

# KENTUCKY AGRITOURISM LIABILITY STATUTE



## FAQs

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### **Does Kentucky have a statute limiting liability for agritourism professionals?**

Yes. KRS 247.809 limits the liability of an agritourism professional for injury to or death of a participant in an activity where the death or injury results exclusively from the inherent risks of agritourism activities, assuming one of the following is true: the agritourism professional has posted the warning contained in KRS 247.8091 (see below for language), or the agritourism professional has a signed release from the participant indicating that the participant has received written notice of the warning contained in KRS 247.8091.

### **What is an agritourism activity?**

An agritourism activity is defined in KRS 247.801 as “any activity that is carried out on a farm, ranch, agricultural operation, horticultural operation, or agribusiness operation; and allows or invites participants to view or participate in activities for recreational, entertainment, or educational purposes. Qualifying activities may include farming, ranching, historic, cultural, civil, or ceremonial activities, including but not limited to weddings and ancillary events; harvest-your-own operations; farmers’ markets; or natural resource-based activities. The activities may qualify as agritourism activities whether or not a participant pays to view or to participate in the activity.”

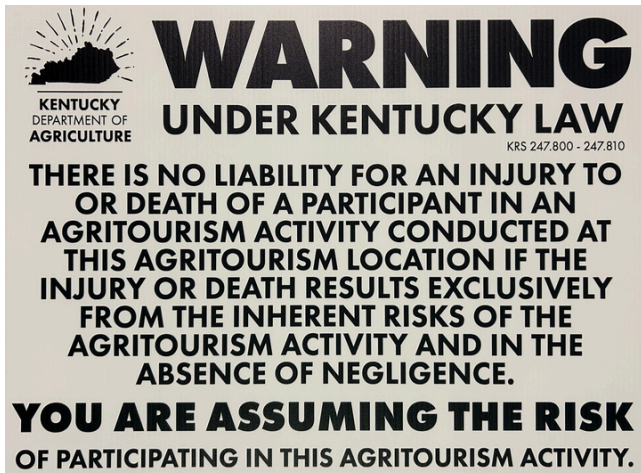


### **Who is an agritourism professional?**

Agritourism professional is defined in KRS 247.801 as “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.”

### **What are inherent risks?**

Inherent risks of agritourism activity are defined in KRS 247.801 as “those dangers or conditions that are an integral part of an agritourism activity, including certain hazards, such as surface or subsurface conditions; natural conditions of land, vegetation, or water; the behavior of wild or domestic animals; and the ordinary dangers of structures or equipment used in farming and ranching operations.”



### **What is the warning language I need to post or put in a waiver?**

Warning signs must be posted in a clearly visible location at the entrance of the agritourism location and at the site of the agritourism activity. The notice must use black letters at least one inch in height. The Kentucky Department of Agriculture sells these warning signs at cost to Kentucky Proud members who offer agritourism activities. The warning language is below. See KRS 247.8091.

#### **"WARNING**

*Under Kentucky law, there is no liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism location if the injury or death results exclusively from the inherent risks of the agritourism activity and in the absence of negligence. You are assuming the risk of participating in this agritourism activity."*

### **How do I make a waiver or release for my farm?**

Please consult with an attorney to create a waiver or release form for your farm.

### **Does this mean I can't get sued if a participant is injured on my farm?**

Participants and farm visitors can still sue if injury, loss, or death occurred on your farm; however, the law provides some protection over injury, loss, damage, or death that results only from the inherent risks of the activities. KRS 247.809 states that "No participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities." The statute does not prevent liability of an agritourism professional if there is negligence or willful disregard for the safety of a participant, or if the agritourism professional knew about or reasonably should have known about dangerous conditions of the land, facilities, equipment, or animal. See KRS 247.809(2), (3).

### **Does this mean I don't need insurance for my agritourism operation?**

You should still make sure you have adequate and appropriate insurance coverage for your farm and its agritourism activities. Talk with your insurance agent and make sure they are aware of every agritourism activity that you offer.

### **Who should I talk to if I have questions about how this statute applies to me or my farm?**

Consult with an attorney to make sure you understand how Kentucky's agritourism liability statute applies to you and your farm.

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**The foregoing is provided for informational purposes only. The Department of Agriculture is not providing legal advice and does not guarantee the accuracy of the content herein. Each operator of an agritourism operation or activity is advised to seek its own legal counsel.**

**For more information about the Kentucky Department of Agriculture's Agritourism Program, please contact:**

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