



Increasing Value and Reducing Risk in Animal Agriculture: A Legal Perspective

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About the Center

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 - The Center is a unit of the University of Arkansas System Division of Agriculture
 - In close partnership with the USDA Agricultural Research Service, National Agricultural Library
- Objective, non-partisan research and information regarding laws and regulations affecting agriculture

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Outline:



Authorizing Statutes & General Requirements



Regulatory Agencies



Types of Plants

- Inspected
- Non-Inspected



Labeling



Suggestions to Limit Risk



Meat & Poultry Inspection

Meat Inspection	Poultry Inspection
<i>Authorizing Statute:</i> Federal Meat Inspection Act, <u>21 USC 601</u> et seq <i>Implementing regulations:</i> <u>9 CFR 300</u> et seq	<i>Authorizing Statute:</i> Poultry Products Inspection Act, <u>21 USC 451</u> et seq <i>Implementing regulations:</i> <u>9 CFR 381</u> et seq
<i>Animals covered:</i> cattle, sheep, swine, goat, horse, mule, or other equine	<i>Animals covered:</i> chickens, turkeys, ducks, geese, ratites and squab

- Goal: Ensure that products are safe, wholesome, and correctly labeled
- Standards for:
 - Inspections at federally-inspected establishments
 - Implementing HACCP requirements: sanitation/facility/operational standards to control pathogen contamination
 - Ensuring state inspection programs meet appropriate standards
 - Confirming products imported to the United States are produced under standards equivalent to U.S. inspection standards
 - Reinspection



General Requirements

- Inspectors present at all times during operation.
 - Inspect every animal (livestock and poultry) both before and after slaughter for signs of disease or health problems
 - Continuously staff processing lines during operation
 - Ensure humane handling/slaughter through:
 - Compliance with the HMSA/regulations (livestock)
 - Compliance with good commercial practices (poultry)
- Sanitation requirements
 - Hazard Analysis and Critical Control Point (HACCP) plan
 - Microbial sampling and testing (E. coli and salmonella)
- Recordkeeping
 - Establish compliance with humane handling/good commercial practices
 - Provide record of HACCP/SOP and other requirements
- Enforcement
 - Surveillance/regulatory action
 - Up to/including suspending facility operations



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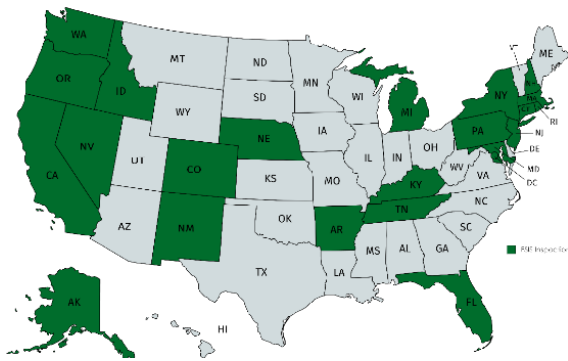


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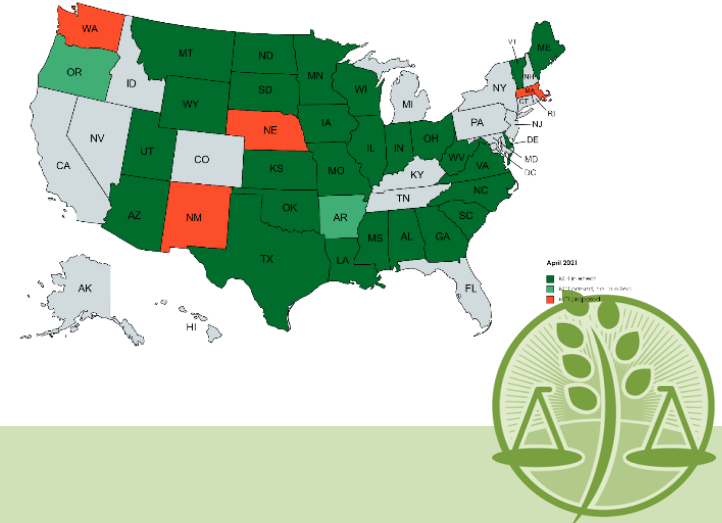


