A BILL TO BE ENTITLED
AN ACT TO LIMIT LIABILITY FOR THOSE WHO PARTICIPATE IN
AGRITOURISM ACTIVITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 99E of the General Statutes is amended by adding a
new Article to read:

"Article 4.

"Agritourism Activity Liability.

As used in this Article, the term:
(1) 'Agritourism activity' means any activity that allows members of the
general public, for recreational, entertainment, or educational
purposes, to view or enjoy rural activities, including, by way of
illustration and not limitation, farming, ranching, historic, cultural, or
natural activities and attractions. An activity is an agritourism activity
whether or not the participant paid to participate in the activity.
(2) 'Agritourism professional' means any person who is engaged in the
business of providing one or more agritourism activities.
(3) 'Inherent risks of agritourism activity' means those dangers or
conditions that are an integral part of an agritourism activity including
certain hazards such as surface and subsurface conditions; natural
conditions of land, vegetation, and waters; the behavior of wild or
domestic animals; and ordinary dangers of structures or equipment
ordinarily used in farming and ranching operations. 'Inherent risks of
agritourism activity' also includes the potential of a participant to act in
a negligent manner that may contribute to injury to the participant or
others, such as failing to follow instructions given by the agritourism
professional or failing to exercise reasonable caution while engaging in
the agritourism activity.

(4) 'Participant' means anyone who engages in an agritourism activity.

(5) 'Person' means an individual, a fiduciary, a firm, an association, a
partnership, a limited liability company, a corporation, a unit of
government, or any other group acting as a unit.

"§ 99E-31. Liability."

(a) Except as provided in subsection (b) of this section, an agritourism
professional is not liable for injury to or death of a participant resulting from the
inherent risks of agritourism activities, so long as the warning contained in subsection
(f) of this section is posted as required and, except as provided in subsection (b) of this
section, no participant or participant's representative can maintain an action against or
recover from an agritourism professional for injury, loss, damage, or death of the
participant resulting exclusively from any of the inherent risks of agritourism activities.
In any action for damages against an agritourism professional for agritourism activity,
the agritourism professional must plead the affirmative defense of assumption of the
risk of agritourism activity by the participant.

(b) Nothing in subsection (a) of this section prevents or limits the liability of an
agritourism professional if the agritourism professional does any one or more of the
following:

(1) Commits an act or omission that constitutes willful or wanton
disregard for the safety of the participant, and that act or omission
proximately causes injury, damage, or death to the participant.

(2) Has actual knowledge of a dangerous condition on the land, facilities,
or equipment used in the activity or the dangerous propensity of a
particular animal used in such activity and does not make the danger
known to the participant, and the danger proximately causes injury,
damage, or death to the participant.

(c) Nothing in subsection (a) of this section prevents or limits the liability of an
agritourism professional under liability provisions as set forth in Chapter 99B of the
General Statutes.

(d) Any limitation on legal liability afforded by this section to an agritourism
professional is in addition to any other limitations of legal liability otherwise provided
by law.

(e) The immunities afforded by this section do not apply to agritourism activities
that take place at the North Carolina State Fair or at county or regional fairs. As used in
this section, 'fairs' has the same meaning as used in G.S. 106-520.1.

(f) Every agritourism professional must post and maintain signs that contain the
warning notice specified in subdivision (1) of this subsection. The sign must be placed
in a clearly visible location at the entrance to the agritourism location and at the site of
the agritourism activity. The warning notice must consist of a sign in black letters, with
each letter to be a minimum of one inch in height. Every written contract entered into by
an agritourism professional for the providing of professional services, instruction, or the
rental of equipment to a participant, whether or not the contract involves agritourism
activities on or off the location or at the site of the agritourism activity, must contain in clearly readable print the warning notice specified in subdivision (1) of this subsection.

(1) The signs and contracts described in subsection (f) of this section must contain the following notice of warning:

'WARNING

Under North Carolina law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity.'

(2) Failure to comply with the requirements concerning warning signs and notices provided in this subsection will prevent an agritourism professional from invoking the privileges of immunity provided by G.S. 99E-31.'

SECTION 2. This act becomes effective January 1, 2006, and applies to agritourism activities, as defined in G.S. 99E-30, as enacted in Section 1 of this act, that occur on or after that date.