

House Bill 453

By: Representatives Hill of the 21<sup>st</sup>, England of the 108<sup>th</sup>, Roberts of the 154<sup>th</sup>, McCall of the 30<sup>th</sup>, and Royal of the 171<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to sale  
2 of agricultural and forest products, so as to to provide limited liability for owners and  
3 operators of farms offering agritourism activities under certain circumstances; to provide for  
4 legislative findings; to provide for definitions; to provide for warnings and notices; to amend  
5 Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide  
6 conservation use property, so as to provide for acts relating to agritourism which shall not  
7 constitute a breach of a conservation use covenant; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to sale of  
12 agricultural and forest products, is amended by adding a new article to read as follows:

13 style="text-align:center">"ARTICLE 8

14 2-14-160.

15 The General Assembly recognizes that persons who patronize farms offering agritourism  
16 activities may incur injuries as a result of inherent risks involved in such activity. The  
17 General Assembly also finds that this state and its citizens derive numerous economic,  
18 educational, environmental, cultural, and personal benefits from such activity. The General  
19 Assembly finds, determines, and declares that this article is necessary for the immediate  
20 preservation of the public peace, health, and safety. It is, therefore, the intent of the  
21 General Assembly to encourage agritourism activities by limiting the civil liability of  
22 farmers involved in such activities.

23 2-14-161.

24 As used in this article, the term:

1 (1) 'Agritourism' means any activity:

2 (A) Carried out on property that is a 'bona fide conservation use property' as that term  
3 is defined by Code Section 48-5-7.4; provided, however, that property exceeding 2,000  
4 acres shall be entitled to the protection provided by this Code section so long as the  
5 property meets the other requirements of Code Section 48-5-7.4; and

6 (B) That allows members of the public, for recreational, entertainment, or educational  
7 purposes, to use, view, or enjoy agricultural property, machinery, resources, goods,  
8 domesticated and wild animals, history, or culture.

9 An activity is an agritourism activity whether or not the participant paid to participate in  
10 such activity.

11 (2) 'Agritourism professional' means a person, actual or corporate, who, for educational  
12 benefit, financial gain, or consideration, leads, hosts, or supervises agritourism activities  
13 or owns, leases, or rents agricultural property on which agritourism activities occur. Such  
14 term shall include also all agents, employees, and representatives of the agritourism  
15 profession.

16 (3) 'Inherent risks of agritourism activity' means those dangers or conditions associated  
17 with agritourism activities that are known to reasonable persons. Such dangers include, but  
18 are expressly not limited to, surface and subsurface conditions; natural conditions of land,  
19 vegetation, and waters; the behavior of wild or domestic animals; the ordinary dangers of  
20 structures or equipment ordinarily used in farming and ranching operations; and the  
21 potential of a participant to act in a negligent manner that may contribute to the injury to  
22 the participant or others.

23 (4) 'Participant' means any person who enters the farm location, singly or with a group, to  
24 engage in agritourism activities.

25 2-14-162.

26 (a) Except as provided in subsection (b) of this Code section, an agritourism professional  
27 shall not be liable for an injury to or the death of a participant resulting from such  
28 participant's failure to follow instructions given by the agritourism professional, failure to  
29 exercise reasonable caution while engaging in the agritourism activity, or the inherent risks  
30 of agritourism activities.

31 (b) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an  
32 agritourism professional if that agritourism professional:

33 (1) Commits an act or omission of gross negligence that injures the participant;

34 (2) Commits an act or omission that causes an injury to the participant and constitutes  
35 the willful or wanton disregard for the safety of the participant; or

36 (3) Intentionally injures the participant.

1 (c) Nothing in this Code section shall be interpreted to bar or limit any product liability  
2 claim arising under the laws of Georgia.

3 2-14-163.

4 (a) Every agritourism professional shall post and maintain signs which contain the warning  
5 notice specified in subsection (b) of this Code section. Such signs shall be placed in a  
6 clearly visible location at the entrance of the agritourism activity and arenas where the  
7 agritourism professional conducts agritourism activities. The warning notice specified in  
8 subsection (b) of this Code section shall appear on the sign in black letters, with each letter  
9 to be a minimum of one inch in height. Every written contract entered into by an  
10 agritourism professional for the providing of professional services, instruction, or the rental  
11 of equipment to a participant, whether or not the contract involves agritourism activities  
12 on or off the location or site of the agritourism professional's or the agritourism activity  
13 sponsor's business, shall contain in clearly readable print the warning notice specified in  
14 subsection (b) of this Code section.

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

17 WARNING Under Georgia law, an agritourism professional is not liable for an injury to  
18 or the death of a participant in agritourism activities resulting from the inherent risks of  
19 agritourism activities, pursuant to Article 8 of Chapter 14 of Title 2 of the Official Code  
20 of Georgia Annotated.

21 (c) Failure to comply with the requirements concerning warning signs and notices  
22 provided in this Code section shall prevent an agritourism activity sponsor or agritourism  
23 professional from invoking the privileges of immunity provided by this article."

## 24 SECTION 2.

25 Code Section 48-5-7.4 of the Official Code of Georgia Annotated, relating to bona fide  
26 conservation use property, is amended in subsection (p) by replacing "; or" at the end of  
27 paragraph (5) with a semicolon; by replacing the period at the end of paragraph (6) with ";  
28 or"; and by adding a new paragraph to read as follows:

29 "(7)(A) Allowing all or part of the property subject to the covenant to be used for  
30 agritourism purposes.

31 (B) As used in this paragraph, the term 'agritourism' means activity that allows  
32 members of the public, for recreational, entertainment, or educational purposes, to use,  
33 view, or enjoy agricultural property, machinery, resources, goods, domesticated and  
34 wild animals, history, or culture. An activity is an agritourism activity whether or not  
35 the participant paid to participate in such activity."

- 1 **SECTION 3.**
- 2 All laws and parts of laws in conflict with this Act are repealed.