Oversight of Slaughter and Processing

- USDA/FSIS
- Requirements:
 - Sanitation
 - Recordkeeping
 - Continuous inspection
- Paid by federal funds
- Interstate/international sale of products

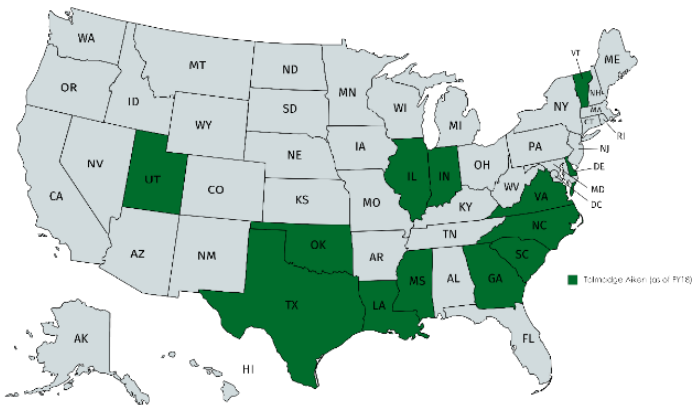


- State inspection programs (MPI)
- Must enter into cooperative agreement with FSIS/reviewed annually for compliance
- Requirements must be “at least equal to”
- Paid by state, federal cost-share
- Intrastate sale of products



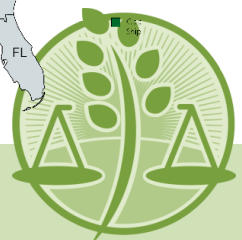
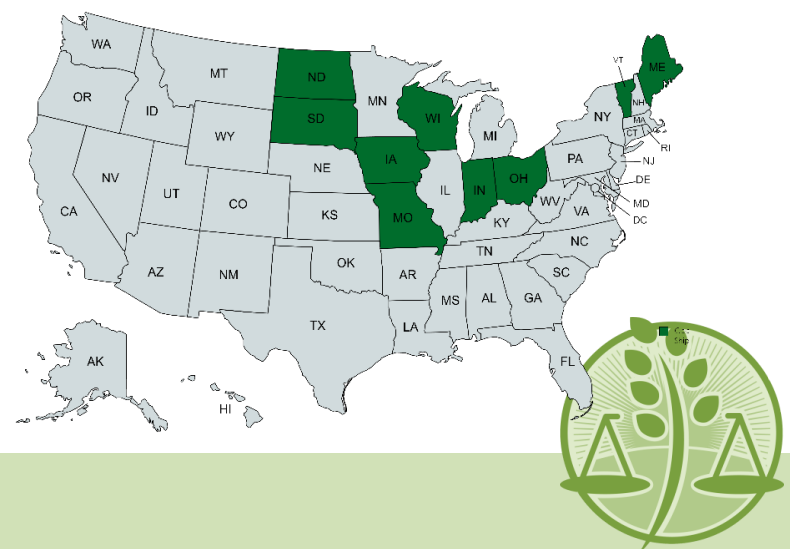
Federal-State Cooperative Inspection Program

- AKA “Talmadge-Aiken” or “cross-utilization agreement” plants
- Under federal inspection, but operating with state inspection personnel.
 - Federal inspection requirements
- Inspectors employed by/paid by state, 100% federal reimbursement
- Additional cooperative agreement required
- Interstate/international commerce



Cooperative Interstate Shipment

- Eligibility: Small plants in MPI states that meet FSIS inspection standards
 - “Same as” federal inspection reqs
- State inspectors/state funds, 60% federal reimbursement
- Additional cooperative agreement required
- Interstate/international commerce



MO CIS Contacts:

- Steve Strubberg, DVM, Missouri
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Missouri Department of Agriculture
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Jefferson City, MO 65102-0630
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1616 Missouri Boulevard
PO Box 630
Jefferson City, MO 65102-0630
(573) 522-1242
Fax: (573) 751 6919
meatinspection@mda.mo.gov

