

**247.809 Liability of agritourism professionals -- Protection -- Defenses -- Damages.**

- (1) Except as provided in subsection (2) of this section:
  - (a) An agritourism professional is not liable for injury to or death of a participant resulting exclusively from the inherent risks of agritourism activities, so long as:
    1. The warning contained in KRS 247.8091 is posted as required; or
    2. The agritourism professional has a signed release from the participant indicating that the participant has received written notice of the warning contained in KRS 247.8091; and
  - (b) No participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities. In any action for damages against an agritourism professional for agritourism activities, the agritourism professional shall plead the affirmative defense of assumption of the risk of agritourism activities by the participant.
- (2) Nothing in subsection (1) of this section prevents or limits the liability of an agritourism professional if the agritourism professional:
  - (a) Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, loss, damage, or death to the participant; or
  - (b) Has actual knowledge or reasonably should have known of:
    1. A dangerous condition on the land, facilities, or equipment used in the activity; or
    2. The dangerous propensity of a particular animal used in the activity; and does not make the danger known to the participant, and the danger proximately causes injury, loss, damage, or death to the participant.
- (3) Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law.

**Effective:** July 12, 2012

**History:** Created 2012 Ky. Acts ch. 100, sec. 2, effective July 12, 2012.