

By: Representatives White, Paden

To: Agriculture

HOUSE BILL NO. 901

1 AN ACT TO REENACT SECTIONS 69-53-1 THROUGH 69-53-7,
 2 MISSISSIPPI CODE OF 1972, WHICH LIMIT THE LIABILITY OF CERTAIN
 3 PROFESSIONALS ENGAGED IN AGRITOURISM ACTIVITIES AND REQUIRE
 4 AGRITOURISM PROFESSIONALS TO POST WARNING SIGNS AND REGISTER
 5 ANNUALLY WITH THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND
 6 COMMERCE; TO REPEAL SECTION 69-53-9, MISSISSIPPI CODE OF 1972,
 7 WHICH REPEALS SECTIONS 69-53-1 THROUGH 69-53-7, MISSISSIPPI CODE
 8 OF 1972, RELATING TO AGRITOURISM ACTIVITIES AND PROFESSIONALS; AND
 9 FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** Section 69-53-1, Mississippi Code of 1972, is
 12 reenacted as follows:

13 69-53-1. As used in this chapter, the following terms shall
 14 have the meanings ascribed, unless the context requires otherwise:

15 (a) "Agritourism" means the travel or visit by the
 16 general public to, or the practice of inviting or allowing the
 17 general public to travel to or visit a working farm, ranch, or
 18 other commercial agricultural, aquacultural, horticultural, or
 19 forestry operation for the purpose of enjoyment, education, or
 20 participation in the activities of the farm, ranch, or other
 21 agricultural, aquacultural, horticultural, or forestry operation.



22 (b) "Agritourism activity" means any activity which
23 allows members of the general public, for recreational,
24 entertainment or educational purposes, to view or enjoy rural
25 activities, including, but not limited to, farming activities,
26 ranching activities or historic or cultural or natural
27 attractions.

28 (c) "Agritourism professional" means any person,
29 partnership, corporation, or the employees or authorized agents,
30 who offer or conduct one or more agritourism activities, whether
31 or not for compensation.

32 (d) "Inherent risks of agritourism activity" means
33 those dangers or conditions that are an integral part of an
34 agritourism activity, including, but not limited to, certain
35 hazards involving surface and subsurface conditions, natural
36 conditions of land, vegetation and waters, the behavior of wild or
37 domestic animals, and ordinary dangers of structures or equipment
38 ordinarily used in farming, ranching, or other commercial
39 agricultural, aquacultural, horticultural or forestry operation.
40 Inherent risks of agritourism activity also include the potential
41 of a participant to act in a negligent manner that may contribute
42 to injury to the participant or others, including failing to
43 follow instructions given by the agritourism professional or
44 failing to exercise reasonable caution while engaging in the
45 agritourism activity.



46 (e) "Participant" means any person, other than the
47 agritourism professional, who engages in an agritourism activity.

48 **SECTION 2.** Section 69-53-3, Mississippi Code of 1972, is
49 reenacted as follows:

50 69-53-3. (1) Except as provided in subsection (2) of this
51 section, an agritourism professional is not liable for injury to
52 or death of a participant resulting from the inherent risks of
53 agritourism activities if the warning contained in Section 69-53-5
54 is posted as required and, except as provided in subsection (2) of
55 this section, no participant or participant's representative can
56 maintain an action against or recover from an agritourism
57 professional for injury, loss, damage or death of the participant
58 resulting exclusively from any of the inherent risks of
59 agritourism activities. In any action for damages against an
60 agritourism professional for agritourism activity, the agritourism
61 professional may plead the provisions of this section as an
62 affirmative defense.

63 (2) Nothing in subsection (1) of this section prevents or
64 limits the liability of an agritourism professional if the
65 agritourism professional does any one or more of the following:

66 (a) Commits or omits an act if the act or omission
67 constitutes willful or wanton disregard for the safety of the
68 participant, and that act or omission proximately causes injury,
69 damage or death to the participant.