Establishment Number	Establishment Name	Address	Telephone	Date Entered Into CIS Program
184SEMO/184SEPMO Meat and Poultry Processing	Crispy Edge	4168 Juniata St. Louis, MO 63116	(314) 310-3343	11/30/20
167SEPMO Poultry Slaughter and Processing	Double M Poultry LLC.	17267 Highway HH Versailles, MO 65084	(573) 378-4387	1/31/20



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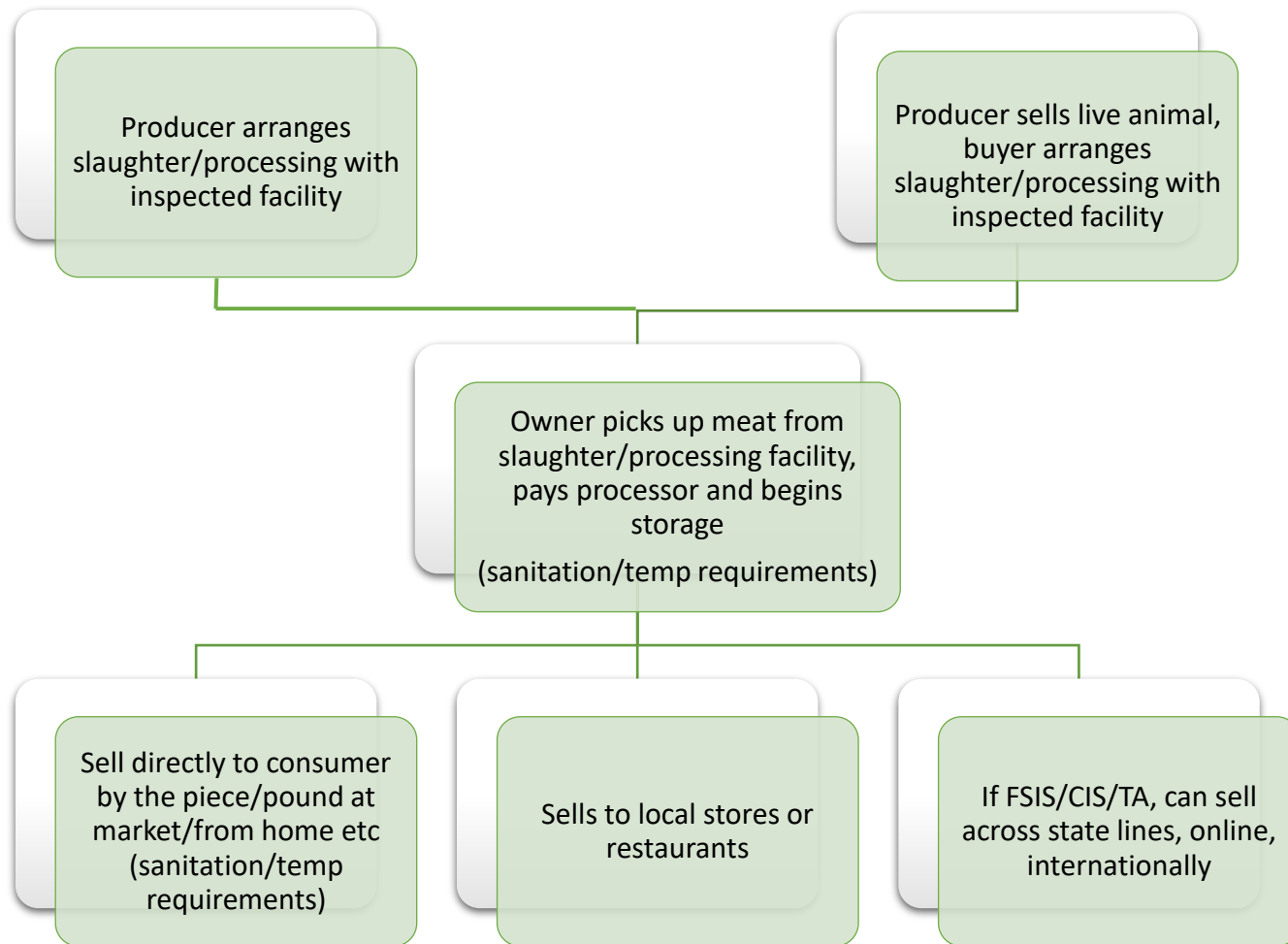
Labeling



