

## Spring 2023 Agritourism Research

### States Researched for Agritourism Statutes + Related Cases:

- West Virginia
- Pennsylvania
- Maryland
- Ohio
- Virginia
- Vermont
- Delaware

### States Researched for Agritourism Statutes Only:

- North Carolina
- South Carolina
- Kentucky
- Tennessee

NALC state agritourism statutes compiled: <https://nationalaglawcenter.org/state-compilations/agritourism/>

### NALC Site Accuracy as of March 2023:

ACCURATE	NEEDS UPDATED
Delaware	Maryland
Ohio	Pennsylvania
North Carolina	Vermont
Virginia	
West Virginia	
Kentucky	
Tennessee	
South Carolina	

## WEST VIRGINIA

Agritourism statute:  
WV Code § 19-36-2

Text of the statute:

<http://www.wvlegislature.gov/wvcode/ChapterEntire.cfm?chap=19&art=36&section=2#:~:text=Definitions.,view%20or%20enjoy%20rural%20activities.>

Definitions:

“Agritourism” activity means any lawful activity carried out on a farm or ranch that allows members of the general public for recreational, entertainment, or educational purposes to view or enjoy rural activities.

“Agritourism business” means any person, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government, or any other group or entity which is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

“Agritourism professional” means owners, operators, employees, and volunteers working for or under the direction of the operators of an agritourism business.

“Farm” or “ranch” means an area of land used for the production, cultivation, growing, harvesting, or processing of agricultural products.

“Inherent risks of agritourism activity” are those dangers or conditions that are part of an agritourism activity including certain hazards, natural conditions of land and terrain, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

“Participant” as used in this article means any person, other than the agritourism professional, who engages in an agritourism activity.”

Relation to zoning:

Occurrence of agritourism does not change the nature or use of property that otherwise qualifies as agricultural for building code, zoning, or property tax classification purposes. WV Code § 19-36-5. Agritourism does not affect zoning law. Preamble, House Bill 4332.<sup>1</sup>

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[http://www.wvlegislature.gov/Bill\\_Status/bills\\_text.cfm?billdoc=HB4332%20INTR.htm&yr=2022&sesstype=RS&i=4332](http://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=HB4332%20INTR.htm&yr=2022&sesstype=RS&i=4332)

## DELAWARE

Agritourism statute:  
9 Delaware Code § 306 (2022)

Text of the statute:

<https://legis.delaware.gov/SessionLaws/Chapter?id=18082>

<https://law.justia.com/codes/delaware/2022/title-9/chapter-3/subchapter-i/section-306/>

Definition:

- (a) ‘Agritourism activity’ means any activity that allows members of the general public to view or enjoy rural activities, including farming; ranching; wineries; historical, cultural or harvest-your-own activities; guided or self-guided tours; bed and breakfast accommodations; or temporary outdoor recreation activities. ‘Agritourism activity’ includes, but is not limited to, planting, cultivation, irrigation or harvesting of crops; acceptable practices of animal husbandry; barn parties or farm festivals; livestock activities, not to include rodeos; hunting; fishing; swimming; boating, canoeing or kayaking; temporary camping; picnicking; hiking; diving; water skiing or tubing; paintball; and non-motorized freestyle, mountain or off-road bicycling. An activity is an agritourism activity whether or not the participant paid to participate in the activity.
- (b) Agritourism activities may be allowed statewide on farms of 10 or more acres subject to the provisions of this Title adopted for each county; provided, however, that except for the ‘related uses’ specified in §909 of Title 3 of this Code, no agritourism activities shall be permitted on farmlands which are subject to the Agricultural Lands Preservation and Forestland Preservation programs established in Chapter 9 of Title 3 of this Code. ”

Relation to zoning:

All buildings, structures, and associated canopies shall comply with the building height setback requirements established by the local jurisdiction within its zoning ordinances. The construction of buildings or structures to be used by the participants of any agritourism activity shall conform to applicable building codes and building permit requirements enacted u the local jurisdiction.<sup>2</sup>

County specific ordinance:

<https://delcode.delaware.gov/title9/c026/sc01/index.html> (all regulations shall apply to land, building, greenhouse, or other structure proposed to be devoted to any agricultural use)

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<sup>2</sup> <https://legis.delaware.gov/SessionLaws/Chapter?id=18082>

## OHIO

Agritourism statute:

Ohio Revised Code / Title 9: Agricultural-Animals-Fences / Chapter 901 Department of Agriculture – Section 901.80: Immunity from liability for agritourism providers.

