

By: Representatives White, Paden

To: Agriculture

HOUSE BILL NO. 901
(As Passed the House)

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 REENACT AND AMEND SECTION 69-53-9, MISSISSIPPI CODE
7 OF 1972, WHICH REPEALS SECTIONS 69-53-1 THROUGH 69-53-7,
8 MISSISSIPPI CODE OF 1972, RELATING TO AGRITOURISM ACTIVITIES AND
9 PROFESSIONALS, TO EXTEND THE DATE OF REPEAL; AND FOR RELATED
10 PURPOSES.

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

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

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

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



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

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

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



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

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

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

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

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



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

77 (c) Intentionally injures the participant.

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

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

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

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

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

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



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

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

103 "WARNING

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

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

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



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

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



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

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

149 **SECTION 5.** Section 69-53-9, Mississippi Code of 1972, is
150 reenacted and amended as follows:

151 69-53-9. This chapter shall stand repealed on July 1, 2021.

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