Suggestions to Limit Risk



Inspected Slaughter: For Producers/Consumers



MO Inspected Slaughter: Sale by the piece/pound

- No state permits required.
- Maintain products at approved temps
- Contact your local health department for any local requirements:
<https://health.mo.gov/living/lpha/index.php>
 - MO Food Code is minimum standard for retail food establishments, but some Local Public Health Agencies have authority to adopt stricter regulations.
- Missouri Meat Producer Directory: <https://mofb.org/missouri-meat-producers/>

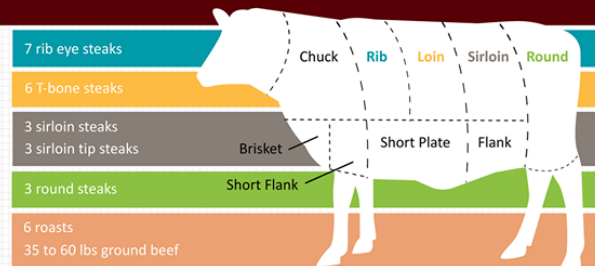


Custom Slaughter:

Preparing to Buy a Quarter of Beef

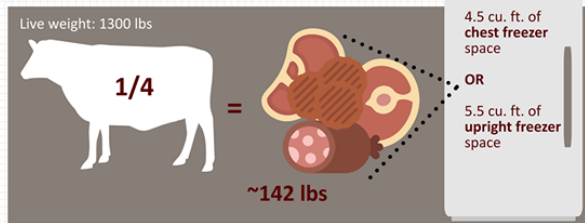
How much meat is a quarter of a beef?

Meat from a typical quarter of a beef with a live weight of 1300 lbs:



Cuts and quantities of meat will depend on the animal and processor.

How much cooler/freezer space do you need?



What costs should you expect?



- Continuous inspection not required, lower building/sanitation/recordkeeping requirements
- Meat can be used by owner/members of their household
 - May not be sold or donated
- Performed by a custom exempt facility acting on behalf of the owner of the animal
- In practice:
 - Producer sells the animal or portions of the animal to consumer(s) while it is still alive
 - Ex: 1/4 steer, 1/2 pig
 - After animal is completely sold, the producer acts as an agent to arrange transportation to the custom exempt facility
 - Each individual consumer/owner is responsible for choosing how their portion of the animal should be processed
 - Consumer/owner is responsible for costs to:
 - Producer (for the animal)
 - Custom exempt facility (for processing)



Note: Combining Slaughter Types

- Livestock processing plants can process some animals that are custom exempt and others that are federal inspected
 - Must meet existing sanitary standards for each type of slaughter
 - Additional requirement: keep products/containers/meat from each category separated at all times
 - Separation can be achieved by time or space.
 - In practice: provide services on different days of the week, specific times of the month, or one after a complete conclusion, shut-down and sanitation of the other
- Poultry plants are prohibited from processing both custom exempt and federally inspected products



Photo credit: Dr. Casey Hanning



Note: Mobile Slaughter Units

Mobile slaughterhouse unit up and running

By IVY ASHE Hawaii Tribune-Herald | Monday, May 15, 2017, 9:20 p.m.

KEALAKEKUA — After years of planning and months of delay, the Hawaii Island Meat Cooperative has started processing local meat at its mobile slaughterhouse unit.

Regular operations at the unit began April 20 and are scheduled to take place once every two weeks.

The mobile slaughterhouse, one of about 25 in the country and the first one in the state of Hawaii, is considered an important component to the long-term goal of achieving food sustainability on the Big Island.

