causes injury or death to the participant; or

21 (3) intentionally injures the participant.

22 C. An agritourism operator shall obtain a
23 certificate of insurance coverage.

24 D. The limitation on liability provided to an
25 agritourism operator by the Agritourism Promotion Act is in

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1 addition to any other limitation of liability otherwise
2 provided by law. Nothing in the Agritourism Promotion Act
3 shall be construed to limit, restrict or impede a person and an
4 agritourism operator to existing coverage provided pursuant to
5 state law.

6 E. In any action for damages arising from the
7 operation of agritourism, the agritourism operator may plead an
8 affirmative defense of assumption of risk by the participant.

9 SECTION 4. [NEW MATERIAL] POSTING OF NOTICE.--

10 A. An agritourism operator conducting agritourism,
11 whether the activities occur on or off the site of an
12 agritourism location, shall post a warning sign, which shall
13 serve as notice of the inherent risks of the agritourism
14 activity. Agritourism operators shall post the warning signs
15 at all entry points to the agritourism location and at key
16 activity sites. Each sign shall have lettering of at least one
17 inch in height and be in a conspicuous location where it is
18 clearly visible to participants. The warning sign shall
19 contain, at a minimum, the following statement:

20 "WARNING

21 Under New Mexico law, there is no liability for an injury
22 to or death of a participant in an agritourism activity
23 conducted at this location if the injury or death results from
24 the inherent risks of the agritourism activity. Inherent risks
25 include risks of injury inherent to land, equipment and

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1 animals, as well as the potential for a participant to act in a
2 negligent manner that may contribute to injury or death.".

3 B. Failure to post warning signs in the manner
4 provided pursuant to Subsection A of this section shall prevent
5 an agritourism operator from invoking the immunity provided by
6 the Agritourism Promotion Act.

7 SECTION 5. [NEW MATERIAL] RULEMAKING.--The office of
8 superintendent of insurance shall promulgate rules relating to
9 liability insurance accessibility for agritourism operators,
10 including state-backed insurance programs and tiered insurance
11 requirements based on the size and nature of an agritourism
12 operation.

13 SECTION 6. SEVERABILITY CLAUSE.--If any part or
14 application of the Agritourism Promotion Act is held invalid,
15 the remainder or its application to other situations or persons
16 shall not be affected.

17 SECTION 7. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2025.