

Top 10 Ways to Limit Your Liability When Visitors Come to Your Farm

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Many farm and ranch businesses are inviting customers onto their farms for agritourism, u-pick operations, hunting, community supported agriculture, and educational purposes. When a landowner invites a person onto his farm for the landowner's business purposes, the landowner can become subject to legal liability if the invitee gets hurt. However, there are ways to limit that liability, and a non-exclusive and very general list is written below as a guide for landowners. This list is intended to raise certain issues, but should not be substituted for specific advice from your attorney.

- 1. Organize Your Business to Limit Liability** – One of the best places to start to limit your liability risk is to organize your business in a way that sets your exposure to risk at a level that is comfortable for you, considering your assets, tax needs and business control.
 - Sole Proprietorship – The owner starts a business but does not incorporate. The owner is personally liable but has ultimate power and control over business, and can do business in other states without much paperwork. Tax issues are more simplified for sole proprietorships. Your personal risk of exposure to liability is HIGH.
 - General Partnership – The owners start a business together but do not incorporate in a general partnership. All owners can be sued for all or a portion of debt, but creditors must exhaust the partnership property before getting a lien on the partners' individual property. All partners have equal decision making rights, unless otherwise agreed, and can do business in other states without much paperwork. The partnership can address tax issues as "Check-the-box" which means the partners may elect either pass through taxation or entity treatment. Your personal risk of exposure to liability is HIGH.
 - Limited Liability Partnership – The owners must file a statement of qualification with the Secretary of State to start an LLP. After doing so, the owners are not personally liable if they maintain \$500,000 in security; but owners are liable for their own wrongful acts. All owners have equal decision making rights unless otherwise agreed. To do business in another state, the LLP must file a statement of foreign qualification. Taxation is "Check-the-box." Your personal risk of exposure to liability is MODERATE.
 - Limited Partnership – The owners must file a certificate of limited partnership with the Secretary of State to form a Limited Partnership. Owners of Limited Partnerships are not liable for debts of the company unless they participate in control. General partners are jointly and severally liable, but creditors must exhaust the partnership property before levying on partners' individual property. Limited partners do not participate in management but general partners have control. To do

- 6. Provide Medical Assistance and Warnings** – Provide training to your employees on how to address medical emergencies. Place warning signs in areas with animals which inform visitors that animals may bite or other dangerous conditions. Keep a well-stocked first aid kit. Keep handy the phone numbers to emergency staff available to assist the number of visitors that you have present at any time. This may necessitate setting visitor capacity limits.
- 7. Insurance** – Maintain adequate insurance on your policy to cover you if a person is injured on your property. Provide your insurance agent with a detailed description of your operation and any scenarios that may potentially cause harm to a visitor. Invite your insurance agent to tour your property to assist the agent in determining any specialized insurance policies that you may need to cover your risks of liability.
- 8. Code Compliance** – Be aware of all building codes that apply to your property and comply with those codes. Failure to do so will put you at risk if someone is injured.
- 9. Sanitation**