"It's just one little piece of the infrastructure that supports the whole infrastructure," said Teresa Young, cooperative business development specialist for the Kohala Center. "We're trying to increase that production to have more meat that is produced here, especially for the smaller family farms. This will allow them to have more access to that."

The mobile slaughterhouse project was set in motion in 2011 after the creation of a task force focusing on bringing more options for locally-raised meat to the island.

The co-op itself formed in 2014. A year and \$500,000 in grants later, the mobile slaughterhouse arrived.]

[Link](#)



- Units may be either custom exempt or inspected
 - Same requirements/regulations as fixed plants
- Typically used in remote areas with large distances between traditional processing facilities.
 - Expense
- Capacity: Depends on unit size, but “one butcher can normally process 20-25 goats or sheep per day and two butchers can process around 10 cows per day.”
- Additional Resources:
 - [Mobile Slaughter Compliance Guide](#) (FSIS, 2010)
 - [Mobile Slaughtering and/or Processing](#) (Cornell Small Farms Program, 2012)
 - [Mobile Slaughter and Processing](#) (Niche Meat Processor Assistance Network)



Q&A:

“Rumley Farms sells an animal to Patsy Purchaser.”

After the sale, Patsy asks to slaughter and process the animal by herself, using Rumley Farms facilities and equipment.

After the sale, Rusty offers to show Patsy how to slaughter and dress the animal.

After the sale, Patsy asks to slaughter and process the animal by herself, using Rumley Farms facilities and equipment. She asks Rusty to dispose of the resulting offal/waste.

What type of slaughter is this? What requirements are there?

- FSIS guidelines: personal slaughter.
- State requirements: laws will vary, and it might be considered custom slaughter, requiring compliance with custom exempt regulations.
 - Ex: NC

- FSIS guidelines: Custom slaughter, because of the producer’s assistance and involvement.

- FSIS: Uncertain!
 - The line between personal and custom is crossed when the seller “assists” in the slaughter or processing of the animal. No clear definition of that phrase.
- State requirements: Laws vary greatly!
 - State law compilation



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Labeling



Suggestions to Limit Risk



Labeling- Federal

- If processed at a FSIS inspected plant, need federal approval.
 - FSIS in-plant inspection personnel conduct in-plant label verification activities
 - Labels cannot be added to products without being approved
 - [Label Submission and Approval System](#)
- Categories of labels:
 - Generic label approval
 - Can be input in Generic Label Advisor in LSAS to ensure compliance
 - Sketch approval
 - “Special statements and claims”: Logos, trademarks, and other symbols on labels generally not defined in FSIS regulations
 - Examples of logos and symbols include graphic representations of hearts and geographic landmarks. Special statements and claims include “natural” and negative claims (e.g. “gluten free”), health claims, ingredient and processing method claims (e.g., high-pressure processing), claims regarding the raising of animals, organic claims, and instructional or disclaimer statements concerning 6 pathogens (e.g., “for cooking only” or “not tested for E-coli O157:H7”)
- https://www.fsis.usda.gov/sites/default/files/media_file/2020-10/Label-Approval-Guide.pdf



Labeling- Missouri

- Labels must not be false or misleading.
- Mandatory label components:
 - Name of the product
 - Ingredients statement, if needed
 - Inspection legend and establishment number
 - Handling statements, e.g., keep refrigerated, keep frozen, etc., if needed
 - Safe handling instructions
 - Net quantity of contents statement, if needed
 - Signature line (manufacturer's or distributor's name and address)
 - Nutrition labeling, if needed
- Labels must be submitted to the Missouri Meat and Poultry Inspection Program for approval prior to use.



