STATE OF NEW YORK

1152--A

Cal. No. 425

2017-2018 Regular Sessions

IN SENATE

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:

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

ARTICLE 18-B

SAFETY IN AGRICULTURAL TOURISM

Section 18-301. Short title.
18-302. Definitions.
18-303. Responsibilities of operators and visitors of agricultural tourism areas.

§ 18-301. Short title. This article shall be known and may be cited as the "safety in agricultural tourism act".

§ 18-302. Definitions. For purposes of this article:

1. "Agricultural tourism" means activities, including the production of maple sap and pure maple products made therefrom, farm and winery tours, equine activities both outdoors and indoors but excluding equine therapy, u-pick Christmas trees, hiking, hunting and other forms of outdoor recreation offered to farm visitors, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness 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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2. "Equine therapy" shall include equine activities for children or adults with physical or mental disabilities, post-traumatic stress disorder or other condition for which equine therapy is sought for therapeutic purposes or treatment.

§ 18-303. Responsibilities of operators and visitors of agricultural tourism areas. 1. Operators of agricultural tourism areas shall have the following additional responsibilities:

a. To post and maintain way finding signage to delineate the paths, areas and buildings that are open to the public;

b. To adequately train employees who are actively involved in agricultural tourism activities;

c. To post at every point of sale or distribution of tickets, whether on or off the premises of the agricultural tourism area, a conspicuous "Warning to Visitors" relative to the inherent risks of participating in activities on working farms and to provide written information having such text and graphics as the commissioner of agriculture and markets shall specify, which shall conspicuously direct the attention of all visitors to the required "Warning to Visitors";

d. To post at every point of sale or distribution of tickets at an agricultural tourism area a conspicuous notice to visitors that pursuant to this article such visitors have a responsibility to exercise reasonable care regarding the disclosed risks of the agricultural activity, and reasonably comply with posted way finding signs, reasonably remain in areas designated for the agricultural tourism activity, reasonably follow any and all written and conspicuously posted rules of conduct provided by such operator to visitors or verbal or other communication for persons with disabilities, and not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements, or other safety devices;

e. To take reasonable care to prevent reasonably foreseeable risks to visitors, consistent with the responsibility of a landowner to keep his or her premises reasonably safe for intended and reasonably foreseeable uses and users, and to post conspicuous notice to visitors of the right to a refund to the purchaser in the amount paid in the initial sale of any tickets returned to the operator of the agricultural tourism area, intact and unused, upon declaration by such purchaser that he or she believes that he or she is unprepared or that he or she is unwilling to participate in the agricultural tourism activity due to the risks inherent in the activities or the duties imposed upon him or her by this section; and

f. Owners and operators of agricultural tourism areas shall not be liable for an injury to or death of a visitor if the provisions of this subdivision are complied with.

2. Visitors to agricultural tourism areas have the responsibility to exercise reasonable care regarding the disclosed risks of the agricultural activity and:

a. to reasonably comply with posted way finding signs and reasonably remain in areas designated for the agricultural tourism activity;

b. to reasonably follow any and all written information or conspicuously posted rules of conduct provided by such operator to visitors, or verbal or other form of communication of rules of conduct where needed for effective communication for people with disabilities; and

c. not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements or other safety devices.

§ 2. This act shall take effect immediately.