

Understanding the Mississippi Agritourism Limited Liability Law



Agritourism, which combines agriculture and tourism, may provide an opportunity for farming operations to gain additional revenue while helping visitors learn about the role and importance of agriculture. To promote agritourism's role in economic and community development in the state, the Mississippi Legislature passed a law to provide limited liability to those who invite visitors to their farms or ranches.

This Agritourism Limited Liability Law (Mississippi Code Title 69, Chapter 53), which went into effect in 2012, gives landowners added liability protection as long as they make sensible efforts to make their property secure and alert visitors to any recognized hazards. It was amended in 2014 but will be repealed in 2018 unless the legislature makes it permanent. This publication seeks to bring accurate information to current and potential agritourism operators on the legislation. More information can be obtained by visiting the Mississippi Department of Agriculture and Commerce (MDAC) agritourism website. <http://www.mdac.state.ms.us/programs/agritourism/index.html>

Under the law, agritourism operators must post warning signs with specific language in prominent locations. Whether the operation has paying or nonpaying visitors, it must register with MDAC to be covered under the law. This statute is not a substitute for general or event liability insurance, but it can assist in mitigating risk for registered operators who have taken proper precautions.

Frequently Asked Questions

What is agritourism?

Agritourism is broadly defined to include paying or nonpaying visitors to any type of farm, ranch, or other agricultural operation. It might include operations that offer birdwatching, U-pick gardens, farm arts and crafts, and seasonal festivals. Here is the definition given in Mississippi Code Annotated 69-53-1 to 69-53-9:

Agritourism means the travel or visit by the general public to, or the practice of inviting or allowing the general public to travel to or visit a working farm, ranch, or other commercial agricultural, aquacultural, horticultural,

or forestry operation for the purpose of enjoyment, education, or participation in the activities of the farm, ranch, or other agricultural, aquacultural, horticultural, or forestry operation.

Are all agritourism operations covered?

No. Only agricultural operations that register with MDAC and meet the requirements of the law are covered. Registration packets and an application can be downloaded from the MDAC website.

<https://www.mdac.ms.gov/agency-info/programs/mississippi-agritourism/registration-guidelines-application/>

How much does registration cost, and how long is the coverage period?

Registration costs \$50, and operations must reregister each year. Registration is good for 1 year from the date of registration. MDAC uses a portion of the registration fees to promote the agritourism industry.

Is the current law permanent?

No. The current law is set for repeal on July 1, 2018, unless the Mississippi Legislature makes it permanent.

What does "limited liability" mean?

According to the National Agricultural Law Center, limited liability does not mean a limit on the amount someone can be awarded. It means liability is limited to injuries that result from an operator's negligence or intentional act—not from injuries that occur as a result of the inherent risk of the agritourism activities.

What is "inherent risk"?

According to the National Agricultural Law Center and Mississippi Code, inherent risk in agritourism includes "the dangers or conditions that are an integral part of the agritourism activity." It also includes the risk that occurs because of the negligent actions of the participant. For example, visitors or participants may be held negligent for failing to follow instructions that have been given to them by the operator to protect their safety, such as proper hand-washing procedures or animal handling.

Inherent risk includes risk of injury for the hazards that are “inherent” to the operation. Following are examples of such hazards: conditions that might cause falls, such as slippery surfaces, tripping dangers, drain pipes, sink holes, or various natural conditions of the land, vegetation, and water; behavior of wild or domestic animals; or the ordinary dangers of structures or equipment used in farming, ranching, or other commercial operations.

What if the operator is negligent?

This law does not protect negligent operators. Negligence includes willful disregard for guests. Further, it does not protect an operator who intentionally injures a guest.

What if a visitor is negligent?

Visitor negligence is part of the “inherent risk” of an agritourism operation and is within the scope of the law. However, an operator has an obligation to provide visitors with a safe environment and to post the required warning signs.

Does the law ensure I will not be sued?

