

Agritourism in North Carolina: Balancing Revenue Growth with Legal Compliance

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Agritourism is now a vital part of the agricultural economy in North Carolina. More and more farmers are turning to agritourism as a way to diversify and balance their revenue streams.

This trend is largely a response to growing consumer interest in learning about and experiencing rural life, understanding where food comes from and how farms actually operate, and participating in hands-on farm activities.

Agritourism encompasses a variety of commercial activities that take place on farms and directly relate to the farm's operations, including educational tours, customer hand harvest, animal interactions, events and entertainment, workshops and clinics, and farm-to-table dining experiences.

Liability Risks and Legal Protections

While agritourism offers benefits, including revenue diversification and enhanced public engagement, it also introduces certain risks that farmers must manage. Farms are, by their nature, inherently dangerous places, and visitors often underestimate the risks associated with being on a farm. Farmers can manage liability for these risks by leveraging the protections granted by the North Carolina General Assembly in combination with other proactive measures.

North Carolina, by statute, limits the liability of agritourism businesses, but only if the business posts the requisite warning using 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 broadly 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 pay to participate in the activity for it to meet the definition of an agritourism activity. This definition also includes any activity involving animal exhibition at an agricultural fair licensed by the Commissioner of Agriculture.

However, 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 visitor's injury.

It is not enough to rely on these statutory liability protections, notwithstanding the fact that they are significant. Farmers should also consider requiring guests to sign written liability waivers and implement safety controls such as routine inspections of grounds and equipment, among other such measures.

Risks of Stretching the Definition of Agritourism

Farmers must resist the temptation to stretch the definition of agritourism. It is a misconception that simply being located on or adjacent to a farm qualifies something as agritourism. For just a few examples, events such as large concerts, weddings, or corporate retreats, commercial operations such as restaurants or coffee carts, or merchant stands that have no real tie to the farm may not qualify as agritourism.

This misclassification can lead to several serious consequences:

1. **Zoning Enforcement:** Many rural areas have specific zoning regulations that allow for agritourism activities but restrict commercial events that do not relate to agriculture.
2. **Loss of Liability Protections:** If an activity falls outside the scope of agritourism, the protections discussed above may no longer apply.
3. **Insurance Coverage:** The use at issue may not fall within the insurance coverage for the property, potentially exposing the owner to liability without the benefit of insurance coverage.
4. **Reputation Damage:** Engaging in activities that stretch the definition of agritourism can also damage a farm's reputation within the community and with local authorities.

Given these risks, it is essential for farm owners to thoroughly understand the legal definition of agritourism and ensure that their offerings align with it. Farmers should consult with legal counsel to review their activities, obtain proper zoning approvals, and confirm that they are fully protected under state liability laws. By doing so, they can avoid the pitfalls of misclassification while still benefiting from the many opportunities that agritourism provides.

Conclusion

Agritourism presents both exciting opportunities and potential challenges for North Carolina farmers. While it serves as a powerful tool for revenue diversification and public engagement, farmers must carefully navigate the legal landscape to ensure compliance and maintain the protections provided by North Carolina law.

Don't face these challenges alone! Reach out to our Agribusiness team today for expert guidance and support. Our team is dedicated to helping you maximize your agritourism ventures while staying compliant with all regulations. Contact us now to ensure your farm thrives in this growing industry.

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