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Testimony in Support of SB 341A House Committee on Consumer Protection and Government Effectiveness

Chair Fagan, 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 testify in support of SB 341 A today.

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 341A states that as long as they aren't acting negligently and post required signs, agri-tourism providers are not liable for the injury or death of participants 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.

Under SB 341A, 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
- Act negligently
- 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

Under SB 341A, to attain the waiver of legal liability outlined in the bill, the agri-tourism provider is required to post a conspicuous 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 341A 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 agri-tourism providers, the Oregon Destination Marketing Organizations, the Oregon Department of Agriculture, Clackamas County, Country Financial Insurance, Travel Oregon and more.

SB 341A is similar to statutes now in place in more than 20 other states. 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. We view SB 341A as an extension of this already existing on-farm liability related statute, and a good next step for supporting agri-tourism in Oregon.

Thank you for the opportunity to testify in support of SB 341A today. We urge your support.