No. Under American law, any person who feels aggrieved by the actions of another can file a civil lawsuit, whether justified or not. It is up to the court to determine whether a suit has merit. If the court determines that the facts do not justify a lawsuit, the judge may dismiss the action.

If I am sued, does the law ensure I will not be penalized?

No. Every judge and jury is different, and the facts of each case are unique. The law gives some protection to an operator, but only if the court determines that the operator has not acted in a negligent manner.

Do I still need liability insurance for my operation?

This law does not substitute for private liability insurance and does not protect an operation from lawsuits. We recommend that operators seek legal counsel and visit with their insurance providers to determine coverage needs and options. The National Agricultural Law Center has case law summaries related to agritourism on its website.

<http://nationalaglawcenter.org/aglaw-reporter/case-law-index/agritourism/>

How can I ensure a safe environment on my operation?

The value of agriculture is significant to Mississippi and the nation. However, less than 2 percent of the U.S. population lives on farms. Therefore, visitors to agritourism operations are often unfamiliar with the potential hazards on a farm or ranch.

<http://www.dafom.msstate.edu/factbook.pdf>

http://www.agcensus.usda.gov/Publications/2012/Online_Resources/Highlights/Farm_Demographics/

The National Children’s Center for Rural and Agricultural Health and Safety supports a website where operators can find examples of safe and unsafe activities, as well as ideas for safe play areas. There are also downloadable guides, checklists, and walkthroughs on many subjects, including animal and food safety, corn mazes and hayrides, barriers and fences, emergency preparation and planning, and traffic and parking. Additionally, operators can find tools to better communicate with guests before and after their visits. We also recommend that you communicate with your insurance provider. Invite the agent to your farm to determine if your facility and practices are in line with your insurance policy. Operators with completed checklists and evidence of safety protocols might be eligible to receive discounts on insurance.

<http://www.safeagritourism.com>

What should I put on the warning signs?

Each warning sign must include the specific language spelled out in the Agritourism Limited Liability Law, using black, 1-inch letters. Registration guidelines on the MDAC website detail the specific language and physical requirements.

<http://www.mdac.state.ms.us/programs/agritourism/pdf/RegistrationGuidelines.pdf>

Where can I get warning signs?

Operators may use private sign companies or contact local Extension offices. The MSU Extension Service has a limited supply of free signs that Extension personnel can order. Warning signs provided by Extension cannot be shipped, but you can arrange to have them delivered or picked up.

Where can I get more information on operating an agritourism business?

The MSU Extension Service supports agritourism operators by providing educational resources, sessions, workshops, and limited technical assistance.

<http://www.naturalresources.msstate.edu/>

<https://ag.tennessee.edu/cpal/Pages/IdeastoAction/Overview.aspx>

Joining the Mississippi Agritourism Association will provide access to current operators who are willing to share their expertise and contacts, information on meetings and conferences, and social-media network connections.

<http://mississippiagritourism.org/>

MDAC has an agritourism website with related links and a mobile app.

<https://www.mdac.ms.gov/agency-info/programs/mississippi-agritourism/>

<https://www.mdac.ms.gov/online-services-mobile-apps/mobile-app-for-mississippi-agritourism/>

Visit Mississippi promotes agritourism in its widely distributed *Mississippi Tour Guide* publication and website. Contact Mike Jones at MJONES@mississippi.org to be listed.

<http://www.visitmississippi.org/sitepages/nature-and-outdoors#agritourism>

References

National Agricultural Law Center

<http://nationalaglawcenter.org/state-compilations/agritourism/>

Mississippi Department of Agriculture and Commerce

<http://www.mdac.ms.gov/wp-content/uploads/ms-agritourism-registration-guidelines.pdf>

Florida Farm Bureau

<http://www.floridafarmbureau.org/wp-content/uploads/2015/09/AgritourismBooklet07.pdf>

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The information provided is intended for informational purposes only and shall not be construed as legal advice or a legal opinion of the Mississippi State University Extension Service.

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