

AGRICULTURAL LAW

Fact Sheet



Pennsylvania's Agritourism Activity Protection Act Act 27 of 2021

On June 2021, the Pennsylvania General Assembly passed the Agritourism Activity Protection Act, or Act 27 of 2021 (HB 101). Act 27 was intended to promote agritourism by protecting agritourism providers against lawsuits from activity participants for injuries when no one is at fault. Act 27 became effective on August 29, 2021.

What does Act 27 do?

Act 27 shields **agritourism providers** from civil liability for injury or damages incurred by an agritourism participant while the participant is engaging in an **agritourism activity** on **agricultural land**.

Act 27 provides protection as long as the activity provider has not

1. acted in a grossly negligent manner,
2. purposely caused the injury or damages,
3. engaged in criminal conduct, or
4. recklessly failed to warn participants about a dangerous condition.

What is an Agritourism Activity?

An **agritourism activity** is "a farm-related tourism or . . . entertainment activity" that occurs on **agricultural land** "and allows members of the general public . . . to tour, explore, observe, learn about, participate in or be entertained by an aspect of agricultural production, harvesting, husbandry or rural lifestyle that occurs on the farm."

Common agritourism activities can include corn mazes and pick-your-own activities. These activities generally expose participants to unavoidable risks associated with outdoor farm-based activities, like rough ground, erratic weather, and wild animals.

What is Agricultural Land?

Agricultural land is land used for a "normal agricultural operation," as defined by the Pa. Right to Farm Act ([3 P.S. §§951-957](#)). This definition covers the "production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities" on a farm that

1. encompasses at least 10 acres or

2. generates an annual income of at least \$10,000.

Who is an Agritourism Provider?

An **agritourism provider** is "a person who owns, operates, provides or sponsors an agritourism activity," including "an employee of such a person." For liability protection under the Act, the agritourism activity may be provided free of charge or by paid admission.

What is required to gain protection from Act 27?

To be protected by Act 27, an agritourism provider must

1. post a **warning sign** the meets the Act's specifications and
2. enter into a **written agreement** with the activity participant.

Warning Sign:

To gain the protections of Act 27, an agritourism provider must post a **warning sign** that

1. is at least **three feet by two feet** (3' x 2'),
2. is located "in a clearly visible location at or near **each entrance** to the farm or **at the site of each agritourism activity**," and
3. **states the following:**

"WARNING: Read your written agreement or the back of your ticket. Under Pennsylvania law, except for limited circumstances, an agritourism activity provider is not liable for any injury to or death of a participant resulting from an agritourism activity. Do not participate in the activity if you do not wish to waive liability."

Written Agreement:

To meet the requirements of Act 27, the **written agreement** must

1. be **signed** by the participant or participant's guardian if the participant is a minor child or care-dependent individual;
2. be signed **before** the participant begins the activity;
3. be printed in at least **10-point bold font**;
4. be provided in a separate document apart "from any other agreement between the

participant and the agritourism activity provider, except for a document that includes a different warning, consent or assumption of risk statement" (but **MAY be printed on a ticket** required for entry by the provider); and

5. **contain the following language:**

"AGREEMENT AND WARNING: I understand and acknowledge that, except for limited circumstances listed below, an agritourism activity provider is not liable for any injury to or death of a participant resulting from an agritourism activity. I understand that I have accepted all risk of injury, death, property damage and other loss that may result from an agritourism activity. I understand that an agritourism activity provider is not protected from liability if the provider:

- 1. Performs an act in a grossly negligent manner and causes injury or damages to a participant.*
- 2. Purposefully causes a participant's injury.*
- 3. Acts or fails to act in a way that constitutes criminal conduct.*
- 4. Recklessly fails to warn or guard against a dangerous condition that causes injury or damages to a participant. A dangerous condition is a condition that creates an imminent and substantial risk of injury or damages to a participant."*

Application of Act 27 to Minors

Act 27 allows parents to sign the written agreement on behalf of their minor child. However, Pennsylvania case law* suggests that, while a parent may waive their own claim for damages resulting from the child's injury, the parent cannot waive the child's claim for the child's injury.

Agritourism providers should be aware that **Act 27 may not provide total protection from a minor's claim for the minor's own injuries.**

What activities are not protected by Act 27?

Act 27 does not shield agritourism activity providers from liability for injuries or damages from

1. overnight lodging,
2. weddings,
3. concerts, and
4. food and beverage services.

References

*See *Shaner v. State Sys. of Higher Educ.*, 40 Pa. D.&C.4th 308, 313 (C.P. 1998) (finding that a release signed by a parent was insufficient to waive the claims of a minor who broke her leg at a softball camp, stating "parents do not possess the authority to release the claims or potential claims of a minor child merely because of the parental relationship"), *aff'd without opinion*, 738 A.2d 535 (Pa. Commw. 1999).

PA Agritourism Activity Protection Act:

<https://www.legis.state.pa.us/cfdocs/legis/li/uconsChack.cfm?yr=2021&sessInd=0&act=27>

PA House Bill 101, 2021:

<https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?year=2021&body=H&type=B&bn=101>

PA Right to Farm Act:

https://pennstatelaw.libguides.com/ld.php?content_id=19902751

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