

Agritourism and Insurance

Insurance considerations for agritourism operators

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Offering agritourism activities is a fun way to teach people about agriculture or to increase a farm or ranch's income. But agritourism exposes an operator to different and additional types of liability risk. Because of this risk, a farmer or rancher must carefully consider insurance needs and ensure adequate insurance coverage.

What is agritourism insurance?

Farmers and ranchers obtain property liability insurance to cover the costs of a legal liability incident if someone is harmed on the property. Agritourism insurance refers to a customized rider that adds or amends liability coverage above and beyond a farm or ranch's general property insurance policy.

Why do agritourism activities require additional insurance?

While farm or ranch property liability insurance policies cover a wide range of risks, they often don't include the different types of risks that are involved in agritourism. That is, there is no coverage unless the landowner has added a specific agritourism rider to the general policy. That's because agritourism activities are not typical farming activities and involve participants who may have little familiarity or experience with being on a farm. And the activities themselves—wagon rides, horseback rides, petting zoos, hunting, fishing, corn mazes, bouncy houses—present a higher likelihood of harm than many ordinary activities. While those who engage in agritourism activities voluntarily choose to do so,

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injuries can still happen even when an agritourism operator takes all precautions to protect the participants from harm.

Farmers and ranchers who host food concessions or directly market their meat, produce, baked goods or cottage foods to agritourism visitors are also engaging in higher risk product liability activities that are not common to many farming operations. For this reason, the possibility of a farm visitor contracting a foodborne illness is not usually addressed in a general farm liability policy. Covering the higher risk activities associated with agritourism activities and providing foods requires specific policy riders and additional insurance premiums.

When is agritourism insurance recommended?

A farmer or rancher who offers agritourism activities, whether or not for pay, should consider agritourism insurance. Each state defines agritourism differently; however, there are a number of activities generally considered “agritourism” that a landowner will want to ensure are covered by his or her policy, including:

- You-pick operations (pumpkins, apples, strawberries, sweet corn, asparagus, etc.)
- Hay wagon rides
- Corn mazes
- Petting zoos
- Horseback riding and pony rides
- Birdwatching
- Cut-your-own Christmas tree farms
- Camping sites
- Hunting and fishing
- Agricultural education and school tours
- Living history farms
- Farmers market events
- Food stands (produce and baked goods)
- Vineyard tours and wine tastings
- Cidery or brewery tours and tastings

As an agritourism operation grows, the business may add non-traditional agricultural activities that the business operator should make sure are covered by insurance. These include:

- Food and beverage service
- Wedding and event barns
- Farm bed and breakfasts
- Zip lines
- Climbing walls
- Inflatables
- Slides
- Ropes courses
- Paintball courses
- Archery
- Exercising with animals (“goat yoga”)
- Festivals
- Mechanical rides
- All-Terrain Vehicle or golf cart rentals
- Haunted houses
- “Zombie hunting” with paintball guns or tomato launchers
- Any activities that use firearms or weapons
- Any activities conducted on or in water
- Any activities conducted near an open flame

How do agritourism immunity laws affect liability and insurance?

Different types of immunity laws can shield agritourism operations from certain liabilities, such as an “agritourism immunity law”, a “recreational user statute”, a “u-pick statute” or an “equine activity act.” Even in states that have them, immunity laws don’t offer absolute liability protection for the operator. The immunity laws typically only provide liability protection for specific activities or harm resulting from “inherent risks” of certain activities. An agritourism operator can be responsible in other instances, such as if the harm resulted from something that is not an “inherent risk,” if the owner or an employee acts with negligence or recklessness, or if the operator fails to meet the requirements of the statute. Additionally, a state’s immunity statute might have restrictions and eligibility requirements, such as extending immunity only for agritourism on a “commercial” farm or ranch or providing immunity only for those who don’t charge a fee or financially benefit from the activity. See our factsheet on “Agritourism Immunity Laws in the United States” for more information. Ultimately, it is wise to consult an attorney and insurance agent to examine how applicable immunity statutes can reduce risk when determining the extent of coverage necessary for an agritourism operation.

How much will agritourism insurance cost?

The cost of a policy will depend upon a number of factors. These factors and their importance vary by insurance company, and each company has its own risk tolerance. An insurance agent will have to assess the risks at an agritourism operation, and is likely to consider:

- Types of activities offered.
- Number of activities offered.
- Attendance numbers.
- Risks inherent in the land.
- Precautions and management practices taken to minimize risk of injury.
- Compliance with laws, regulations, and industry best practices.
- Strength of a state’s agritourism immunity law.

