

Saving Special Places 2016

Agritourism: Evolving Issues

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Current Law:

21:34-a Farm, Agriculture, Farming. –

I. The word "farm" means any land, buildings, or structures on or in which agriculture and farming activities are carried out or conducted ...

II. The words "agriculture" and "farming" mean all operations of a farm, including:

(a)(1) The cultivation, conservation, and tillage of the soil.

(2) The storage, use of, and spreading of commercial fertilizer....

(3) The use of and application of agricultural chemicals.

(4) ... livestock ...

(5) ... equines.

(6) ... aquaculture products.

(7) ... poultry or game birds.

(8) ... bees.

...

(10) ... greenhouse crops.

(11) ... crops ... for profit or subsistence.

(b) Any practice on the farm incident to, or in conjunction with such farming operations, including, but not necessarily restricted to:

(1) Preparation for market, delivery to storage or to market, or to carriers for transportation to market of any products or materials from the farm.

(2) The transportation to the farm of supplies and materials.

(3) The transportation of farm workers.

(4) Forestry or lumbering operations.

(5) The marketing or selling at wholesale or retail, on-site and off-site, where permitted by local regulations, any products from the farm.



(6) Irrigation of growing crops from private water supplies or public water supplies where not prohibited by state or local rule or regulation.

(7) The use of dogs

(8) ... compost

III. A farm roadside stand shall remain an agricultural operation and not be considered commercial, provided that at least 35 percent of the product sales in dollar volume is attributable to products produced on the farm or farms of the stand owner.

...

VI. The term "agritourism" means attracting visitors to a working farm for the purpose of eating a meal, making overnight stays, enjoyment of the farm environment, education on farm operations, or active involvement in the activity of the farm which is ancillary to the farm operation.

Senate Bill:

SB 345 - AS AMENDED BY THE SENATE
03/17/2016 0962s
2016 SESSION
16-2697
08/09

SENATE BILL 345

AN ACT relative to the definition of agritourism.

SPONSORS: Sen. Boutin, Dist 16; Sen. Birdsell, Dist 19; Sen. Daniels, Dist 11; Sen. Feltes, Dist 15; Sen. Fuller Clark, Dist 21; Sen. Hosmer, Dist 7; Sen. Morse, Dist 22; Sen. Reagan, Dist 17; Sen. Sanborn, Dist 9; Sen. Soucy, Dist 18; Sen. Stiles, Dist 24; Sen. Watters, Dist 4; Sen. Woodburn, Dist 1; Rep. Cushing, Rock. 21; Rep. Luneau, Merr. 10; Rep. Moffett, Merr. 9

COMMITTEE: Public And Municipal Affairs



ANALYSIS

This bill defines agritourism and permits agritourism activities on any property where the primary use is agricultural.

Explanation: Matter added to current law appears in bold italics.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

03/17/2016 0962s 16-2697

08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

AN ACT relative to the definition of agritourism.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Agritourism; Definition. Amend RSA 21:34-a, II(b)(5) to read as follows:

(5) The marketing or selling at wholesale or retail, on-site and off-site, where [permitted] not prohibited by local regulations[, any products from the farm]. Marketing includes agritourism, which means attracting visitors to a farm to attend events and activities that are accessory uses to the primary farm operation, including, but not limited to, eating a meal, making overnight stays, enjoyment of the farm environment, education about farm operations, or active involvement in the activity of the farm.

2 Agritourism; Purposes of Zoning Laws. Amend RSA 672:1, III-b to read as follows:

III-b. Agriculture makes vital and significant contributions to the food supply, the economy, the environment and the aesthetic features of the state of New Hampshire, and the tradition of using the land resource for agricultural production is an essential factor in providing for the favorable quality of life in the state. Natural features, terrain and the pattern of geography of the state frequently place agricultural land in close proximity to other forms of development and commonly in small parcels. Agricultural activities are a beneficial and worthwhile feature of the New Hampshire landscape. Agritourism, as defined in RSA 21:34-a, is undertaken by farmers to contribute to both the economic viability and the long-term sustainability of the primary agricultural activities of New Hampshire farms. Agricultural activities and agritourism [and] shall not be unreasonably limited by use of municipal planning and zoning powers or by the unreasonable interpretation of such powers;



3 Agritourism. Amend RSA 672:1, III-d to read as follows:
III-d. For purposes of paragraphs III-a, III-b, III-c, and III-e, "unreasonable interpretation" includes the failure of local land use authorities to recognize that agriculture and agritourism as defined in RSA 21:34-a, forestry, renewable energy systems, and commercial and recreational fisheries, when practiced in accordance with applicable laws and regulations, are traditional, fundamental and accessory uses of land throughout New Hampshire, and that a prohibition upon these uses cannot necessarily be inferred from the failure of an ordinance or regulation to address them;

4 Agritourism; Existing Agricultural Uses. Amend RSA 674:32-b, II to read as follows:
II. Any new establishment, re-establishment after disuse, or significant expansion of a farm stand, retail operation, or other use involving on-site transactions with the public, including agritourism as defined in RSA 21:34-a, may be made subject to applicable special exception, building permit, or other local land use board approval and may be regulated to prevent traffic and parking from adversely impacting adjacent property, streets and sidewalks, or public safety.

5 New Section; Agritourism Permitted. Amend RSA 674 by inserting after section 32-c the following new section:

674:32-d Agritourism Permitted. Agritourism, as defined in RSA 21:34-a, shall not be prohibited on any property where the primary use is for agriculture, subject to RSA 674:32-b, II.

6 Repeal. RSA 21:34-a, VI, relative to the definition of agritourism, is repealed.

7 Effective Date. This act shall take effect upon its passage.

Comparison of Current Agritourism Definition with Senate Bill Language:

attracting visitors to a ~~[working]~~ farm ~~[for the purpose of]~~ ***to attend events and activities that are accessory uses to the primary farm operation, including, but not limited to,*** eating a meal, making overnight stays, enjoyment of the farm environment, education ~~[on]~~ ***about*** farm operations, or active involvement in the activity of the farm ~~[which is ancillary to the farm operation]~~