70 (b) Has actual knowledge or reasonably should have
71 known of a dangerous condition on the land, facilities or
72 equipment used in the activity or the dangerous propensity of a
73 particular animal used in such activity and does not make the
74 danger known to the participant, and the danger proximately causes
75 injury, damage or death to the participant.

76 (c) Intentionally injures the participant.

77 (3) Nothing in subsection (1) of this section:

78 (a) Prevents or limits the liability of an agritourism
79 professional under products liability laws.

80 (b) Shall be construed so as to negate that assumption
81 of risk is an affirmative defense.

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

85 **SECTION 3.** Section 69-53-5, Mississippi Code of 1972, is
86 reenacted as follows:

87 69-53-5. (1) Every agritourism professional must post and
88 maintain signs that contain the warning notice specified in this
89 section. The sign must be placed in a clearly visible location at
90 the entrance to the agritourism location and at the site of the
91 agritourism activity. The warning notice must consist of a sign
92 in black letters, with each letter to be a minimum of one (1) inch
93 in height. Every written contract entered into by an agritourism
94 professional for the providing of professional services,



95 instruction or the rental of equipment to a participant, whether
96 or not the contract involves agritourism activities on or off the
97 location or at the site of the agritourism activity, must contain
98 in clearly readable print the warning notice specified in
99 subsection (2) of this section.

100 (2) The signs and contracts must contain the following
101 notice of warning:

102 "WARNING

103 Under Mississippi law, there is no liability for an
104 injury to or death of a participant in an agritourism
105 activity conducted at this agritourism location if the
106 injury or death results from the inherent risks of the
107 agritourism activity. Inherent risks of agritourism
108 activities include, among others, risks of injury
109 inherent to land, equipment and animals, as well as the
110 potential for you or another participant to act in a
111 negligent manner that may contribute to your injury or
112 death. You are assuming the risk of participating in
113 this agritourism activity."

114 (3) Failure to comply with the requirements concerning
115 warning signs and notices provided in this section will prevent an
116 agritourism professional from invoking the privileges of immunity
117 provided by this chapter.

118 **SECTION 4.** Section 69-53-7, Mississippi Code of 1972, is
119 reenacted as follows:



120 69-53-7. (1) An agritourism professional must register with
121 the Mississippi Department of Agriculture and Commerce on an
122 annual basis. The registration shall contain information
123 describing the agritourism activity that the agritourism
124 professional conducts or intends to conduct and the location where
125 the person conducts or intends to conduct such agritourism
126 activity. Additionally, the agritourism professional must pay an
127 annual fee in the amount of Fifty Dollars (\$50.00) to the
128 Department at the time of registration. There is established in
129 the State Treasury a special fund for the Mississippi Department
130 of Agriculture and Commerce for the monies collected under this
131 section. Unexpended monies remaining in the fund at the end of
132 the fiscal year shall not lapse into the State General Fund, and
133 any interest earned or investment earnings on amounts in the fund
134 shall be deposited into the fund.

135 (2) The department shall maintain a list of all registered
136 agritourism professionals, the registered agritourism activities
137 conducted by each professional, and the registered agritourism
138 location where the professional conducts such activities. Such
139 list shall be made available to the public. The department, in
140 conjunction with other agritourism and rural economic efforts,
141 shall promote and publicize registered agritourism professionals,
142 activities and locations to advance agritourism in the state. The
143 department assumes no legal liability by registering agritourism



144 professionals, but merely serves to promote agritourism in the
145 state.

146 (3) The department shall adopt guidelines to carry out the
147 intent of this chapter.

148 **SECTION 5.** Section 69-53-9, Mississippi Code of 1972, which
149 repeals Sections 69-53-1 through 69-53-7, Mississippi Code of
150 1972, which relate to agritourism activities and professionals, is
151 repealed.

152 **SECTION 6.** This act shall take effect and be in force from
153 and after July 1, 2018.