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- ✓ Suggestions to Limit Risk



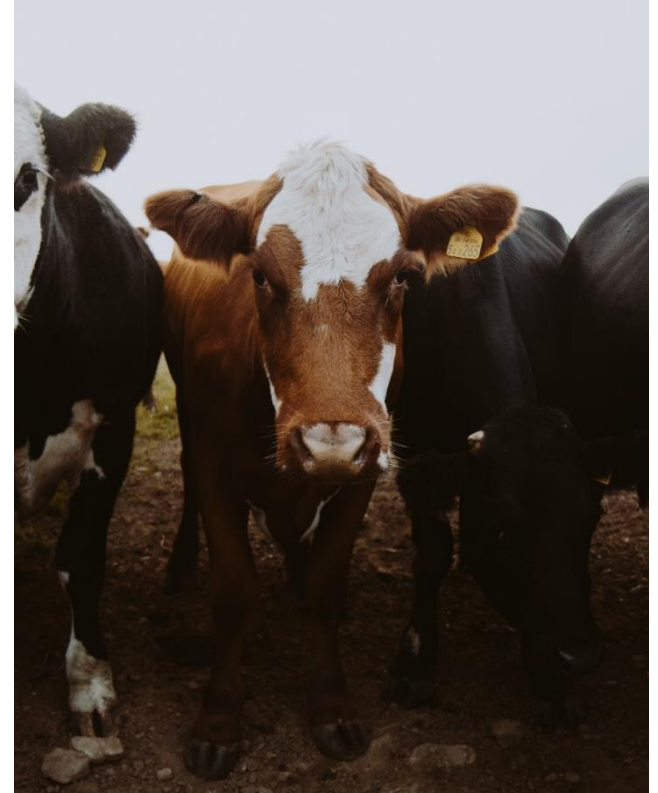
Risk Management Considerations

- Slaughter/processing facility
 - Plan ahead with a slaughter date
 - Demand/storage can be an issue.
 - Fall processing/deer season?
 - Think about how much you can move, what cuts, etc.
 - Do they have any additional value added processing available (hang length, jerky etc, type of wrapping)
 - Ask questions to be sure you are comfortable with the plant you select.
 - Compliance history or enforcement actions (ask or file FOIA request)
 - Lotting can be extremely important in the event there is an issue—keeping products separated by lots may avoid or greatly limit the scope of a recall.
- Good recordkeeping is important!
 - Records of medication dates, withdrawal times, freezer temperatures, various inspections on freezers, etc.
 - If you can show you acted reasonably—nothing negligent or reckless, etc—that will help with defense.



Risk Management Team

- Engage a good attorney and accountant!
 - Business entity selection, name selection, tax issues, website content, any express or implied warranties, trademarking...
- Insurance is a must-have!
 - Many common policies (general farm and homeowners) may not provide protection
 - Need a policy specific to direct marketing operations
 - All riders should be tailored to the activities taking place on the operation.
- Business entities are an important tool.
 - Different business structures provide different levels of protection for your personal assets.
 - Liability protection is only available through certain types of business structures (LLC/Corp.)
 - For more information on various types of business entities: <https://bit.ly/3krQaaE>
 - Carefully consider what company structure you have currently, and if it should be changed to maximize benefits.
 - Consider multiple entities for various enterprises



Outline:



Animals on the Farm



Duty of Care



Statutes Limiting Liability



Other Ways to Reduce Liability



Animals on the Farm

- **Petting zoos or farm animal exhibits are extremely popular...**
- Less than 2% of the American public have any connection to agriculture
 - Your farm may be the first time they have ever seen livestock

Consequences: Situations where the participants have little or no knowledge about potential risks.

Major Types of Risk

1. Risk of physical injury
 - Biting, kicking, scratching, trampling, etc...
 - Easily identifiable risk
2. Risk of contracting a zoonotic disease
 - Unseen risk that may result in damages far exceeding physical injury cases



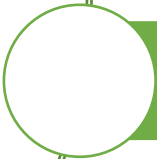
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Other Ways to Reduce Liability



Status of Entrant

- You have different levels of responsibility to people depending on the reason they are on your land
 - Invitee: on land for business purpose (ordinary care)
 - Licensee: non commercial use, but with consent (Don't injure the person deliberately, warn of hidden dangers)
 - Trespasser: no permission to be on land- level of responsibility dependent on knowledge
 - No knowledge - no duty, no liability
 - Knowledge - duty not to affirmatively harm
- The status of a person on your land can change quickly.
 - For example -
 - If you allow someone to fish in your pond, but they explore other parts of your land, they may change from a licensee to a trespasser, but if you catch them and accept money for their access to the other parts of the land they become an invitee.
- As a result- it is important to define the area that visitors have permission to use.



