

# Agritourism and Liability Waivers

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## **Agritourism continues to grow in North Carolina as residents and visitors look to explore and strengthen the connection between farm and table.**

In the western part of the state, options span from flower and produce farms to livestock and hemp growers.

Farmers often look to agritourism as a way to diversify

their revenue streams and increase awareness of their brand or products by inviting guests to tour or observe farming operations. Farm visitors, however, sometimes underestimate the risks inherent with entering a farm environment, and thus may fail to appreciate the risks that exist on such tours. In addition to properly supervising visitors, farmers can and should take additional steps to protect their business and investment from a possible claim should an agritourist becomes injured while visiting the farm.

North Carolina, by statute, limits the liability of agritourism businesses, but only if the business posts the requisite warning using a sufficiently large font in a conspicuous location. The limitation of liability protects any agritourism professional from claims of liability for injuries or death sustained by a visitor from risks inherent to an "agritourism activity." "Agritourism activity" is defined "as any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions." Participants need not to pay to participate in the activity for it to meet the definition of an agritourism activity. "Agritourism activity" also includes any activity involving animal exhibition at an agricultural fair licensed by the Commissioner of Agriculture.

While the definition of "agritourism activity" is broad, the protections afforded by the statutory limitation on liability only extend to those who post the requisite waiver. Furthermore, the limitation on liability does not apply if the agritourism business or professional commits an act that is a willful or wanton disregard for the safety of a participant that leads to injury or death, or if the business or professional has knowledge of a dangerous condition existing on the land or with an animal, which leads to the visitors injury. These limitations on the available liability protections for agritourism business or professionals keeps them from escaping liability for conduct that knowingly or recklessly exposes visitors to possible injury.

All agritourism businesses and professionals should work with legal counsel to ensure that they have posted the required warnings in the appropriate locations and that any liability waivers presented to tour participants or visitors also contain the warning language. Failure to do so could unnecessarily expose a farm to a potential claim for liability. This is an especially painful reality for farmers who do not charge for tours of their

farms to discover.

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