

## States' Agritourism Statutes

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Currently, twenty-three states in the United States have enacted statutes that address agritourism. These statutes vary from liability protections for agritourism operators to tax credits to zoning requirements. Familiarity with these statutes is essential to anyone who engages in agritourism. States' Agritourism Statutes provides the statutory text of each of the states' agritourism statutes. It is important to note that there are other statutes that impact agritourism operators in each state; however, the statutes included below are the statutes that specifically mention and directly address agritourism. Several states have pending legislation; these new statutes will be added to the compilation as they are passed.

A summary of some of the legislation:

(Summary courtesy of Arkansas Agritourism Initiative

[http://www.aragriculture.org/aai/initiative/agritourism\\_initiative.asp](http://www.aragriculture.org/aai/initiative/agritourism_initiative.asp))

### **Financial**

**Colorado:** On May 14, 2008, [House Bill 1399](#) was signed into law, amending Title 38, Chapter 13, Section 116.7 (3) of the Colorado Revised Statutes. This bill appropriated 10 percent of the interest of the Colorado Travel and Tourism Promotion Fund (created in Title 24, Chapter 49.7, Section 106) for the promotion of agritourism in the state. The bill also defined agritourism in the state.

**Georgia:** On May 14, 2007, [House Bill 78](#) amending Title 48, Chapter 5, Article 1 of the Official Code of Georgia was signed into law. This bill made it legal for farmers of "bona fide conservation use property" to charge admission for agritourism without losing/violating conditions of their special tax status. This tax status allows those properties to be assessed at 40 percent fair market value rather than the usual 75 percent. Under this statute the owner must enter into a 10 year covenant agreeing to maintain land as "bona fide conservation use property."

**Missouri:** 2008 [HB 1425](#) increases the cap on the aggregate of certain agricultural tax credits and extends sunset (or expiration) date for Missouri Agricultural and Small Business Authority to issue tax credits from 2010 to 2016. As of April 17, 2008, the bill was reported from the House Rules committee as favorable.

**Tennessee:** Title 67, Chapter 4, Section 1025 of Tennessee State Code appropriates \$21,000,000 from state taxes on tobacco to the Tennessee Department of Agriculture's agricultural Enhancement Program (TAEP). TAEP is a cost share program providing cost share funds to producers for long term investments in their livestock and farming operations. This includes a "producer diversification" program area which list agritourism as priority for funding.

**New York:** Grant available to farmers who wish to expand operations into Agritourism - Agriculture & Markets Law § 16, Section 16(2)

### **Liability**

**Illinois:** 2008 [House Bill 5652](#) creates the Agritourism and Farm Animal Activity Liability Act. Like many others, this Act would limit liability except in cases of wanton or willful negligence. The bill was referred to the House Rules Committee on February 15, 2008.

**Kansas:** In 2004, [Senate Bill 334](#) creating Chapter 74, Article 50, Sections 165-173 was signed into law. Known as the Kansas Agritourism Promotion Act, this bill limited liability, created a registration process through which the state can assist in the promotion of agritourism operations, and created a tax credit to help offset the expense of agritourism liability insurance for existing and new agritourism operations.

**North Carolina:** On July 29, 2005, [Senate Bill 389/House Bill 329](#) creating Chapter 99E, Article 4, Sections 30-32 of the General Statutes of North Carolina was signed into law. These pieces of legislation limited liability and provided immunity to those who post required signage. The bills defined the signage language and agritourism. As with similar legislation from other states, only those dangers inherent to the activity are covered.

**Oklahoma:** On May 28, 2004, [House Bill 2661](#) amending several sections of the Oklahoma Statutes was signed into law. Sections 25-33 of this bill, including sections which are entitled “The Oklahoma Limitation of Liability for Farming and Ranching Land Act,” limit liability, and do even more so if less than \$10 pre acre per year is charged to persons using the land for recreational purposes. Section 31 of the bill provides for the use of a written waiver signed by the user of the lands that limits liability except in cases of willful, wanton, or gross negligence on the part of the owner, regardless of the amount charged per acre. Also protects owner from any liability if a person is injured while committing a crime, specifically, but not limited to, trespassing.

