

**As Reported by the House Agriculture and Rural Development  
Committee**

**131st General Assembly**

**Regular Session  
2015-2016**

**Sub. H. B. No. 80**

**Representative Burkley**

**Cosponsors: Representatives Blessing, Boose, Brenner, Grossman, Hackett, Hall,  
Hayes, Hill, LaTourette, Koehler, Maag, Retherford, Ruhl, Scherer, Zeltwanger,  
Patterson, Cera, Hagan, Kraus, Patmon, Rezabek**

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**A BILL**

To amend sections 303.21, 519.21, and 5713.30 and 1  
to enact section 901.80 of the Revised Code to 2  
limit the authority of a board of county 3  
commissioners or board of township trustees to 4  
prohibit agritourism through zoning, to apply 5  
current agricultural use valuation to land used 6  
for agritourism for property tax purposes, and 7  
to establish immunity in a civil action for 8  
agritourism providers. 9

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 303.21, 519.21, and 5713.30 be 10  
amended and section 901.80 of the Revised Code be enacted to 11  
read as follows: 12

**Sec. 303.21.** (A) Except as otherwise provided in division 13  
(B) of this section, sections 303.01 to 303.25 of the Revised 14  
Code do not confer any power on any county rural zoning 15  
commission, board of county commissioners, or board of zoning 16

appeals to prohibit the use of any land for agricultural 17  
purposes or the construction or use of buildings or structures 18  
incident to the use for agricultural purposes of the land on 19  
which such buildings or structures are located, including 20  
buildings or structures that are used primarily for vinting and 21  
selling wine and that are located on land any part of which is 22  
used for viticulture, and no zoning certificate shall be 23  
required for any such building or structure. 24

(B) A county zoning resolution, or an amendment to such 25  
resolution, may in any platted subdivision approved under 26  
section 711.05, 711.09, or 711.10 of the Revised Code, or in any 27  
area consisting of fifteen or more lots approved under section 28  
711.131 of the Revised Code that are contiguous to one another, 29  
or some of which are contiguous to one another and adjacent to 30  
one side of a dedicated public road, and the balance of which 31  
are contiguous to one another and adjacent to the opposite side 32  
of the same dedicated public road regulate: 33

(1) Agriculture on lots of one acre or less; 34

(2) Buildings or structures incident to the use of land 35  
for agricultural purposes on lots greater than one acre but not 36  
greater than five acres by: set back building lines; height; and 37  
size; 38

(3) Dairying and animal and poultry husbandry on lots 39  
greater than one acre but not greater than five acres when at 40  
least thirty-five per cent of the lots in the subdivision are 41  
developed with at least one building, structure, or improvement 42  
that is subject to real property taxation or that is subject to 43  
the tax on manufactured and mobile homes under section 4503.06 44  
of the Revised Code. After thirty-five per cent of the lots are 45  
so developed, dairying and animal and poultry husbandry shall be 46

considered nonconforming use of land and buildings or structures 47  
pursuant to section 303.19 of the Revised Code. 48

Division (B) of this section confers no power on any 49  
county rural zoning commission, board of county commissioners, 50  
or board of zoning appeals to regulate agriculture, buildings or 51  
structures, and dairying and animal and poultry husbandry on 52  
lots greater than five acres. 53

(C) Such sections confer no power on any board of county 54  
commissioners, county rural zoning commission, or board of 55  
zoning appeals to prohibit in a district zoned for agricultural, 56  
industrial, residential, or commercial uses, the use of any land 57  
for: 58

(1) A farm market where fifty per cent or more of the 59  
gross income received from the market is derived from produce 60  
raised on farms owned or operated by the market operator in a 61  
normal crop year. However, a board of county commissioners, as 62  
provided in section 303.02 of the Revised Code, may regulate 63  
such factors pertaining to farm markets as size of the 64  
structure, size of parking areas that may be required, set back 65  
building lines, and egress or ingress, where such regulation is 66  
necessary to protect the public health and safety. 67

(2) Biodiesel production, biomass energy production, or 68  
electric or heat energy production if the land on which the 69  
production facility is located qualifies as land devoted 70  
exclusively to agricultural use under sections 5713.30 to 71  
5713.37 of the Revised Code for real property tax purposes. As 72  
used in division (C) (2) of this section, "biodiesel," "biomass 73  
energy," and "electric or heat energy" have the same meanings as 74  
in section 5713.30 of the Revised Code. 75