Text of the statute: <https://codes.ohio.gov/ohio-revised-code/section-901.80>

Definition:

“(2) "Agritourism" means an agriculturally related educational, entertainment, historical, cultural, or recreational activity, including you-pick operations or farm markets, conducted on a farm that allows or invites members of the general public to observe, participate in, or enjoy that activity.”

Relation to zoning: (limited exemption)

“(A) Except as otherwise provided in division (B) of this section, sections 303.01 to 303.25 of the Revised Code do not confer any power on any county rural zoning commission, board of county commissioners, or board of zoning appeals to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no zoning certificate shall be required for any such building or structure.”<sup>3</sup>

Cases:

*Powlette v. Bd. of Bldg. Appeals Dayton*, 162 N.E. 3d 964 (Ohio Ct. App. 2020) (a barn with its primary purpose as hosting weddings was not subject to an agritourism exemption) **Text**

Barn being used for both agricultural and separate public assembly purposes does not qualify for the agricultural exemption from the Building Code. Barn also constituted a public nuisance, warranting a stop work order. Though Powlette indicated his intent was to use his property for agriculture, agritourism, hay storage, and viticulture uses, its true primary purpose was to host weddings. Powlette could not provide sufficient evidence indicating the primacy of farming activity on his land. Furthermore, weddings held on the subject property were not incidental to an overarching agricultural use of the property. Also clear that Powlette was an experienced builder fully aware of the Building Code requirements and was thus making an effort to circumvent them.

*Lusardi v. Caesarscreek Twp. Bd. of Zoning Appeals*, 2020 WL 5498940 (Ohio Ct. App. 2020) (finding that hayrides and corn mazes constituted agri-tourism but celebratory events did not) **Text**

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<sup>3</sup> <https://codes.ohio.gov/ohio-revised-code/section-303.21>

Lusardis own farm property consisting of 13.55 acres. It is zoned agricultural, but the only agricultural activity that takes place there is growing hay. Lusardis filed an application to conduct agritourism activity on their property. The activities would include corn mazes, hayrides, and celebratory events, like agriculturally themed weddings and receptions. Court found the corn mazes and hayrides could constitute agritourism, but the celebratory events could not. Importantly, the Court declined to rule that such celebratory events could not constitute agritourism as a matter of law. Rather, it simply agreed with the BZA that in this particular case, the events proposed by the Lusardis could not qualify as agritourism. This was because these events really only related to the agricultural setting of the property, like the view, as opposed to the agricultural activity that took place there.

*Columbia Twp. Bd. of Zoning Appeals v. Otis*, 663 N.E.2d 377 (Ohio Ct. App. 1995) (haunted hayrides is not an agricultural use of land) **Text**

Otis owned and operated a 23-acre farm, zoned a residential area, in Colombia Township on which she bred rabbits, boarded horses, grew hay, and offered pony rides. *Id.* at 377. She also eventually started offering hayrides to the general public on her farm, as did many other farm owners in the area, and even began offering Halloween and Christmas specific rides which included added features like flashing lights, the use of a sound system, and actors stationed throughout the property to play certain on-theme roles. *Id.* Otis also sold food and beverages to the public at these events and dedicated a part of her barn to the public to use as a lounge area. *Id.*

Otis was inevitably cited for operating a food booth and haunted hayride business in a residential district. Her neighbors also frequently filed noise complaints over the years, until Otis was eventually ordered to cease and desist all business activities. *Id.* at 378. She appealed to the zoning board on this matter, and they upheld the order only with regard to the signs on her property, which had been ordered removed for their non-compliance with the zoning ordinance. *Id.* Otis appealed this decision to the trial court, which reversed, and found that Otis's activities could not be prohibited at all given that they were agricultural. *Id.* On appeal, the parties agreed that the only issue presented was whether the township's power to prohibit the hayrides was restricted by way of it having an agricultural purpose. *Id.*

