

# Liability Insurance Concerns & Agritourism

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# Current Issues

- Undisclosed Agritourism Activities
- Product Liability
- Proper Understanding of Virginia Agritourism Limited Liability Statute
- Availability of Insurance for Agritourism Operations

# Farm Liability & Agritourism

Coverage **does not** apply to bodily injury or property damage resulting from activities related to the "business" of an insured

- For the farm liability, business is any trade, profession or occupation whether full or part time **other than farming**
- Most (**but not all**) policies consider farming to be :
  - The production of crops
  - The raising or care of livestock
  - The operation of roadside stands and farm markets maintained principally for the sale of the insured's own farm products, but **DOES NOT INCLUDE** other retail activities - **NOT IN ALL POLICIES!**



# Farm Liability & Agritourism

With basic farm liability coverage, activities such as the following are excluded:

Farm Tours

Corn Mazes

Hay/Wagon Rides

Pick Your Own

Event Venues (i.e. weddings)

Farm Stays

Bed & Breakfast

Farm to Table Dinners

Festivals

Hay Mazes

Cabin Rentals

Camping



To be covered, the insurance company **must** be aware of the activity and it **must** be described in the policy.

# Product Liability

Legal liability for bodily injury and/or property damage caused by defective products (raw produce, baked goods, value-added products, and goods purchased from others for resale)



# Product Liability

Direct sales of farm products exposes producers to higher risk, whether the products provided are produced on the farm or are purchased from suppliers.

Processing and packaging products for direct sale further increases potential liability.

Potential liability attaches to EVERY enterprise in the product supply chain, including the producer, wholesaler and retailer.

# Product Liability

- Policy exclusion for manufactured or processed products
- If the raw product is altered, there is no products liability coverage under the base policy (i.e. strawberries to jelly, apples to cider, grapes to wine)

**Coverage can be obtained by either endorsing the policy or obtaining a separate liability policy**





# WARNING



Under Virginia law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if such injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity.



# AGRITOURISM LIABILITY STATUTE

- The use of the “Warning Sign” does not relieve the operator of any legal liability.
- The “Warning Sign” puts the public on notice that, under Virginia law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at the agritourism location if such injury or death results from the inherent risks of the agritourism activity.

# AGRITOURISM LIABILITY STATUTE

**Nothing** shall prevent or limit the liability of an agritourism professional if the agritourism professional does any one or more of the following:

- **Commits an act or omission that constitutes negligence or willful or wanton disregard for the safety of the participant, and that act or omission causes injury, damage, or death to the participant;**
- **Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in the activity, or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger causes injury, damage, or death to the participant; or**
- **Intentionally injures the participant**

# AGRITOURISM INSURANCE AVAILABILITY

- Rating methodology of insurance companies is geared toward traditional agricultural exposures (i.e. raising crops & livestock)
  - This is changing to some degree
- Availability and pricing for coverage is based in large part on the degree of risk associated with a particular activity.
  - Activities with greater potential for injury/damage are more challenging and more expensive to insure
- Explore options – Shop around!
  - Companies specializing in farm/agricultural insurance are expanding their appetite to accommodate agritourism activities
  - Seek an agent who understands and takes an interest in your operation

# Protecting Your Operation

- **Read Your Policy!** - Invest the Time to Better Understand Your Coverage
- Meet With Agent **At Least Annually** to Review Your Coverage
- Ask Questions
  - How does my policy define farming?
  - Do my agritourism activities fall within that definition?
  - Does my policy provide coverage for my products? (raw & processed)
- Make Your Insurance Agent Aware of **ALL** Activities Taking Place on Your Farm
  - Assist in designing insurance program tailored to your farming operation
  - What They Don't Know Can Hurt You!**

# **THANK YOU!**

## **CONTACT INFORMATION**

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