

1152--A

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I N S E N A T E

January 6, 2017

Introduced by Sens. ORTT, AKSHAR, GALLIVAN, HELMING, LITTLE, RITCHIE, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general obligations law, in relation to the inherent risks of operating agricultural tourism areas and participating in activities in agricultural tourism areas

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general obligations law is amended by adding a new
2 article 18-B to read as follows:

3 ARTICLE 18-B

4 SAFETY IN AGRICULTURAL TOURISM

5 SECTION 18-301. SHORT TITLE.

6 18-302. DEFINITIONS.

7 18-303. RESPONSIBILITIES OF OPERATORS AND VISITORS OF AGRICUL-
8 TURAL TOURISM AREAS.

9 S 18-301. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
10 THE "SAFETY IN AGRICULTURAL TOURISM ACT".

11 S 18-302. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

12 1. "AGRICULTURAL TOURISM" MEANS ACTIVITIES, INCLUDING THE PRODUCTION
13 OF MAPLE SAP AND PURE MAPLE PRODUCTS MADE THEREFROM, FARM AND WINERY
14 TOURS, EQUINE ACTIVITIES BOTH OUTDOORS AND INDOORS BUT EXCLUDING EQUINE
15 THERAPY, U-PICK CHRISTMAS TREES, HIKING, HUNTING AND OTHER FORMS OF
16 OUTDOOR RECREATION OFFERED TO FARM VISITORS, CONDUCTED BY A FARMER
17 ON-FARM FOR THE ENJOYMENT AND/OR EDUCATION OF THE PUBLIC, WHICH PRIMARI-
18 LY PROMOTE THE SALE, MARKETING, PRODUCTION, HARVESTING OR USE OF THE
19 PRODUCTS OF THE FARM AND ENHANCE THE PUBLIC'S UNDERSTANDING AND AWARE-
20 NESS OF FARMING AND FARM LIFE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 2. "EQUINE THERAPY" SHALL INCLUDE EQUINE ACTIVITIES FOR CHILDREN OR
2 ADULTS WITH PHYSICAL OR MENTAL DISABILITIES, POST-TRAUMATIC STRESS
3 DISORDER OR OTHER CONDITION FOR WHICH EQUINE THERAPY IS SOUGHT FOR THER-
4 APEUTIC PURPOSES OR TREATMENT.

5 S 18-303. RESPONSIBILITIES OF OPERATORS AND VISITORS OF AGRICULTURAL
6 TOURISM AREAS. 1. OPERATORS OF AGRICULTURAL TOURISM AREAS SHALL HAVE THE
7 FOLLOWING ADDITIONAL RESPONSIBILITIES:

8 A. TO POST AND MAINTAIN WAY FINDING SIGNAGE TO DELINEATE THE PATHS,
9 AREAS AND BUILDINGS THAT ARE OPEN TO THE PUBLIC;

10 B. TO ADEQUATELY TRAIN EMPLOYEES WHO ARE ACTIVELY INVOLVED IN AGRICUL-
11 TURAL TOURISM ACTIVITIES;

12 C. TO POST AT EVERY POINT OF SALE OR DISTRIBUTION OF TICKETS, WHETHER
13 ON OR OFF THE PREMISES OF THE AGRICULTURAL TOURISM AREA, A CONSPICUOUS
14 "WARNING TO VISITORS" RELATIVE TO THE INHERENT RISKS OF PARTICIPATING IN
15 ACTIVITIES ON WORKING FARMS AND TO PROVIDE WRITTEN INFORMATION HAVING
16 SUCH TEXT AND GRAPHICS AS THE COMMISSIONER OF AGRICULTURE AND MARKETS
17 SHALL SPECIFY, WHICH SHALL CONSPICUOUSLY DIRECT THE ATTENTION OF ALL
18 VISITORS TO THE REQUIRED "WARNING TO VISITORS";

