



*Forging a partnership between farmers and consumers.
•Working together for Ohio's farmers•*

**Senate Bill 75 Interested Party Testimony
Senate Civil Justice Committee
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June 10, 2015**

Chair Bacon, Vice Chair Oelslager, Ranking Member Skindell and members of the Senate Civil Justice Committee, on behalf of Ohio Farm Bureau, thank you for the opportunity to provide proponent testimony on Senate Bill 75. This legislation seeks to resolve issues many farmers have faced as they seek to develop agritourism opportunities on their farms.

While agriculture remains the core business of Ohio farmers, many have attempted to diversify by creating opportunities to invite the public onto their farms. These activities run the gamut from hayrides to pumpkin patches, from learning programs for schoolchildren to pick-your-own produce operations. All offer unique opportunities for those disconnected from agriculture to see and experience firsthand just how their food and fiber is produced.

There has been growing interest in Ohio for agritourism. In fact, the recently released 2012 Census of Agriculture shows that Ohio has doubled the number of farms receiving income from agritourism activities since 2007. Agritourism not only provides a steady supplement to the farm business, it also drives visitors to rural areas. As tourists visit agritourism operations, they also stop at other rural attractions, restaurants and stores. Agritourism represents a great opportunity to showcase rural Ohio to residents and non-residents alike, who are not as familiar with Ohio's number one industry -agriculture and food production.

While farmers are excited about these opportunities, many have run into obstacles trying to implement these activities on their farms. Senate Bill 75 will make needed changes and clarifications in Ohio law to allow this sector to grow.

First, there are many questions about how zoning regulations apply to agritourism. Current law prevents county and township zoning of agricultural land. However, the law is not clear if agritourism activities qualify under the current exemption. Ohio Farm Bureau feels that, when agritourism activities are conducted in conjunction with an operating and working farm, they should be allowed to continue as a part of the farm's agricultural activities.

Local government interest groups have made a case that they should have limited zoning authority over agritourism under certain circumstances. Senate Bill 75 attempts to give local governments such power where such regulation is necessary to protect the public health and safety. However, our members have shared concern that the language is overly broad.

Farm Bureau has provided recommended changes to the zoning section to ensure only buildings used primarily for agritourism would be subject to zoning. We also support the addition of

language to clarify that local governments may only regulate the size of a parking area the agritourism venue must have, and not other construction specifications. We also would support clarifying language be added to ensure buildings used for the vinting and selling of wine located on land used for viticulture are continued to be considered under the agricultural zoning exemption when they have no agritourism activities taking place.

Second, agritourism can sometimes confuse those who are evaluating property for inclusion in the current agricultural use valuation program (CAUV). While it is certainly true that active commercial agriculture must be present on a farm to qualify for CAUV, it is concerning to us that some farms, which also engage in agritourism, have had their CAUV status questioned. These questions seem to arise even though the farm is still quite clearly engaging in traditional commercial agriculture.

Therefore, we feel it's important to clarify that agritourism is a valid exercise of commercial agricultural use for CAUV purposes, so long as the farm is also otherwise involved in commercial agricultural production. The bill protects the integrity of the program by requiring that the agritourism activity be contiguous to or a part of land that otherwise qualifies for CAUV. It is important to note that CAUV only applies to open, agricultural land and not to buildings or structures. Therefore, CAUV will only be benefiting land that is used as a part of the agritourism activity and not buildings or structures.

Finally, and maybe most importantly, is the concern of agritourism operators regarding liability that can arise when visitors come onto a farm. When exploring agritourism opportunities, many of our members have been confronted with extremely high insurance costs. In fact, securing adequate insurance can even be unattainable in some examples our members have shared.

It is our hope that SB 75 can help alleviate some of these issues by establishing parameters around farmers' liability with regard to what the bill defines as the inherent risks of participating in agritourism activities. Much like the Equine Liability Act already in Ohio law, this provision of the bill clearly states what are considered inherent risks of which liability should not be borne by the landowner. It is an acknowledgement that these activities take place on a farm; an environment in which controlling all the factors and conditions which could potentially lead to injury is impossible.

Farms contain animals, equipment and structures meant to support agricultural production and ground conditions that can constantly change based on Mother Nature's impacts and the type of use it receives. Farmers are well aware of this, and do their best to operate in a safe manner to prevent any injuries possible. However, considering the unique nature of agritourism, we believe providing protection in the law for these inherent risks is warranted.

To be clear, Senate Bill 75 does not provide blanket immunity to allow farmers to do whatever they choose on their farms. Farm Bureau does not advocate nor support such a concept, as we know the long-term ramifications would be harmful, not helpful, to promoting agriculture and agritourism. The immunity is only applicable to those inherent risks listed in the bill. Further, the bill ensures that liability will be appropriately attributed to the landowner when wanton or intentional conduct results in injuries. The immunity, therefore, only protects in those situations

where there is simply no amount of preparation that can prevent any and all injuries that might occur.

Farm Bureau has interacted with a number of interested parties about this legislation over the past year. The version of the bill in front of you today already incorporates a number of changes from the initial version based on stakeholder feedback. We would encourage the committee to consider an additional round of changes to the bill based on this continued dialogue. These changes include:

- Create a fair and workable “actual knowledge” liability standard to ensure landowners act responsibly to notify consumers of known conditions that serve as hazards.
- Ensure criminal conduct is a disqualifying factor for liability immunity.
- Clarification that an agritourism operator does not benefit from the liability immunity if signage, required by the bill, is not posted.
- Create a minimum standard for ensuring signage is posted in reasonably observable locations for consumers.
- Clarify that nothing in the agritourism law circumvents responsibilities landowners have under Ohio’s dangerous and vicious dog law.

Mr. Chairman, at Ohio Farm Bureau’s very core is the mission to forge partnerships between farmers and consumers. Agritourism maybe one of the best tools available to do just that. For the farmers who want to share what they do and what they grow with general public, it is an invaluable opportunity. For consumers who are keenly interested to learn more about where their food comes from, agritourism gives them the chance to explore agriculture close to home. Ohio Farm Bureau believes Senate Bill 75 provides the clarity needed in Ohio law and strikes the right balance of defining parameters for landowner liability to help us to forge those partnerships through agritourism.

We appreciate this committee’s time and consideration of this important legislation. I would be happy to answer any questions for members of the committee.