The Ohio Court of Appeals disagreed and held specifically that haunted hayrides do not constitute use of land for an agricultural purpose. As such, the Ohio state statute prohibiting any township zoning commission from prohibiting the use of land for agricultural purposes did not apply. *Id.* at 379. The Court reasoned that even if the hayrides originally constituted an agricultural use, they had certainly evolved into something which could no longer fall under the definition of agricultural, namely because they were entirely inconsistent with Otis's neighbors' use of their farm property. *Id.* Her neighbors testified they were often disturbed by loud noises and their horses were frightened, and the court agreed that the shrieks and flashing lights from Otis's farm were inconsistent with traditional agricultural activity. *Id.*

*Litchfield Twp. Bd. of Trustees v. Forever Blueberry Barn, LLC*, Slip Opinion No. 2020-Ohio-1508<sup>4</sup>

Forever Blueberry Barn, LLC, owns a barn in a district zoned as residential. The company rents the barn out for weddings and other social gatherings. Litchfield Township Board of Trustees filed a complaint in the Court of Common Pleas seeking to enjoin Blueberry Barn from using its land for these purposes. The case made its way up to the Ninth District Court of Appeals, which found that the trial court failed to determine whether the barn itself was being primarily used for the purpose of vinting and selling wine.

On remand, the trial court found that this was indeed the primary purpose of the land, emphasizing the fact that those who rented out Blueberry Barn for weddings or events were required to purchase the wine vinted and sold there. When this decision made its way back to the Court of Appeals once again, the Court upheld the lower court's decision and sided with Blueberry Barn, citing that the rental of the barn was conditioned on the renter's purchasing of the wine, and thus that the vinting and selling of wine was the Barn's primary use.

See also <https://farmoffice.osu.edu/blog-tags/ohio-agricultural-exemption-zoning>

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<sup>4</sup> [https://farmoffice.osu.edu/sites/aglaw/files/site-library/2020Ohio508\\_BlueberryBarn.pdf](https://farmoffice.osu.edu/sites/aglaw/files/site-library/2020Ohio508_BlueberryBarn.pdf)

## MARYLAND

Agritourism statute: MD Code, Land Use: Zoning, § 4-212

Text of the statute: [https://casetext.com/statute/code-of-maryland/article-land-use/division-i-single-jurisdiction-planning-and-zoning/title-4-zoning/subtitle-2-designation-and-adoption/section-4-212-agritourism#:~:text=Section%204%2D212%20%2D%20Agritourism%20\(,involvement%20in%20the%20farm%20operation.](https://casetext.com/statute/code-of-maryland/article-land-use/division-i-single-jurisdiction-planning-and-zoning/title-4-zoning/subtitle-2-designation-and-adoption/section-4-212-agritourism#:~:text=Section%204%2D212%20%2D%20Agritourism%20(,involvement%20in%20the%20farm%20operation.)

Definition:

“Section 4-212 – Agritourism

(a)

(1) In this section, "agritourism" means an activity conducted on a farm that is offered to a member of the general public or to invited guests for the purpose of education, recreation, or active involvement in the farm operation.

(2) "Agritourism" includes:

- (i) farm tours;
- (ii) hayrides;
- (iii) corn mazes;
- (iv) seasonal petting farms;
- (v) farm museums;
- (vi) guest farms;
- (vii) pumpkin patches;
- (viii) "pick your own" or "cut your own" produce;
- (ix) camping;
- (x) incidental outdoor stays;
- (xi) classes related to agricultural products or skills; and
- (xii) picnic and party facilities offered in conjunction with any agritourism activity.

(b) A local jurisdiction may adopt the definition of "agritourism" as defined in this section by local ordinance, resolution, law, or rule.

*Md. Code, LU § 4-212”*

Relation to zoning:

Could not locate any statute exempting agritourism from zoning.

Summary of planning and zoning issues related to agritourism & agriculture at the county level:

[https://mda.maryland.gov/about\\_mda/Documents/Planning-Zoning-Issues.pdf](https://mda.maryland.gov/about_mda/Documents/Planning-Zoning-Issues.pdf)

## PENNSYLVANIA

Agritourism statute:

Agritourism Activity Protection Act 27 of June 30, 2021

Text of the Act:

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

Definition:

"Agritourism activity." A farm-related tourism or farm-related entertainment activity that takes place on agricultural land and allows members of the general public, whether or not for a fee, 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.