19 D. TO POST AT EVERY POINT OF SALE OR DISTRIBUTION OF TICKETS AT AN
20 AGRICULTURAL TOURISM AREA A CONSPICUOUS NOTICE TO VISITORS THAT PURSUANT
21 TO THIS ARTICLE SUCH VISITORS HAVE A RESPONSIBILITY TO EXERCISE REASON-
22 ABLE CARE REGARDING THE DISCLOSED RISKS OF THE AGRICULTURAL ACTIVITY,
23 AND REASONABLY COMPLY WITH POSTED WAY FINDING SIGNS, REASONABLY REMAIN
24 IN AREAS DESIGNATED FOR THE AGRICULTURAL TOURISM ACTIVITY, REASONABLY
25 FOLLOW ANY AND ALL WRITTEN AND CONSPICUOUSLY POSTED RULES OF CONDUCT
26 PROVIDED BY SUCH OPERATOR TO VISITORS OR VERBAL OR OTHER COMMUNICATION
27 FOR PERSONS WITH DISABILITIES, AND NOT TO WILLFULLY REMOVE, DEFACE,
28 ALTER OR OTHERWISE DAMAGE SIGNAGE, WARNING DEVICES OR IMPLEMENTS, OR
29 OTHER SAFETY DEVICES;

30 E. TO TAKE REASONABLE CARE TO PREVENT REASONABLY FORESEEABLE RISKS TO
31 VISITORS, CONSISTENT WITH THE RESPONSIBILITY OF A LANDOWNER TO KEEP HIS
32 OR HER PREMISES REASONABLY SAFE FOR INTENDED AND REASONABLY FORESEEABLE
33 USES AND USERS, AND TO POST CONSPICUOUS NOTICE TO VISITORS OF THE RIGHT
34 TO A REFUND TO THE PURCHASER IN THE AMOUNT PAID IN THE INITIAL SALE OF
35 ANY TICKETS RETURNED TO THE OPERATOR OF THE AGRICULTURAL TOURISM AREA,
36 INTACT AND UNUSED, UPON DECLARATION BY SUCH PURCHASER THAT HE OR SHE
37 BELIEVES THAT HE OR SHE IS UNPREPARED OR THAT HE OR SHE IS UNWILLING TO
38 PARTICIPATE IN THE AGRICULTURAL TOURISM ACTIVITY DUE TO THE RISKS INHER-
39 ENT IN THE ACTIVITIES OR THE DUTIES IMPOSED UPON HIM OR HER BY THIS
40 SECTION; AND

41 F. OWNERS AND OPERATORS OF AGRICULTURAL TOURISM AREAS SHALL NOT BE
42 LIABLE FOR AN INJURY TO OR DEATH OF A VISITOR IF THE PROVISIONS OF THIS
43 SUBDIVISION ARE COMPLIED WITH.

44 2. VISITORS TO AGRICULTURAL TOURISM AREAS HAVE THE RESPONSIBILITY TO
45 EXERCISE REASONABLE CARE REGARDING THE DISCLOSED RISKS OF THE AGRICUL-
46 TURAL ACTIVITY AND:

47 A. TO REASONABLY COMPLY WITH POSTED WAY FINDING SIGNS AND REASONABLY
48 REMAIN IN AREAS DESIGNATED FOR THE AGRICULTURAL TOURISM ACTIVITY;

49 B. TO REASONABLY FOLLOW ANY AND ALL WRITTEN INFORMATION OR CONSPICU-
50 OUSLY POSTED RULES OF CONDUCT PROVIDED BY SUCH OPERATOR TO VISITORS, OR
51 VERBAL OR OTHER FORM OF COMMUNICATION OF RULES OF CONDUCT WHERE NEEDED
52 FOR EFFECTIVE COMMUNICATION FOR PEOPLE WITH DISABILITIES; AND

53 C. NOT TO WILLFULLY REMOVE, DEFACE, ALTER OR OTHERWISE DAMAGE SIGNAGE,
54 WARNING DEVICES OR IMPLEMENTS OR OTHER SAFETY DEVICES.

55 S 2. This act shall take effect immediately.