

House Bill 89

By: Representatives Royal of the 164th, Ray of the 128th, Hudson of the 156th, Greene of the 158th and Houston of the 166th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to the
2 sale of agricultural and forestry products, so as to provide limited liability for owners and
3 operators of farms specializing in pick-your-own agricultural products under certain
4 circumstances; to provide for legislative findings; to provide for definitions; to provide for
5 warnings and notices; to provide for an effective date; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to the sale of
10 agricultural and forestry products, is amended by adding at the end thereof a new Article 7
11 to read as follows:

12 "ARTICLE 7

13 2-14-150.

14 The General Assembly recognizes that persons who patronize farms specializing in
15 pick-your-own agricultural products may incur injuries as a result of the risks involved in
16 such activity. The General Assembly also finds that the state and its citizens derive
17 numerous economic and personal benefits from such activity. The General Assembly
18 finds, determines, and declares that this article is necessary for the immediate preservation
19 of the public peace, health, and safety. It is, therefore, the intent of the General Assembly
20 to encourage the direct sale of agricultural products from farmers to the general public by
21 limiting the civil liability of farmers involved in such activity.

22 2-14-151.

23 As used in this article, the term:

1 (1) 'Agricultural products' means fruits, vegetables, pecans, nuts, horticultural products,
2 and other such fresh farm products that are made available to the general public through
3 pick-your-own farm operations.

4 (2) 'Participant' means any person who enters the farm location, singly or with a group,
5 for the purpose of harvesting fresh farm products from pick-your-own farm operations.

6 2-14-152.

7 (a) Except as provided in subsection (b) of this Code section, the owner or operator of any
8 farm specializing in pick-your-own agricultural products shall not be liable for an injury
9 to or the death of a participant resulting from the inherent risks of harvesting agricultural
10 products, and, except as provided in subsection (b) of this Code section, no participant or
11 participant's representative shall make any claim against, maintain an action against, or
12 recover from an owner or operator, or any other person or entity for injury, loss, damage,
13 or death of the participant resulting from any of the inherent risks of harvesting agricultural
14 products.

15 (b) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an
16 owner or operator or any other person or entity if the owner or operator:

17 (1) Owns, leases, rents, or otherwise is in lawful possession and control of the land upon
18 which the participant sustained injuries because of a dangerous latent condition which
19 was known or should have been known to the owner or operator and for which signs
20 warning of the latent defect have not been conspicuously posted;

21 (2) Commits an act or omission that constitutes willful or wanton disregard for the safety
22 of the participant, and that act or omission caused the injury; or

23 (3) Intentionally injures the participant.

24 (c) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an
25 owner or operator under liability provisions as set forth in the product liability laws.

26 2-14-153.

27 (a) Every owner and operator of a pick-your-own farm operation shall post and maintain
28 signs which contain the warning notice specified in subsection (b) of this Code section.
29 Such signs shall be placed in a clearly visible location near the entrance of the farm. The
30 warning notice specified in subsection (b) of this Code section shall appear on the sign in
31 black letters, with each letter to be a minimum of one inch in height. Every written
32 contract entered into by an owner or operator shall contain in clearly readable print the
33 warning notice specified in subsection (b) of this Code section.

34 (b) The signs and contracts described in subsection (a) of this Code section shall contain
35 the following warning notice:

1 'Under Georgia law, an owner or operator of a pick-your-own farm location is not liable
2 for an injury to or the death of a participant from the inherent risks of harvesting
3 agricultural products, pursuant to Article 7 of Chapter 14 of Title 2 of the Official Code
4 of Georgia Annotated.'

5 (c) Failure to comply with the requirements concerning warning signs and notices provided
6 in this Code section shall prevent an owner or operator from invoking the privileges of
7 immunity provided by this article."

8 **SECTION 2.**

9 This Act shall become effective upon its approval by the Governor or upon its becoming law
10 without such approval.

11 **SECTION 3.**

12 All laws and parts of laws in conflict with this Act are repealed.