

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 1298 & 1180, Page 2, Section 537.067, Line
2 32, by inserting after all of said section and line the following:

3
4 “537.850. 1. Sections 537.850 to 537.862 shall be known and may be cited as the "Agritourism
5 Promotion Act".

6 2. As used in sections 537.850 to 537.862, the following terms shall mean:

7 (1) "Agritourism activity", any activity which allows members of the general public for
8 recreational, entertainment, or educational purposes to view or enjoy rural activities, including but not
9 limited to farming activities, ranching activities, or historic, cultural, or natural attractions. An activity
10 may be an agritourism activity whether or not the participant pays to participate in the activity. An
11 activity is not an agritourism activity if the participant is paid to participate in the activity;

12 (2) "Department", the state department of agriculture;

13 (3) "Director", the director of the department of agriculture;

14 (4) "Inherent risks of a registered agritourism activity", those dangers or conditions which are an
15 integral part of such agritourism activity, including but not limited to certain hazards such as surface and
16 subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic
17 animals; and ordinary dangers of structures or equipment ordinarily used in farming or ranching
18 operations. Inherent risks of a registered agritourism activity also includes the potential of a participant to
19 act in a negligent manner that may contribute to injury to the participant or others, such as failing to
20 follow instructions given by the registered agritourism operator or failing to exercise reasonable caution
21 while engaging in the registered agritourism activity;

22 (5) "Participant", any person who engages in a registered agritourism activity;

23 (6) "Registered agritourism activity", any agritourism activity that is registered with the director
24 of the department of agriculture under section 537.853, and any rules promulgated thereunder;

25 (7) "Registered agritourism location", a specific parcel of land which is registered with the
26 director of the department of agriculture under section 537.853, and any rules promulgated thereunder,
27 and where a registered agritourism operator engages in registered agritourism activities;

28 (8) "Registered agritourism operator", any person who is engaged in the business of providing
29 one or more agritourism activities and is registered with the director of the department of agriculture
30 under section 537.853, and any rules promulgated thereunder.

31 537.853. 1. Any person who is engaged in the business of providing one or more agritourism

1 activities may register with the director of the department of agriculture. The registration shall contain all
2 of the following:

3 (1) Information describing the agritourism activity which the person conducts or intends to
4 conduct;

5 (2) Information describing the location where the person conducts or intends to conduct such
6 agritourism activity.

7 2. The department shall maintain a list of all registered agritourism operators, the registered
8 agritourism activities conducted by each operator, and the registered agritourism location where the
9 operator conducts such activities. Such list shall be made available to the public. The department shall
10 promote and publicize registered agritourism operators, activities, and locations to advance the purpose of
11 sections 537.850 to 537.862 by promoting and encouraging tourism.

12 3. Registration under this section shall be for a period of two years.

13 4. A registration fee not to exceed one hundred dollars may be imposed on an applicant to cover
14 the actual administrative costs associated with such registration under this section.

15 537.856. 1. At every registered agritourism location, the registered agritourism operator shall
16 post and maintain signage which contains the warning notice specified in subsection 3 of this section. The
17 requirements of this section shall be deemed satisfied if such signage is placed in a clearly visible location
18 at or near the registered agritourism location. The warning notice shall appear on the sign in black letters,
19 with each letter to be at least one inch in height.

20 2. Every written contract entered into by a registered agritourism operator for the providing of a
21 registered agritourism activity shall contain in clearly readable print the warning notice and language
22 specified in subsection 3 of this section.

23 3. The required signage under this section shall contain the following warning notice:

24 "WARNING: Under Missouri law, there is no liability for an injury or death of a participant in a
25 registered agritourism activity conducted at this registered agritourism location if such injury or death
26 results from the inherent risks of such agritourism activity. Inherent risks of agritourism activities include,
27 but are not limited to, the potential of you as a participant to act in a negligent manner that may contribute
28 to your injury or death and the potential of another participant to act in a negligent manner that may
29 contribute to your injury or death. You are assuming the risk of participating in this registered agritourism
30 activity."

31 4. Upon request, the registered agritourism operator shall provide to any participant a written
32 description of the registered agritourism activity, as set forth in the registration under section 537.853 for
33 which sections 537.850 to 537.862 limits the registered agritourism operator's liability at the registered
34 agritourism location.

35 537.859. 1. Any participant is assuming the inherent risks of a registered agritourism activity
36 when such participant engages in such agritourism activity. Except as provided in subsection 2 of this
37 section, a registered agritourism operator is not liable for injury to or death of a participant resulting from
38 the inherent risks of agritourism activities so long as the warning contained in section 537.856 is posted as
39 required and, except as provided in subsection 2 of this section, no participant or participant's
40 representative shall maintain an action against or recover from a registered agritourism operator for injury,

1 loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism
2 activities.

3 2. Nothing in sections 537.850 to 537.862 shall prevent or limit the liability of a registered
4 agritourism operator if the registered agritourism operator:

5 (1) Injures the participant by willful or wanton conduct;

6 (2) Has actual knowledge or should have known of a dangerous condition in the facilities or
7 equipment used in the registered agritourism activity and does not make such dangerous condition known
8 to a participant and such dangerous condition causes the participant to sustain injuries; or

9 (3) Fails to use that degree of care that an ordinarily careful and prudent person would use under
10 the same or similar circumstances.

11 3. In any action for damages for personal injury, death, or property damage arising from the
12 operation of a registered tourism activity in which an owner or operator is named as a defendant, it shall
13 be an affirmative defense to that liability that:

14 (1) The injured person assumed the risk;

15 (2) The injured person deliberately disregarded conspicuously posted signs, verbal instructions,
16 or other warnings regarding safety measures during the activity; or

17 (3) Any equipment, animals, or appliance used by the injured person during the activity were
18 used in a manner or for a purpose other than that for which a reasonable person should have known they
19 were intended.

20 537.862. 1. There is hereby created in the state treasury the "Agritourism Fee Fund", which shall
21 consist of any moneys appropriated to the fund and registration fees collected under section 537.853. The
22 state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state
23 treasurer may approve disbursements. Upon appropriation, money in the fund shall be used solely for the
24 administration of sections 537.850 to 537.862.

25 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the
26 fund at the end of the biennium shall not revert to the credit of the general revenue fund.

27 3. The state treasurer shall invest moneys in the fund in the same manner as other funds are
28 invested. Any interest and moneys earned on such investments shall be credited to the fund.”; and

29
30 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.