**Utah:** On March 17, 2008, [House Bill 32](#) creating Title 78B, Chapter 4, Section 512 was signed into law. This bill established an affirmative defense against claims of liability, whether or not the participant pays to participate in the event.

**Virginia:** On April 5, 2006, [Senate Bill 38](#) creating Title 3.1, Chapter 27.7 was signed into law. This bill limits the liability of persons engaged in the business of providing agritourism activities, which include activities carried out on a farm, ranch, or winery that allow members of the public to view or enjoy rural activities or natural activities and attractions. The immunity from liability applies only if the agritourism provider has posted a warning notice. Liability is not limited if the agritourism provider acts with negligence or willful or wanton disregard for the safety of the participant, has actual or imputed knowledge of a dangerous condition used in the activity and does not make the danger known to the participant, or intentionally injures the participant. In addition, the provider is required to plead the affirmative defense of assumption of risk of agritourism activity by the participant.

### **Promotion**

**Connecticut:** Title 42, Chapter 423, Sections 22-38 and 38a of the General Statutes of Connecticut establish regulations for products branded “Connecticut-grown” and charge the Commissioner of Agriculture to establish and administer a program to promote marketing of farm products grown in-state. These statutes also charge the Commissioner of Agriculture to establish a website listing those farms engaged in agritourism.

**Florida:** On June 27, 2007, [House Bill 1427](#) creating Title XXXV, Chapter 570, Sections 960-962 was signed into law. Sections of this bill authorized the Department of Agriculture and Consumer Services to assist agritourism operators with marketing and permitted the conducting of agritourism activity on a bona fide farm or on agricultural lands classified as such pursuant to Title XIV, Chapter 193, Section 461 of the Florida Statutes without limiting, restricting, or divesting the land of that classification.

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**Kentucky:** On April 8, 2002, [House Bill 654](#) creating Title XXI, Chapter 247, Sections 800-810 of the Kentucky Revised Statutes was signed into law. This bill established Office of Agritourism, an interagency position between KY Department of Agriculture and the KY Commerce Cabinet (to be housed in the

Division of Agritourism within the Office for Agricultural Marketing and Product Promotion in the Department of Agriculture) to work directly with farmers in agritourism. Also created was an advisory council to advise and assist Office of Agritourism. The statutes were amended in 2004, 2005, and 2006(HB 110).

**Louisiana:** 2008 [House Bill 633](#) limits liability except in cases of willful or wanton negligence and requires a warning to be posted. As of June 20, 2008 the bill was awaiting the governor's signature.

**New York:** Parks, Recreation, and Historic Preservation Law § 37.07, Section 19 - Empowers Parks, Recreation, and Historic Preservation Commission to evaluate ways heritage corridor can assist and support agricultural activity in the heritage corridor including promotion of Mohawk Valley agricultural products through direct marketing and farmers' markets and the development of agritourism

**Virginia:** 2008 [House Bill 1396](#) charges the Commissioner of Agriculture and Consumer Services with the responsibility of promoting Virginia agritourism both nationally and internationally. The bill also charges the commissioner with developing a statewide master plan and coordinating efforts to educate the public about the importance of Virginia agriculture heritage and industry. As of 2/12/08, the bill was in the House Appropriations Committee.

### **Other**

**Delaware:** On July 11, 2003, [House Bill 225](#) as amended by House Amendment 1 was signed into law. This bill exempted lands, buildings, greenhouses, and other structures dedicated to agricultural use, including agritourism operations from county zoning ordinances. The bill defined what is meant to be dedicated to agricultural use and provided examples of agritourism operations. This bill amended three separate sections of three separate chapters of Title 9 of Delaware State Code.

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**New York:** Award established for Agritourism -Economic Development § 100. Section 18(c)