

BILL ANALYSIS

C.S.S.B. 610
By: Perry
Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that Texas continues to lead the country in many different aspects of agriculture despite an increasing reliance on a decreasing population of producers and problems such as severe drought. In order to adapt, many landowners are looking to agritourism, which gives landowners an alternative means to a sustainable living and provides educational benefits to those who may not be familiar with agriculture. Examples of agritourism include tours, day camps, corn mazes, self-harvesting, hay rides, pumpkin patches, and dude ranches. Interested parties contend, however, that it is important that the legislature provide liability protection for these owners and members of the agricultural community who want to provide a fun learning experience for others, a step which other states have already taken. C.S.S.B. 610 seeks to address this need.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 610 amends the Civil Practice and Remedies Code to except an agritourism entity from liability to any person for an agritourism participant injury or damages arising out of the agritourism participant injury if, at the time of the agritourism activity from which the injury arises, a required warning sign was appropriately posted or if the agritourism entity obtained a written agreement and warning statement from the agritourism participant with respect to the agritourism activity from which the injury arises. Among other definitions, the bill defines "agritourism entity" as a person engaged in the business of providing an activity on agricultural land for recreational or educational purposes of participants, without regard to compensation, and specifies that the term includes a person who displays exotic animals to the public on agricultural land. The bill requires an agritourism entity, for the purposes of the limitation of liability based on posting a sign, to post and maintain a warning sign in a clearly visible location on or near any premises on which an agritourism activity is conducted and sets out the sign's required language. The bill sets out, for the purposes of the limitation of liability based on obtaining a written agreement and warning statement from an agritourism participant, the conditions under which the written agreement and warning statement is considered effective and enforceable.

C.S.S.B. 610 establishes that its provisions limiting the liability of an agritourism entity do not limit liability for an injury intentionally caused by the agritourism entity or for an injury proximately caused by the agritourism entity's negligence evidencing a disregard for the safety of

the agritourism participant; by the agritourism entity's failure to train or improper training of an employee of the agritourism entity actively involved in an agritourism activity; or by a dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity, that is not disclosed to the agritourism participant, of a particular animal used in the activity, provided that the agritourism entity had actual knowledge or reasonably should have known of the dangerous condition or propensity. The bill establishes that the limitation on liability it provides to an agritourism entity is in addition to other limitations of liability.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 610 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 75A to read as follows:

CHAPTER 75A. LIMITED LIABILITY FOR AGRITOURISM ACTIVITIES

Sec. 75A.001. DEFINITIONS. In this chapter:

(1) "Agricultural land" means land that is located in this state and that is suitable for:

(A) use in production of plants and fruits grown for human or animal consumption, or plants grown for the production of fibers, floriculture, viticulture, horticulture, or planting seed; or

(B) domestic or native farm or ranch animals kept for use or profit.

(2) "Agritourism activity" means an activity on agricultural land for recreational or educational purposes of participants, without regard to compensation.

(3) "Agritourism entity" means a person engaged in the business of providing an agritourism activity, without regard to compensation.

(4) "Agritourism participant" means an individual, other than an employee of an agritourism entity, who engages in an agritourism activity.

(5) "Agritourism participant injury" means an injury sustained by an agritourism participant, including bodily injury,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 75A to read as follows:

CHAPTER 75A. LIMITED LIABILITY FOR AGRITOURISM ACTIVITIES

Sec. 75A.001. DEFINITIONS. In this chapter:

(1) "Agricultural land" means land that is located in this state and that is suitable for:

(A) use in production of plants and fruits grown for human or animal consumption, or plants grown for the production of fibers, floriculture, viticulture, horticulture, or planting seed; or

(B) domestic or native farm or ranch animals kept for use or profit.

(2) "Agritourism activity" means an activity on agricultural land for recreational or educational purposes of participants, without regard to compensation.

(3) "Agritourism entity" means a person engaged in the business of providing an agritourism activity, without regard to compensation, including a person who displays exotic animals to the public on agricultural land.

(4) "Agritourism participant" means an individual, other than an employee of an agritourism entity, who engages in an agritourism activity.

(5) "Agritourism participant injury" means an injury sustained by an agritourism participant, including bodily injury,

emotional distress, death, property damage, or any other loss arising from the person's participation in an agritourism activity.

(6) "Premises" has the meaning assigned by Section 75.001.

(7) "Recreation" has the meaning assigned by Section 75.001.

Sec. 75A.002. LIMITED LIABILITY.

Sec. 75A.003. POSTED WARNING.

Sec. 75A.004. SIGNED AGREEMENT AND WARNING.

SECTION 2. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

emotional distress, death, property damage, or any other loss arising from the person's participation in an agritourism activity.

(6) "Premises" has the meaning assigned by Section 75.001.

(7) "Recreation" has the meaning assigned by Section 75.001.

Sec. 75A.002. LIMITED LIABILITY.

Sec. 75A.003. POSTED WARNING.

Sec. 75A.004. SIGNED AGREEMENT AND WARNING.

SECTION 2. Same as engrossed version.

SECTION 3. Same as engrossed version.