Further, the cost of a policy will depend upon whether the agritourism operator wishes to insure for legal defense costs, property and merchandise used for the agritourism operation, loss of income, and other business related expenses. The final cost of a policy will be the policyholder’s decision, as caps may be placed on coverage to reduce the cost of the premium. A policyholder will want to independently assess the risks posed by his or her agritourism operation, and determine his or her own risk tolerance.

How does a farm or ranch obtain agritourism insurance?

Obtaining agritourism insurance coverage might require a farmer or rancher to shop around. The number of insurance companies offering agritourism insurance has increased over the past few years, making the market more competitive. However, not all insurance companies provide coverage for all types of agritourism activities. A farmer or rancher can always start by talking to the insurance agent and reading the current insurance policy to see what is covered.

If shopping around, look for a company that provides coverage for all of the operation's needs, is in sound financial strength, and is respected by other agritourism operators. Then select a reputable agent from the identified company who has experience with agritourism and is willing to invest time in getting to know the landowner and understanding the agritourism operation. Work with the agent to tailor the agritourism rider to reflect the types of agritourism activities offered.

What are recommended best practices for maintaining insurance coverage?

Insurance is a tool that few people wish to use but that most people maintain in the event it is needed. If an accident happens at an agritourism farm, the operator will want to know that the liabilities will be covered by insurance. Here are some tips on maintaining both your insurance coverage and your peace of mind:

- Always stay current on premium payments.
- Understand the limits of the policy.
- Stay in contact with the insurance agent.
- Regularly inspect the operation, and have the insurance agent do so as well.
- Consult with the insurance agent, and update the policy, when adding new activities to the farm.

Agritourism and insurance: next steps for agritourism operators

Learning about agritourism and insurance is an important first step for farmers and ranchers who want to host agritourism activities on their properties. In the following checklist, we provide considerations for examining agritourism insurance options. We also provide several additional resources on agritourism insurance. Our hope is that utilizing the checklist and resources will enable farmers and ranchers to continue on a path toward optimal agritourism liability risk management.

See our other Factsheets in this series for more resources on legal issues in agritourism.

Agritourism and Insurance: A Checklist

Agritourism operators may use this checklist as a tool to make sure that common insurance questions are answered, or at least considered, in the planning process. The list is not exclusive, but serves as a starting point in considering the types of insurance and how much insurance is necessary for the agritourism operation.

1. **Find an agritourism insurance provider.** Agritourism insurance is becoming increasingly common but not all insurance companies cover all agritourism activities, nor do all insurance agents have experience in working with agritourism clients. Some questions to ask before signing a policy include:
 - What experience do you and your company have with insuring agritourism?
 - What is your company's A.B. Best Rating? This is a measure of financial strength.
 - What would happen in ____ situation? Run through hypotheticals with the agent.

2. **Assess insurance needs for all activities.** Review every type of agritourism activity with your insurance provider, assess the risks and coverage options for each activity, and understand whether there are exceptions, limits, or exclusions that could affect coverage for an activity. Specifically, an agritourism operator will want to know:
 - Are all of the activities provided at my agritourism operation covered by this policy?
 - What are the property or liability exclusions or limits in my agritourism policy?

3. **Create emergency response plans and training programs.** Even when all precautions are taken for safety, accidents and emergencies still occur. The harm that results from these accidents can be minimized by having a response plan in place that addresses what to do in the event of an accident or emergency, and by training staff to use the plan.

4. **Regularly inspect and review the agritourism operation.**
 - Do regular inspections of the property to look for dangerous conditions that might be caused by human action, or simply inherent to the property, even if your state has an agritourism immunity statute.
 - Advise your agent of any new or discontinued agritourism activities on the operation.
 - Do an annual walk-through of the property with your insurance agent.

5. **Keep adequate records.** Document all safety measures taken to demonstrate that the agritourism operation took all reasonable precautions. Document the presence and servicing of all safety equipment, trainings, improvements to make the premises and activities safe, injuries and emergencies, and all other things that your insurance agent requires a record of or recommends.
 - Does your applicable state immunity law require you to post a warning sign? If so, document that it is posted as required under the law.

References and Resources

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Note: The websites for many state Farm Bureaus and insurance companies contain additional helpful resources for agritourism operators. The National Agricultural Law Center and The Ohio State University are not sponsored by any state Farm Bureaus or insurance companies, nor do they endorse or recommend any particular insurer.