

The House Committee on Judiciary, Non-civil offers the following substitute to SB 272:

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 provide limited liability for owners and operators
3 of farms offering agritourism activities under certain circumstances; to provide for legislative
4 findings; to provide for definitions; to provide for warnings and notices; to provide an
5 effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

10 "ARTICLE 8

11 2-14-160.

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

20 2-14-161.

21 As used in this article, the term:

22 (1) 'Agritourism' means any agricultural activity carried out on real property that is a
23 farm or ranch that allows members of the public, for recreational, entertainment, or
24 educational purposes, to use, view, or enjoy agricultural property, machinery, resources,

1 goods, domesticated and wild animals, history, or culture. An activity is an agritourism
2 activity whether or not the participant paid to participate in such activity.

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

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

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

17 2-14-162.

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

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

25 (1) Provided to a participant equipment or machinery, or access to equipment or
26 machinery, which the agritourism professional knew or should have known was faulty,
27 and such equipment or machinery was faulty to the extent that it caused the injury to the
28 participant;

29 (2) Failed to make reasonable and prudent efforts to determine the ability of the
30 participant to engage safely in the agritourism activity and to exercise ordinary care for
31 the participant's safety based on the participant's representations of his or her ability;

32 (3) Permitted a participant to interact with a domesticated or wild animal without first
33 making reasonable and prudent efforts to determine that the participant knew of the risks
34 associated with that type of domesticated or wild animal; or

35 (4) Owned, leased, rented or otherwise was in lawful possession and control of the land
36 or facilities upon which the participant sustained injuries because of a dangerous latent

1 condition which was known or should have been known to the agritourism professional
2 and for which specific warning signs have not been conspicuously posted.

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

5 2-14-163.

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

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

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

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

26 **SECTION 2.**

27 This Act shall become effective on January 1, 2008.

28 **SECTION 3.**

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