(3) Biologically derived methane gas production if the 76  
land on which the production facility is located qualifies as 77  
land devoted exclusively to agricultural use under sections 78  
5713.30 to 5713.37 of the Revised Code for real property tax 79  
purposes and if the facility that produces the biologically 80  
derived methane gas does not produce more than seventeen million 81  
sixty thousand seven hundred ten British thermal units, five 82  
megawatts, or both. 83

(4) Agritourism. However, a board of county commissioners, 84  
as provided in section 303.02 of the Revised Code, may regulate 85  
such factors pertaining to agritourism, except farm markets as 86  
described in division (C) (1) of this section, as size of a 87  
structure used primarily for agritourism, size of parking areas 88  
that may be required, setback building lines for structures used 89  
primarily for agritourism, and egress or ingress where such 90  
regulation is necessary to protect public health and safety. 91

Nothing in division (C) (4) of this section confers power 92  
on a county zoning commission, board of county commissioners, or 93  
board of zoning appeals to require any parking area to be 94  
improved in any manner, including requirements governing 95  
drainage, parking area base, parking area paving, or any other 96  
improvement. 97

Nothing in division (C) (4) of this section confers power 98  
on a county zoning commission, board of county commissioners, or 99  
board of zoning appeals to prohibit the use of any land or the 100  
construction or use of buildings or structures that are used 101  
primarily for vinting and selling wine that are located on land 102  
any part of which is used for viticulture as provided in 103  
division (A) of this section. 104

(D) (1) As used in division (C) (3) of this section, 105

"biologically derived methane gas" has the same meaning as in 106  
section 5713.30 of the Revised Code. 107

(2) As used in division (C) (4) of this section, 108  
"agritourism" has the same meaning as in section 901.80 of the 109  
Revised Code. 110

**Sec. 519.21.** (A) Except as otherwise provided in division 111  
(B) of this section, sections 519.02 to 519.25 of the Revised 112  
Code confer no power on any township zoning commission, board of 113  
township trustees, or board of zoning appeals to prohibit the 114  
use of any land for agricultural purposes or the construction or 115  
use of buildings or structures incident to the use for 116  
agricultural purposes of the land on which such buildings or 117  
structures are located, including buildings or structures that 118  
are used primarily for vinting and selling wine and that are 119  
located on land any part of which is used for viticulture, and 120  
no zoning certificate shall be required for any such building or 121  
structure. 122

(B) A township zoning resolution, or an amendment to such 123  
resolution, may in any platted subdivision approved under 124  
section 711.05, 711.09, or 711.10 of the Revised Code, or in any 125  
area consisting of fifteen or more lots approved under section 126  
711.131 of the Revised Code that are contiguous to one another, 127  
or some of which are contiguous to one another and adjacent to 128  
one side of a dedicated public road, and the balance of which 129  
are contiguous to one another and adjacent to the opposite side 130  
of the same dedicated public road regulate: 131

(1) Agriculture on lots of one acre or less; 132

(2) Buildings or structures incident to the use of land 133  
for agricultural purposes on lots greater than one acre but not 134

greater than five acres by: set back building lines; height; and 135  
size; 136

(3) Dairying and animal and poultry husbandry on lots 137  
greater than one acre but not greater than five acres when at 138  
least thirty-five per cent of the lots in the subdivision are 139  
developed with at least one building, structure, or improvement 140  
that is subject to real property taxation or that is subject to 141  
the tax on manufactured and mobile homes under section 4503.06 142  
of the Revised Code. After thirty-five per cent of the lots are 143  
so developed, dairying and animal and poultry husbandry shall be 144  
considered nonconforming use of land and buildings or structures 145  
pursuant to section 519.19 of the Revised Code. 146

Division (B) of this section confers no power on any 147  
township zoning commission, board of township trustees, or board 148  
of zoning appeals to regulate agriculture, buildings or 149  
structures, and dairying and animal and poultry husbandry on 150  
lots greater than five acres. 151

(C) Such sections confer no power on any township zoning 152  
commission, board of township trustees, or board of zoning 153  
appeals to prohibit in a district zoned for agricultural, 154  
industrial, residential, or commercial uses, the use of any land 155  
for: 156