Other informational source: <https://extension.psu.edu/pennsylvania-agritourism-activity-protection-act-27-of-2021>

Relation to zoning:

Not exempt. HB 2093 introduced to prevent zoning laws from regulating certain agritourism activities like live music or retail food sales – never passed? *See*

<https://www.legis.state.pa.us/cfdocs/billinfo/BillInfo.cfm?year=2019&sind=0&body=H&type=B&bn=2093>

Case:

*Fetterolf v. Zoning Hearing Board of Borough of Sewickley Heights*, 2021 WL 772933 (Pa. Commonwealth 2021)

Landowners own a 27-acre parcel of land that is primarily used for agricultural operations. Though the Owners live on this property, they also use it to grow flowers and produce, raise various farm animals, and produce honey, eggs, and wool. These activities are permitted in their zoning district, which “A-Historical-Rural Residential.”

The Owners have multiple agricultural structures on their property, one of which is a farm they began renting out as an event space. Upon learning this information, the Borough’s Zoning Officer sent the Owners a letter entitled “Ordinance Compliance,” which stated in pertinent part that the Owners’ use of their property violated the zoning ordinance relevant to their residential district. The local zoning board later decided the Owners were using their property inappropriately as an event space and as a “School, Special or Studio,” which they needed to have obtained a conditional use permit to do.

The Court upheld the enforcement action brought by the Borough prohibiting the use of the farm on the Owners’ property as a school or event venue. Though the Owners raised various constitutional claims and defenses, including accessory use and the Right to Farm Act, the Court



found their claims invalid, as they could not justify the Owners' use of the farm for events like weddings and fundraisers that had no relation to farming or agriculture.

*Geiselman v. Hellman Township Board of Supervisors*, 266 A.3d 1212 (Pa. Commonwealth 2021)

The Hellman Township Board of Supervisors granted an application to landowners for a conditional use permit to operate a Type B Winery on their property zoned Rural Agricultural. *Id.* at \*1. The subject property consists of 2 parcels aggregating about 16 acres and is improved with a single-family dwelling, a barn, and a garage. *Id.* A Type B winery is a conditional use in the RA district whereas Type A wineries are permitted uses. *Id.* at \*3.

To accommodate a Type B Winery, the landowners sought to plant two or more acres dedicated to wine crops and update or renovate the existing buildings on the property. *Id.* at \*1. They intended to use the house for wine tastings, bridal parties, photoshoots, and other similar events, while the garage and barn would be used for storage, farming operations, and winemaking. *Id.* To accommodate larger winery events like weddings, however, the landowners sought to construct a building in the property's interior that would hold up to 300 people as well as 133 parking spaces. *Id.* at \*2.

Neighboring landowners objected to the Township Board's approval of the conditional use permit on various grounds, one of which dealt with agritourism. *Id.* at \*4. The landowners argued that the Board erred in finding that the Applicants' proposed events classified as winery events under the applicable Zoning Ordinance because the events are not the type of agritourism that meets this definition. *Id.* The Court disagreed, ruling that the Objectors' position on this issue was without merit because the Ordinance's definition of winery events encompasses both "party-type" events *and* agritourism gatherings. *Id.* As such, the winery events at issue here need not qualify as an agritourism gathering, but rather could still be permitted as merely a party type event. *Id.*

## VERMONT

Agritourism statute:  
12 V.S.A. § 5871

Text of the statute: <https://legislature.vermont.gov/statutes/section/12/212/05871>

Definition:

(1)(A) “Agritourism activity” means an interactive or passive activity that is carried out for recreational, entertainment, or educational purposes on a farm and includes farming, food production, historical, cultural, pick-your-own, and nature-based activities.

(B) “Agritourism activity” does not include lodging at a farm or shopping at a roadside farm stand or operation exclusively devoted to the sale of merchandise or food at retail.

Relation to zoning:

Could not locate any statute exempting agritourism activity from zoning.

Other:

Act 143 regulates on-farm accessory businesses.

