

Vermont Act No. 31 of 2021

An Act Relating to Limiting Liability for Agritourism

Act 31 (H.89) is an act that **establishes a limitation on liability** for agritourism hosts. The Act acknowledges that there are “inherent risks” in participating in agritourism activities and shifts those risks to properly warned consumers. It goes into effect **July 1, 2021**.

Sec. 1. 12 V.S.A. chapter 212

Read the act in full:

<https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT031/ACT031%20As%20Enacted.pdf>

Read the act summary:

<https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT031/ACT031%20Act%20Summary.pdf>

For more information, visit: <https://www.uvm.edu/extension/vtagritourism/safety-liability-and-regulations>

Disclaimer: This document does not constitute legal advice.

Agritourism hosts do not have legal duty to protect participants from injury or death, or damage to the property of a participant, caused by inherent risk of an agritourism activity, so long as the **following requirements are adhered to:**

1. **Clear signage** with the warning notice below:

WARNING: Under Vermont law, an agritourism host is not liable for the injury or death of a participant in an agritourism activity resulting from the inherent risk of the agritourism activity. Inherent risks include the risk of animals, weather, land conditions, and the potential for you as a participant to act in a negligent way that may contribute to your own injury or death. You are assuming the risk of participating in this agritourism activity.

- This signage must be clearly visible at the main entrance of each “agritourism activity.”
- It must be printed in black letters.
- The letters must be at least 1 inch in height.
- It can be printed by hand/stencil or computer.

2. **Every written contract** entered between an agritourism host and a participant for goods or services related to an “agritourism activity” shall contain, in clearly visible print, the warning notice specified above.

Act 31 FAQ's

Where do I need to post the sign? Is one at the entrance of my farm sufficient, or do I need multiple signs in different places on my farm?

- The statute says that a **sign needs to be posted at the main entrance to each agritourism activity**. It does not say that a “farm” has to post a sign at every entrance. Instead, it states a sign must be posted at each agritourism activity, because not every visitor will do the same things. Some reasoned judgment has to be made when one “activity” encompasses multiple events, but the better course is to post a sign at the entrance to each distinct activity.

Where can I get signs that meet the specifications in Act 31 and how much do they cost?

- Worksafetci.com in Barre will print 100 aluminum signs, and UVM Extension will distribute them at no cost. Contact vtagritourism@uvm.edu if you would like a free sign. Supplies are limited.
- Worksafetci.com can print corrugated plastic signs for \$5 to \$7 per sign depending on the quantity purchased. This is a cost-effective solution for farms that need multiple signs and can post them in locations protected from the weather. Aluminum signs cost \$35 to \$80 depending on the quantity purchased.
- You can print a sign using multiple sheets of paper on a home or office printer using the [tiling option](#) in Adobe Acrobat or Reader. (Adobe Reader is a free software program). You will need to print letters at a minimum size of 72 points to achieve 1 inch when printed. Make sure to check the letter height after printing, as printers vary.
- If using paper, it is best to laminate after to protect it from the elements while outside.
- A sign can also be painted or stenciled on wood – as long as it continues to follow the requirements (1 inch height, black lettering).
- Signs can also be custom-made from companies such as Vistaprint, as long as the requirements are followed (1 inch height, black lettering).

Who is not covered under Act 31?

- Act 31 does not apply to an agritourism host who:
 - commits a negligent act or omission concerning the safety of a participant that proximately causes injury or death to the participant;
 - has actual knowledge of a dangerous condition on the land, facilities, or equipment used in the activity or has actual knowledge of the dangerous; propensity of an animal used in the activity, which proximately causes injury or death to the participant, and does not make that danger known to the participant;
 - intentionally injures a participant or intentionally damages a participant's property;

- commits any other act, error, or omission that constitutes willful or wanton misconduct or criminal conduct that proximately causes injury or death to the participant; or
- fails to post the required warning.

What is considered an “agritourism activity” in this statute?

- An “agritourism activity” is defined in this act as any activity on a farm that:
 - is active or passive in nature; and
 - serves as a recreational, educational, or entertainment activity (farming, food production, pick-your-own, historical, or nature based activities).

