

**Testimony in Favor of SB 341-A**  
**Arthur Towers, Oregon Trial Lawyers Association**  
**May 26, 2015**  
**House Consumer Protection &**  
**Government Effectiveness Committee**

SB 341-A is the result of a year-long discussion about how to meet the needs of the agritourism industry to be sheltered from exorbitant insurance costs while preserving the rights of families who visit these facilities.

SB 341-A is a very good compromise that spells out the rights of operators of pumpkin patches, corn mazes, u-pick berry farms, and the like. The bill also preserves the rights of families who are harmed by bad actors in the industry.

It is a core principle of the Oregon Trial Lawyers Association that Oregonians should have the right to trial by jury. This Constitutional right is a pillar of a democratic society. Any infringement on that right allows wrongdoers to shirk their responsibility when they act in a way that harms others. The idea that one should accept responsibility for his or her negligent actions is pretty basic, yet there have been nearly a dozen different proposals this session to grant broad immunity. We entered into conversations with this industry with a lot of trepidation particularly because it caters to families with small children.

The elegance of SB 341-A is that it clearly spells out the rights of landowners and operators of agritourism facilities, yet it also allows injured families to have their day in court. This bill is based on a very similar statute in Virginia.

The bill succeeds where other bills have failed. SB 341 does not create artificial barriers for families seeking remedies in court. The family does not have to certify that an expert in farm implements will be available to testify if there is an accident involving a tractor pulling a hay wagon full of kids. The family does not have to meet timelines and deadlines that are unique to suits involving the agritourism industry.

At the same time, the industry has a firm defense against injuries due to the inherent risks of agritourism. Parents should be mindful that they have heightened responsibilities when they allow their kids to enjoy the agricultural experience. Uneven or muddy terrain can create a hazard. Farm animals might harm someone. SB 341-A strikes the right balance to protect landowners and their patrons.

The proponents of this bill should be commended for coming to the table and sticking with the negotiations. The product reflects a lot of hard work and compromise. OTLA is proud to have been part of the process that resulted in SB 341-A. We urge passage of this bill.