§ 99E-31. Liability.

(a) Except as provided in subsection (b) of this section, an agritourism professional is not liable for injury to or death of a participant resulting from the inherent risks of agritourism activities, so long as the warning contained in G.S. 99E-32 is posted as required and, except as provided in subsection (b) of this section, no participant or participant's representative can maintain an action against or recover from an agritourism professional for injury, loss, damage, or death of the participant resulting exclusively from any of the inherent risks of agritourism activities. In any action for damages against an agritourism professional for agritourism activity, the agritourism professional must plead the affirmative defense of assumption of the risk of agritourism activity by the participant.

(b) Nothing in subsection (a) of this section prevents or limits the liability of an agritourism professional if the agritourism professional does any one or more of the following:

(1) Commits an act or omission that constitutes willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant.

(2) Has actual knowledge or reasonably should have known of an existing dangerous condition on the land, facilities, or equipment used in the activity or the dangerous propensity of a particular animal used in such activity and does not make the danger known to the participant, and the danger proximately causes injury, damage, or death to the participant.

(c) Nothing in subsection (a) of this section prevents or limits the liability of an agritourism professional under liability provisions as set forth in Chapter 99B of the General Statutes.

(d) Any limitation on legal liability afforded by this section to an agritourism professional is in addition to any other limitations of legal liability otherwise provided by law. (2005-236, s. 1; 2013-265, s. 4.)