

SENATE, No. 1332

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1996

By Senators KYRILLOS and SINGER

1 AN ACT concerning the liability of certain persons for activities on
2 agricultural or horticultural lands and supplementing chapter 42A
3 of Title 2A of the New Jersey Statutes.

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5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. As used in this act, "agricultural or horticultural land" means
9 land devoted to the production for sale of plants, crops, or other
10 related commodities, including bees and apiary products, orchards,
11 nurseries, and trees and forest products.

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13 2. a. A person who is invited onto agricultural or horticultural land
14 by the owner, lessee, or occupant of that land , or by any employee or
15 agent thereof, for the purpose of picking or taking agricultural or
16 horticultural products shall be considered a licensee for the purpose of
17 determining the duty owed by the owner, lessee, occupant , agent, or
18 employee to that person.

19 b. An owner, lessee, or occupant of agricultural or horticultural
20 land , or an agent or employee thereof, who acts in conformance with
21 a standard of reasonable care, as prescribed pursuant to section 3 of
22 P.L. , c. (C.)(now before the Legislature as this bill), shall be
23 presumed to have acted reasonably with respect to any person invited
24 onto the land for the purpose of picking or taking agricultural or
25 horticultural products in any civil action for damages related to that
26 person's activities on the land.

27 c. The owner, lessee, or occupant of agricultural or horticultural
28 land, or an agent or employee thereof, who invites persons onto the
29 land for the purpose of picking or taking agricultural or horticultural
30 products shall:

31 (1) clearly mark off the area wherein the persons on the land may
32 engage in the activity of picking or taking agricultural or horticultural
33 products. A person who enters land outside this area shall be
34 considered a trespasser for the purposes of determining the duty owed
35 by the owner, lessee, occupant, agent or employee to that person; and

36 (2) post signs at the point of arrival explaining the area at which
37 the activities may be conducted, the rules of conduct, and the

1 limitations on liability provided for in this section.

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3 3. The State Board of Agriculture shall adopt regulations that shall
4 prescribe those actions, based upon a standard of reasonable care, that
5 an owner, lessee, or occupant of agricultural or horticultural lands, or
6 an agent or employee thereof, shall take with respect to ensuring the
7 safety of persons invited onto those lands for the purpose of picking
8 or taking agricultural or horticultural products.

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10 4. This act shall take effect immediately and shall apply only to any
11 cause of action that arises after the effective date of this act.

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STATEMENT

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16 This bill would provide limited immunity for farmers from civil
17 lawsuits brought by persons who enter agricultural or horticultural
18 lands to pick their own fruit or other agricultural or horticultural
19 products such as Christmas trees.

20 Specifically, the bill provides that a person entering agricultural
21 land would be considered a licensee, and not an invitee, thus limiting
22 the duty a farmer owes that person to keep the property safe for that
23 activity. The bill requires the State Agriculture Board to develop
24 regulations that will define what actions a farmer shall take in order to
25 meet the reasonable standard of care he owes to the persons invited
26 onto his land. If that standard of reasonable care as enumerated in the
27 regulations is met, the farmer will be presumed to have acted
28 reasonably.

29 The bill also provides that the area in which the "pick your own"
30 activity is to take place is to be clearly marked. Any person entering
31 lands outside that marked area will be considered a trespasser for the
32 purposes of determining a farmer's liability to that person. The farmer
33 is also required to post signs informing persons of the conduct
34 expected and the limitations on liability provided in this bill.

35 The limitations on liability in this bill are prospective only and do
36 not apply to causes of action arising prior to the bill's effective date.

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42 Provides limited civil liability immunity to farmers for "pick your own"
43 operations.