(1) A farm market where fifty per cent or more of the 157  
gross income received from the market is derived from produce 158  
raised on farms owned or operated by the market operator in a 159  
normal crop year. However, a board of township trustees, as 160  
provided in section 519.02 of the Revised Code, may regulate 161  
such factors pertaining to farm markets as size of the 162  
structure, size of parking areas that may be required, set back 163  
building lines, and egress or ingress, where such regulation is 164

necessary to protect the public health and safety. 165

(2) Biodiesel production, biomass energy production, or 166  
electric or heat energy production if the land on which the 167  
production facility is located qualifies as land devoted 168  
exclusively to agricultural use under sections 5713.30 to 169  
5713.37 of the Revised Code for real property tax purposes. As 170  
used in division (C) (2) of this section, "biodiesel," "biomass 171  
energy," and "electric or heat energy" have the same meanings as 172  
in section 5713.30 of the Revised Code. 173

(3) Biologically derived methane gas production if the 174  
land on which the production facility is located qualifies as 175  
land devoted exclusively to agricultural use under sections 176  
5713.30 to 5713.37 of the Revised Code for real property tax 177  
purposes and if the facility that produces the biologically 178  
derived methane gas does not produce more than seventeen million 179  
sixty thousand seven hundred ten British thermal units, five 180  
megawatts, or both. 181

(4) Agritourism. However, a board of township trustees, as 182  
provided in section 519.02 of the Revised Code, may regulate 183  
such factors pertaining to agritourism, except farm markets as 184  
described in division (C) (1) of this section, as size of a 185  
structure used primarily for agritourism, size of parking areas 186  
that may be required, setback building lines for structures used 187  
primarily for agritourism, and egress or ingress where such 188  
regulation is necessary to protect public health and safety. 189

Nothing in division (C) (4) of this section confers power 190  
on a township zoning commission, board of township trustees, or 191  
board of zoning appeals to require any parking area to be 192  
improved in any manner, including requirements governing 193  
drainage, parking area base, parking area paving, or any other 194

improvement. 195

Nothing in division (C) (4) of this section confers power 196  
on a township zoning commission, board of township trustees, or 197  
board of zoning appeals to prohibit the use of any land or the 198  
construction or use of buildings or structures that are used 199  
primarily for vinting and selling wine that are located on land 200  
any part of which is used for viticulture as provided in 201  
division (A) of this section. 202

(D) (1) As used in division (C) (3) of this section, 203  
"biologically derived methane gas" has the same meaning as in 204  
section 5713.30 of the Revised Code. 205

(2) As used in division (C) (4) of this section, 206  
"agritourism" has the same meaning as in section 901.80 of the 207  
Revised Code. 208

**Sec. 901.80. (A) As used in this section:** 209

(1) "Agricultural production" has the same meaning as in 210  
section 929.01 of the Revised Code. 211

(2) "Agritourism" means an agriculturally related 212  
educational, entertainment, historical, cultural, or 213  
recreational activity, including you-pick operations or farm 214  
markets, conducted on a farm that allows or invites members of 215  
the general public to observe, participate in, or enjoy that 216  
activity. 217

(3) "Agritourism provider" means a person who owns, 218  
operates, provides, or sponsors an agritourism activity or an 219  
employee of such a person who engages in or provides agritourism 220  
activities whether or not for a fee. 221

(4) "Farm" means land that is composed of tracts, lots, or 222



parcels totaling not less than ten acres devoted to agricultural 223  
production or totaling less than ten acres devoted to 224  
agricultural production if the land produces an average yearly 225  
gross income of at least twenty-five hundred dollars from 226  
agricultural production. 227

(5) "Participant" means an individual, other than an 228  
agritourism provider, who observes or participates in an 229  
agritourism activity. 230

(6) "Risk inherent in an agritourism activity" means a 231  
danger or condition that is an integral part of an agritourism 232  
activity, including all of the following: 233

(a) The surface and subsurface conditions of land; 234

(b) The behavior or actions of wild animals not kept by or 235  
under the control of an agritourism provider; 236

(c) The behavior or actions of domestic animals other than 237  
vicious or dangerous dogs as defined in section 955.11 of the 238  
Revised Code; 239

(d) The ordinary dangers associated with structures or 240  
equipment ordinarily used in farming or ranching operations; 241

(e) The possibility of contracting illness resulting from 242  
physical contact with animals, animal feed, animal waste, or 243  
surfaces contaminated by animal waste; 244

(f) The possibility that a participant may act in a 245  
negligent manner, including by failing to follow instructions 246  
given by the agritourism provider or by failing to exercise 247  
reasonable caution while engaging in the agritourism activity 248  
that may contribute to injury to that participant or another 249  
participant. 250