<https://www.uvm.edu/extension/vtagritourism/act-143#:~:text=The%20passage%20of%20Act%20143,market%20agricultural%20products%20and%20experiences.>

Additional Info:

<https://www.vermontlaw.edu/sites/default/files/2021-04/Defining-and-Regulating-Agritourism.pdf>

## VIRGINIA

Agritourism statute:

Chapter 64. Agritourism Activity Liability / § 3.2-6500: Definitions

Text of the statute: <https://law.lis.virginia.gov/vacode/title3.2/chapter64/section3.2-6400/#:~:text=%22Agritourism%20activity%22%20means%20any%20activity,%2Dyour%2Dwn%20activities%2C%20or>

Definition:

“Agritourism activity” means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, horseback riding, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.”

Relation to zoning:

VA Code requires local jurisdictions to permit agritourism where agriculture is permitted. No locality may regulate agritourism activities unless there is a substantial impact on the health, safety, or general welfare. VA Code § 15.2-2288.6.<sup>5</sup>

Case:

Alive Church of the Nazarene, Inc. v. Prince William County, No. 21-2392 (4th Cir. Jan. 31, 2023)

Churches are not considered agritourism under the state’s agricultural zoning ordinance. Agritourism is not a major issue in this case. Rather, it was the agricultural activities that were exceptions to typical zoning regulations that posed an issue, as the Church attempted to but could not successfully qualify for those exceptions.

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<sup>5</sup> <https://law.lis.virginia.gov/vacode/title15.2/chapter22/section15.2-2288.6/>

## NORTH CAROLINA

Agritourism statute: (special liability statute) N.C. General Statutes § 99E-30

Text of the statute:

<https://www.ncleg.net/sessions/2005/bills/house/html/h329v6.html>

Definition:

### **"§ 99E-30. Definitions.**

As used in this Article, the following terms mean:

- (1) Agritourism activity. - Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.
- (2) Agritourism professional. - Any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.
- (3) Inherent risks of agritourism activity. - Those dangers or conditions that are an integral part of an agritourism activity including certain hazards, including surface and subsurface conditions, natural conditions of land, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.
- (4) Participant. - Any person, other than the agritourism professional, who engages in an agritourism activity.
- (5) Person. - An individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government, or any other group acting as a unit.

Relation to zoning:

Exempt. N.C. G.S.160D-903(a) prevents zoning ordinances in county and municipal extraterritorial jurisdiction from affecting property used for bona fide farm purposes. Blocks zoning regulations in these areas from applying to buildings or structures used for agritourism.<sup>6</sup>

Case:

*Jeffries et al v. Harnett County*, 817 S.E.2d 36 (N.C. Ct. App. May 15, 2018), cert denied 826 S.E.2d 710 (2019)<sup>7</sup> (analyzing what factors might make shooting-related uses more or less likely to be considered agritourism)<sup>8</sup>

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<sup>6</sup> [https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter\\_160D/GS\\_160D-903.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_160D/GS_160D-903.pdf)

<sup>7</sup> <https://www.nccourts.gov/documents/appellate-court-opinions/jeffries-v-cty-of-harnett>

<sup>8</sup> <https://canons.sog.unc.edu/2022/07/what-the-heck-is-agritourism/>

Court finds that the operation of a gun range is not sufficiently related to the act of hunting to warrant a zoning exemption under North Carolina state law. In analyzing the illustrative examples of agritourism provided in the Code, the Court found that the hunting and shooting activities at issue in this case shared no commonality with the examples provided. The Court acknowledges that “activities incidental or relating to hunting that occur in, relate to, and are characteristic of the countryside,” may reasonably be considered rural agritourism activity. However, here, the activities at issue require the construction and use of artificial structures and the alteration of land, are not purposefully performed on a farm, and involve certain risks not considered or acknowledged by relevant Code provisions, it cannot be said that the gun range constitutes an agritourism activity exempt from certain zoning regulations.

## KENTUCKY

Agritourism statute: Ky. Rev. Stat. Ann. §§ 247.800 through 247.810

Text of the statute: <https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=38417>

Definition:

§ 247.801. Definitions of KRS 247.800 to 247.810

As used in KRS 247.800 to 247.810:

- (1) “Agritourism” means the act of visiting:
  - (a) A farm or ranch; or
  - (b) Any agricultural, horticultural, or agribusiness operation; for the purpose of enjoyment, education, or active involvement in the activities of the farm, ranch, or operation;
- (2) “Agritourism activity” means any activity carried out on:
  - (a) A farm or ranch; or
  - (b) Any agricultural, horticultural, or agribusiness operation; that allows or invites participants to view or participate in activities for recreational, entertainment, or educational purposes. The activities can include farming, ranching, historic or cultural agricultural activities, harvest-your-own operations, patronizing farmers' markets, or natural resource-based activities. An activity is an agritourism activity whether or not a participant pays to view or participate in the activity;
- (3) “Agritourism professional” means any person, including employees or authorized agents acting on behalf of the agritourism professional, who is engaged in the business of providing one (1) or more agritourism activities; and
- (4) “Participant” means any person, other than the agritourism professional, who engages in an agritourism activity.

