



March 11, 2015

Testimony on SB 341 and Agri-tourism Senate Judiciary Committee

Chair Prozanski, members of the Committee:

Friends of Family Farmers represents small and mid-sized farmers statewide, with over 5000 members and supporters. Thank you for the opportunity to discuss SB 341 and agri-tourism today.

We strongly support the ability of farmers and ranchers to engage in agri-tourism and urge your support for SB 341.

Agri-tourism is an activity that growing numbers of farmers and ranchers are engaging in to generate extra income and sell their products directly to the public. It can include u-pick or harvest-your-own operations, farm stays, field trips, pumpkin patches and many other types of on-farm recreational, educational and cultural activities. However, agri-tourism providers take on significant legal and financial risk when welcoming visitors onto their property. As a result, few companies provide liability insurance coverage for such activities, making coverage prohibitively expensive or difficult to obtain, a potentially significant obstacle to success.

Because of this, and to encourage agri-tourism activities as a means to support rural economic activity, many states have adopted statutes limiting legal liability for agri-tourism providers who take responsible steps to ensure visitor safety and post certain notices. SB 341 states that agri-tourism providers are not liable for the injury or death of a participant resulting from inherent risks present on farms and ranches such as uneven or slippery surface conditions, the presence of structures and equipment, domestic or wild animals, and the potential that members of the public may act negligently, injuring themselves or others while failing to follow instructions or exercising reasonable caution.

The liability waiver would not exempt the agri-tourism provider if they:

- commit an act or omission that constitutes willful or wanton disregard for the safety of agri-tourism participants, and that act or omission is the cause of injury
- intentionally injure participants
- provide equipment to participants and fail to make reasonable and prudent inspection of the equipment and the failure of that equipment is a cause of injury
- fail to make reasonable inspection of the property on which the agri-tourism activity occurs, and that failure is the cause of injury
- fail to post signs warning of latent conditions of land or facilities that are known or should be known to the agri-tourism provider upon which the participant sustains injuries
- fail to obtain necessary authorization for the agri-tourism activity under ORS 215.213 or 215.283, which describe uses permitted in exclusive farm use zones

Additionally, the agri-tourism provider is required to conspicuously post a notice specified in the bill at the entrance of the agri-tourism site, at any location where an agri-tourism activity takes place, and in every written contract between the agri-tourism provider and the participant.

SB 341 is the result of a work group convened during the interim, formed after hearings were held on a similar bill from the 2013 session, SB 815. Participants in the work group included Friends of Family Farmers, the Oregon Farm Bureau, 1000 Friends of Oregon, the Oregon Trial Lawyers Association, individual agritourism providers, the Oregon Destination Marketing Organizations, the Oregon Department of Agriculture, Clackamas County, Country Financial Insurance, Travel Oregon and more.

SB 341 is based on a statute adopted in North Carolina in 2005, and similar statutes now in place in more than 20 other states. The most recently adopted statutes are from Wisconsin, Florida, Idaho and Oklahoma, and at least 17 other states limit liability in some fashion for agri-tourism providers including Alabama, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Maine, Mississippi, Missouri, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Utah and Virginia. At least one other legislature is considering a similar bill this year.

In Oregon, similar liability protections and signage requirements already exist for on-farm activities involving horses and other equines outlined in our Equine Activity statute, ORS 30.687 to 30.697. This law states that equine sponsors or professionals are protected from liability for the death or injury of a participant arising out of equine activities such as riding, training, driving, grooming or riding as a passenger upon an equine, unless willful, wanton, or intentional disregard for the safety of the participant is displayed. We have attached to this testimony a picture of the sign required for complying with the Equine Activity statute that can be purchased at farm stores throughout Oregon. We view SB 341 as an extension of this already existing on-farm liability statute.

Thank you for the opportunity to testify today. We respectfully urge the committee to hold a public hearing and work session on SB 341 so that this important protection for Oregon agri-tourism providers can pass into law.

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Attachments:

- 1) Photograph of signage required to comply with Oregon's Equine Activity statute, ORS 30.687 to 30.697, which limits liability for equine activity providers