

**STATE and LOCAL  
FISCAL IMPACT**

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<b>Drafting Number:</b> LLS 14-0705	<b>Date:</b> February 24, 2014
<b>Prime Sponsor(s):</b> Rep. Dore Sen. Schwartz	<b>Bill Status:</b> House Judiciary
	<b>Fiscal Analyst:</b> Alex Schatz (303-866-4375)

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**SHORT TITLE:** AGRITOURISM LIMITED CIVIL LIABILITY

<b>Fiscal Impact Summary*</b>	<b>FY 2014-2015</b>	<b>FY 2015-2016</b>
<b>State Revenue</b>		
<b>State Expenditures</b>	Minimal workload and cost increase.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

Under current law, Section 13-21-121, C.R.S., limits the liability of persons, including private businesses and public entities, involved in agricultural recreation activities. These individuals and organizations must exercise reasonable care to protect and warn participants in these activities about known dangers, but they are not generally liable for the injury or death of a participant that is the result of an inherent risk of such activities. An agricultural recreation activity is defined to include ordinary agricultural tasks, rodeo and livestock activities, as well as hunting, shooting, swimming, operating vehicles, and other activities that occur on or near agricultural property.

The bill revises Section 13-21-121, C.R.S., to reference "agritourism" in the place of "agricultural recreation activities," and excludes activities involving marijuana from the definition of agritourism. The duty of agritourism operators to exercise reasonable care to protect and warn participants is repealed and replaced with a requirement that these operators notify participants of the inherent risks of activities and statutory limitations on liability. The bill does not require, but authorizes, notification in the form of a signed waiver or a posted sign with prescribed language. An agritourism participant assumes the legal risk of these activities and has the duty to heed warnings and refrain from participating if outside the limits of his or her ability.

**Background**

Agritourism is a diverse segment of the travel and tourism industry, encompassing traditional farm operations, certain agricultural operations on public open space, working museums, farmer's markets, rodeos and other events, and a variety of other recreation that occurs in conjunction with agricultural land use. According to studies by the Colorado State University Extension, agritourism is a significant component of farm income in Colorado.

In addition to Section 13-21-121, C.R.S., certain other provisions in current law limit the liability of agritourism operators, including limitations on liability for:

- the premises of agricultural and other land owners;
- private landowners that provide public recreational access at no charge;
- negligence and other tort claims against public entities; and
- horse- and llama-related activities.

### **State Expenditures**

To ensure the protections of the bill apply to agritourism-related activities sponsored by the state or conducted on state property, state agencies may experience a minimal workload and cost increase to post signs complying with the bill. This change potentially affects the Department of Agriculture (State Fair), the Department of Natural Resources, and any other state agency that hosts agritourism activities, and will not require new appropriations.

**Assumptions.** The bill does not significantly change the amount or complexity of litigation related to agritourism. Based on the scope of the various limitations on liability applicable to agritourism, the bill clarifies the defense provided by Section 13-21-121, C.R.S., without changing its overall impact on agritourism cases.

### **Local Government Impact**

The bill may result in a minimal workload and cost increase for local governments that develop waivers or post signage to ensure the applicability of the bill.

### **Effective Date**

The bill takes effect July 1, 2014, and applies to causes of action arising on or after that date.

### **State and Local Government Contacts**

Agriculture  
Judicial Branch  
Higher Education  
Local Affairs  
Counties

Natural Resources  
Office of Economic Development and International Trade  
Education  
Municipalities  
Law