## TENNESSEE

Agritourism statute: TN § 43-39-101

Text of statute: <https://casetext.com/statute/tennessee-code/title-43-agriculture-and-horticulture/chapter-39-agritourism/section-43-39-101-chapter-definitions>

Definition:

For purposes of this chapter, unless the context otherwise requires:

(1) “Agritourism activity” means any activity carried out on a farm or ranch, eligible for greenbelt classification under title 67, chapter 5, part 10, that allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities or natural activities and attractions. An activity is an “agritourism activity” whether or not a participant provides compensation in money or other valuable compensation to participate in the activity.

“Agritourism activity” includes an activity involving any animal exhibition at an agricultural fair, regardless of the location of the fair;

(2) “Agritourism professional” means any person who is engaged in the business of providing one (1) or more agritourism activities, whether or not for compensation;

(3)

(A) “Inherent risks of agritourism activity” means those dangers, conditions or hazards that are an integral part of an agritourism activity, including, but not limited to:

(i) Surface and subsurface conditions;

(ii) Natural conditions of land, vegetation and waters;

(iii) The behavior of wild or domestic animals; and (iv) Ordinary dangers of structures or equipment ordinarily used in farming and ranching operations.

(B) “Inherent risks of agritourism activity” also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by an agritourism professional or failing to exercise reasonable caution while engaging in an agritourism activity;

(4) “Participant” means any person, other than the agritourism professional, who engages in an agritourism activity; and

(5) “Person” means an individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government or any other group acting as a unit.

## SOUTH CAROLINA

Agritourism statute: (agritourism activity LIABILITY) S.C. Code § 46-53-10

Text of statute: <https://www.scstatehouse.gov/code/t46c053.php>

Definition:

As used in this chapter:

- (1) “Agritourism activity” means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to participate in rural activities.
- (2) “Agritourism professional” means any person who is engaged in the business of providing one or more agritourism activities, whether or not for compensation.
- (3) “Inherent risks of an agritourism activity” means those dangers or conditions that are inherent to an agritourism activity, including hazards related to surface and subsurface conditions, natural conditions of land, vegetation, and water at the agritourism location, the behavior of wild or domestic animals, except dogs, and ordinary dangers associated with structures or equipment commonly used in farming and ranching operations. Inherent risks of an agritourism activity also includes a participant that acts in a negligent manner that causes or contributes to an injury to or the death of the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in an agritourism activity. Inherent risk does not include any wilful, wanton, or reckless act or omission by the agritourism professional or any defect to land, structures, or equipment commonly used in farming and ranching operations that the agritourism professional knew or should have known existed.
- (4) “Participant” means any person, other than the agritourism professional, who engages in an agritourism activity.
- (5) “Person” means an individual, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government, or any other group acting as a unit.
- (6) “Rural activity” means wildlife management, farming and ranching, and associated historic, scientific research, cultural, harvest-your-own, and natural activities and attractions.



Cases from other jurisdictions (from February 2023 research):

- Forester v. Town of Henniker, 118 A.3d 1016 (N.H. Sup. Ct. June 12, 2015)
- Lackland and Lackland v. Readington Tp., 2005 WL 3074714 (N.J. Super. Ct. Law Div. 2005) (agriculture zoning)
- Friends of Yamhill Cty. v. Yamhill Cty., 301 Ore. App. 726 (Or. Ct. App. 2020) (permit to conduct beer-tasting events on land zoned exclusively for farm use) **Text**
- Shore v. Maple Lane Farms, LLC, 411 S.W.3d 405 (Tenn. 2013) (holding that amplified outdoor music concerts were not connected to production of farm products or nursery) **Text**