It does not include:

- lodging or farm stays;
- roadside farm stand or operation that only serves the purpose to sell merchandise/food at retail.

I’m not sure if my activity matches the definition of an “agritourism activity.”

Should I still post a sign?

- While it may be abundantly clear that an activity falls under the “agritourism activity” definition, in other cases it will be less certain. When in doubt, **it’s better to post a sign than to not.**

What if my farm has lodging options or a roadside farmstand as well as agritourism activities? Do I need to include signs then?

- Yes, while a sign **does not** need to be placed at the entrance of the lodging, it **should still be placed** at the entrance of any “agritourism activity.”

Does this mean that the state does not consider lodging to be agritourism?

- The definition of agritourism activity in Act 31 (H.89) outlines the activities that can qualify for the liability limitation established by the Act. The definition applies to the inherent risks of the specific activities and is not meant to define “agritourism” for every potential context. Laws often define terms differently in distinct contexts, and every issue should be evaluated according to the specific legal requirements that apply.

Am I protected under Act 31 even if I don’t post the warning?

- No, the liability limitation for inherent risks does not apply unless the required warning sign is properly posted **and** every written contract contains the same required warning. The warnings are designed to inform consumers of an activity’s inherent risks and allow them to decide whether to assume those risks before participating in an agritourism activity. So, without the required notice, the **limitation does not apply.**

Do I only need the warning on signs and in written contracts?

- While an agritourism host must post the required warning notice **and** include it in every written contract to qualify for the limitation on liability under Act 31, hosts should also make sure participants read and understand the warning notice before participating in an agritourism activity. Hosts may want to consider asking guests to sign or acknowledge in writing that they have read and understand the warning notice before beginning an activity.

Does this mean that I don't have to take precautions to limit liability on my farm?

- While this limitation is important to protect hosts from inherent risks, agritourism hosts should also **take every reasonable precaution** to limit the risk of injury and to avoid and/or communicate specific known risks to participants. The best outcome is always to avoid injuries. Visit <https://www.uvm.edu/extension/vtagritourism/safety-liability-and-regulations> for information about making your farm safe for visitors, and contact vtagritourism@uvm.edu to schedule a safety assessment for your farm.

Are interns such as WWOOFers covered under Act 31?

- In terms of the Act, the question is whether someone is a “participant” and those parameters are defined. Someone visiting or helping on a farm could be considered a “participant,” employee, guest, volunteer, trespasser, or be pigeonholed into some other category. The person’s status at the time of injury is likely dependent on a factual analysis of the person’s role in that particular activity. The liability protection helps farms vis a vis “participants,” but it does not apply to employees (or anyone paid to participate). In general, if someone is there for the farmer’s benefit instead of their own, the protection is not likely to apply.

If I take a group off my farm for an activity like a horseback ride, is this covered in the Act?

- The issue of leaving the farm may be subject to legal and/or factual interpretation, but agritourism activity is defined as occurring “on a farm,” so the smart bet is not to assume the provision applies anywhere else. A farm includes lands it owns, leases, or manages, so there may be legitimate ways to safely stretch the boundaries (provided it’s still a “farm”).

What if I only have visitors on my farm to use walking trails with no fees? Should I post Act 31 signs?

- Anyone who wants to benefit from this liability protection should post the signs at each activity. For some, this may be “additional” liability protection and for others it may be the only protection beyond standard negligence law. It’s seldom a bad idea to have

additional potential liability protection, but there is obviously a difference between hosting events for a fee and allowing folks to use your land without payment for mountain biking, walking, or skiing. Ultimately, it's up to the farm to decide what to do with their land and what protections they want to trigger to allow that use. There is no harm to providing notice to guests and it's generally a good idea to have more potential protection than less, but the additional potential utility of this Act really depends on the activities at issue and how they are conducted. Farmers should be aware of all potential protections for either hosting activities and/or permitting land use and should make sure they are staying within the boundaries of the protections that they want to enlist.

Who should I contact if I have questions?

- You can contact your attorney and/or your insurance provider with questions that are specific to your farm. Questions for the Vermont Agency of Agriculture, Food & Markets can be directed to Julia Scheier at julia.scheier@vermont.gov or (802) 522-7042.

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