



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 269
[2013 Assembly Bill 746]

Agricultural Tourism Liability

2013 Wisconsin Act 269 provides immunity from liability for agricultural tourism providers in two ways.

First, the Act provides that agricultural tourism activities¹ are “recreational activities” under recreational immunity laws. The Act also specifies that payments made to purchase products or goods offered for sale on a property where agricultural tourism occurs do not count toward the general \$2,000 cap on payments received by the activity provider that is a condition under the recreational immunity law.

Second, the Act exempts an agricultural tourism provider from liability for the death of or injury to a participant in an agricultural tourism activity² if both of the following conditions are met:

1. The death or injury occurs as a result of a risk inherent in the agricultural tourism activity.³

¹ For purposes of the recreational immunity laws, the Act defines an “agricultural tourism activity” to mean “an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.”

² For purposes of this exemption, the Act defines “agricultural tourism provider” to mean a person who operates, provides, or demonstrates an agricultural tourism activity. “Agricultural tourism activity” is defined to mean “an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.”

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

2. The agricultural tourism provider posts and maintains, in a clearly visible location at each entrance to the property or at the location of each agricultural tourism activity, a sign that contains a notice concerning the risk inherent in the agricultural tourism activity.

The Act withholds this exemption from civil liability from an agricultural tourism provider if either of the following circumstances applies: (1) the agricultural tourism provider acts with willful or wanton disregard⁴ for the safety of the participant; or (2) the agricultural tourism provider intentionally causes the participant's injury or death. These exceptions must be proved by clear and convincing evidence.

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³ The Act defines "risk inherent in an agricultural tourism activity" as a danger or condition that is an integral part of an agricultural tourism activity, including the surface or subsurface conditions of the land and the natural condition of vegetation and water on the property; the unpredictable behavior of wild, domestic, or farm animals on the property; the ordinary dangers of structures or equipment ordinarily used where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised; and the possibility that a participant in an agricultural tourism activity may act in a negligent manner that may contribute to the injury to that participant or another participant.

⁴ The Act defines "willful or wanton disregard" to mean "conduct committed with an intentional or reckless disregard for the safety of others, such as by failing to exercise ordinary care to prevent a known danger or to discover a danger."