(B) In a civil action, an agritourism provider is immune 251  
from liability for any harm a participant sustains during an 252  
agritourism activity if the participant is harmed as a result of 253  
a risk inherent in an agritourism activity. Nothing in this 254  
section requires an agritourism provider to eliminate risks 255  
inherent in agritourism activities. 256

(C) An agritourism provider is not immune from civil 257  
liability for harm sustained by a participant if any of the 258  
following applies: 259

(1) The agritourism provider acts with a willful or wanton 260  
disregard for the safety of the participant and proximately 261  
causes harm to the participant. 262

(2) The agritourism provider purposefully causes harm to 263  
the participant. 264

(3) The agritourism provider's actions or inactions 265  
constitute criminal conduct and cause harm to the participant. 266

(4) The agritourism provider fails to post and maintain 267  
signs as required by division (D) of this section. 268

(5) The agritourism provider has actual knowledge or 269  
should have actual knowledge of an existing dangerous condition 270  
on the land or regarding facilities or equipment on the land 271  
that is not an inherent risk and does not make the dangerous 272  
condition known to the participant, and the dangerous condition 273  
proximately causes injury or damage to or the death of the 274  
participant. 275

(D) An agritourism provider shall post and maintain signs 276  
that contain the warning notice specified in this division. The 277  
provider shall place a sign in a clearly visible location at or 278  
near each entrance to the agritourism location or at the site of 279

each agritourism activity. The warning notice shall consist of a 280  
sign in black letters with each letter to be a minimum of one 281  
inch in height. The signs shall contain the following notice of 282  
warning: "WARNING: Under Ohio law, there is no liability for an 283  
injury to or death of a participant in an agritourism activity 284  
conducted at this agritourism location if that injury or death 285  
results from the inherent risks of that agritourism activity. 286  
Inherent risks of agritourism activities include, but are not 287  
limited to, the risk of injury inherent to land, equipment, and 288  
animals as well as the potential for you as a participant to act 289  
in a negligent manner that may contribute to your injury or 290  
death. You are assuming the risk of participating in this 291  
agritourism activity." 292

**Sec. 5713.30.** As used in sections 5713.31 to 5713.37 and 293  
5715.01 of the Revised Code: 294

(A) "Land devoted exclusively to agricultural use" means: 295

(1) Tracts, lots, or parcels of land totaling not less 296  
than ten acres to which, during the three calendar years prior 297  
to the year in which application is filed under section 5713.31 298  
of the Revised Code, and through the last day of May of such 299  
year, one or more of the following apply: 300

(a) The tracts, lots, or parcels of land were devoted 301  
exclusively to commercial animal or poultry husbandry, 302  
aquaculture, algaculture meaning the farming of algae, 303  
apiculture, the production for a commercial purpose of timber, 304  
field crops, tobacco, fruits, vegetables, nursery stock, 305  
ornamental trees, sod, or flowers, or the growth of timber for a 306  
noncommercial purpose, if the land on which the timber is grown 307  
is contiguous to or part of a parcel of land under common 308  
ownership that is otherwise devoted exclusively to agricultural 309

use. 310

(b) The tracts, lots, or parcels of land were devoted 311  
exclusively to biodiesel production, biomass energy production, 312  
electric or heat energy production, or biologically derived 313  
methane gas production if the land on which the production 314  
facility is located is contiguous to or part of a parcel of land 315  
under common ownership that is otherwise devoted exclusively to 316  
agricultural use, provided that at least fifty per cent of the 317  
feedstock used in the production was derived from parcels of 318  
land under common ownership or leasehold. 319

(c) The tracts, lots, or parcels of land were devoted to 320  
and qualified for payments or other compensation under a land 321  
retirement or conservation program under an agreement with an 322  
agency of the federal government. 323

(d) The tracts, lots, or parcels of land were devoted 324  
exclusively to agritourism if the land on which the agritourism 325  
is located is contiguous to or part of a parcel of land under 326  
common ownership that is otherwise devoted exclusively to 327  
agricultural use. 328

(2) Tracts, lots, or parcels of land totaling less than 329  
ten acres that, during the three calendar years prior to the 330  
year in which application is filed under section 5713.31 of the 331  
Revised Code and through the last day of May of such year, were 332  
devoted exclusively to commercial animal or poultry husbandry, 333  
aquaculture, algaculture meaning the farming of algae, 334  
apiculture, the production for a commercial purpose of field 335  
crops, tobacco, fruits, vegetables, timber, nursery stock, 336  
ornamental trees, sod, or flowers where such activities produced 337  
an average yearly gross income of at least twenty-five hundred 338  
dollars during such three-year period or where there is evidence 339

of an anticipated gross income of such amount from such 340  
activities during the tax year in which application is made, or 341  
were devoted to and qualified for payments or other compensation 342  
under a land retirement or conservation program under an 343  
agreement with an agency of the federal government; 344

(3) A tract, lot, or parcel of land taxed under sections 345  
5713.22 to 5713.26 of the Revised Code is not land devoted 346  
exclusively to agricultural use. 347

(4) Tracts, lots, or parcels of land, or portions thereof 348  
that, during the previous three consecutive calendar years have 349  
been designated as land devoted exclusively to agricultural use, 350  
but such land has been lying idle or fallow for up to one year 351  
and no action has occurred to such land that is either 352  
inconsistent with the return of it to agricultural production or 353  
converts the land devoted exclusively to agricultural use as 354  
defined in this section. Such land shall remain designated as 355  
land devoted exclusively to agricultural use provided that 356  
beyond one year, but less than three years, the landowner proves 357  
good cause as determined by the board of revision. 358

"Land devoted exclusively to agricultural use" includes 359  
tracts, lots, or parcels of land or portions thereof that are 360  
used for conservation practices, provided that the tracts, lots, 361  
or parcels of land or portions thereof comprise twenty-five per 362  
cent or less of the total of the tracts, lots, or parcels of 363  
land that satisfy the criteria established in division (A) (1), 364  
(2), or (4) of this section together with the tracts, lots, or 365  
parcels of land or portions thereof that are used for 366  
conservation practices. 367

(B) "Conversion of land devoted exclusively to 368  
agricultural use" means any of the following: 369

(1) The failure of the owner of land devoted exclusively 370  
to agricultural use during the next preceding calendar year to 371  
file a renewal application under section 5713.31 of the Revised 372  
Code without good cause as determined by the board of revision; 373

(2) The failure of the new owner of such land to file an 374  
initial application under that section without good cause as 375  
determined by the board of revision; 376

(3) The failure of such land or portion thereof to qualify 377  
as land devoted exclusively to agricultural use for the current 378  
calendar year as requested by an application filed under such 379  
section; 380

(4) The failure of the owner of the land described in 381  
division (A) (4) of this section to act on such land in a manner 382  
that is consistent with the return of the land to agricultural 383  
production after three years. 384

The construction or installation of an energy facility, as 385  
defined in section 5727.01 of the Revised Code, on a portion of 386  
a tract, lot, or parcel of land devoted exclusively to 387  
agricultural use shall not cause the remaining portion of the 388  
tract, lot, or parcel to be regarded as a conversion of land 389  
devoted exclusively to agricultural use if the remaining portion 390  
of the tract, lot, or parcel continues to be devoted exclusively 391  
to agricultural use. 392

(C) "Tax savings" means the difference between the dollar 393  
amount of real property taxes levied in any year on land valued 394  
and assessed in accordance with its current agricultural use 395  
value and the dollar amount of real property taxes that would 396  
have been levied upon such land if it had been valued and 397  
assessed for such year in accordance with Section 2 of Article 398

XII, Ohio Constitution.	399
(D) "Owner" includes, but is not limited to, any person owning a fee simple, fee tail, or life estate or a buyer on a land installment contract.	400 401 402
(E) "Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.	403 404 405 406 407 408 409
(F) "Wetlands" has the same meaning as in section 6111.02 of the Revised Code.	410 411
(G) "Biodiesel" means a mono-alkyl ester combustibile liquid fuel that is derived from vegetable oils or animal fats or any combination of those reagents and that meets the American society for testing and materials specification D6751-03a for biodiesel fuel (B100) blend stock distillate fuels.	412 413 414 415 416
(H) "Biologically derived methane gas" means gas from the anaerobic digestion of organic materials, including animal waste and agricultural crops and residues.	417 418 419
(I) "Biomass energy" means energy that is produced from organic material derived from plants or animals and available on a renewable basis, including, but not limited to, agricultural crops, tree crops, crop by-products, and residues.	420 421 422 423
(J) "Electric or heat energy" means electric or heat energy generated from manure, cornstalks, soybean waste, or other agricultural feedstocks.	424 425 426

(K) "Agritourism" has the same meaning as in section 427  
901.80 of the Revised Code. 428

**Section 2.** That existing sections 303.21, 519.21, and 429  
5713.30 of the Revised Code are hereby repealed. 430