Landowner Liability

- Invitee: A person who is invited upon the premises in order to conduct business with the possessor- someone present on the land for your benefit.
- Examples:
 - Customers in store or shopping center
 - Employees
 - Students
 - Business visitors
- Duty: A general duty to use ordinary care to keep the premises reasonably safe for the benefit of the invitee
 - Highest duty of care
 - Based on 1) the degree of danger and 2) the foreseeability on the premises of those who might be harmed



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Other Ways to Reduce Liability



Liability Protection Statutes

- Protect a specific group from legal liability for injuries resulting from certain activities.
- Based on the legal theory of assumption of risk.
 - A participant who voluntarily chooses to engage in a risky activity is responsible for his/her own safety and assumes the risk of being injured by that activity.
- Relevant in MO
 - Agritourism statute (must be registered, must post signs)
 - <https://bit.ly/3y6MDUy>
 - Equine activity statute (must post signs)
 - <https://bit.ly/31txgtu>
 - Recreational use statute (cannot charge)
 - <https://bit.ly/31yt5fP>



Outline:



Animals on the Farm



Duty of Care



Statutes Limiting Liability



Other Ways to Reduce Liability



Zoning/licensing

- Check with local (city, town, village, municipalities & county) governments to see if there are zoning restrictions in the area where you plan to operate
- Check with local or state government to see if there are licenses you will need to purchase to operate your agritourism business.
- Depending on the type of animal in an exhibit, it might be regulated by USDA under the Animal Welfare Act
 - Exhibits with only farm animals are exempt!
 - <https://bit.ly/3m1MDzB>



Business Entities- Formation & Protection

- Different business structures provide different levels of protection for your personal assets.
 - Liability protection is only available through certain types of business structures (LLC/Corp.)
 - For more information on various types of business entities:
<https://bit.ly/3krQaaE>
 - Carefully consider what company structure you have currently, and if it should be changed to maximize benefits.
 - Each company structure has its own unique positive and negative attributes.
- You MUST keep the business separate from your personal life and from other businesses that you run.
- Factors courts will consider:
 - Was the corporation provided with enough capital to carry out its normal business functions and pay its reasonable anticipated expenses?
 - Were the business assets used by the shareholder or member for personal purposes?
 - Were the corporation or LLC's funds used for personal expenses?
 - Were compliance requirements followed?
 - Annual meetings (with documentation)
etc



Insurance

- Who should purchase it?
 - Farmer/agritourism operator
- Who should have their name on the policy?
 - Business entity + you (additional insured)
- What type of insurance?
 - Many common policies (general farm and homeowners) may not provide protection
 - Need a policy specific to agritourism operations
 - All riders should be tailored to the activities taking place on the operation.
 - Note: many agritourism policies exclude communicable diseases unless you purchase a rider that provides liability coverage above and beyond the general policy.



Insurance Considerations

- Not all companies offer agritourism riders.
- Find a company and agent familiar with agritourism.
- Check company's AM Best rating: <https://bit.ly/2DTeSuE>
- Review *all* activities with agent to ensure coverage.
- Be aware of policy exclusions.
- Maintain regular communication with agent—new or ceased activities, property walk-throughs.
 - Communication in writing is best
- Keep adequate records.
- Don't disregard practices and preparedness.



Animals on the Farm: Reducing Risk

- Curtail direct contact with livestock.
 - Use double fences
- Do not allow participants to enter pens or have contact with manure.
 - Diseases (salmonella, E. coli) that may be deadly to humans are commonly carried by animals that show no signs of infection.
 - Testing is inaccurate, b/c livestock may not be shedding bacteria constantly.
- Maintain handwashing stations and signage in obvious locations.
- Wash all hands- adults & children



Animals on the Farm: Reducing Risk

- Species matter with zoonotic diseases!
 - Cattle, goats, and poultry have a higher risk of transmitting E Coli and Salmonella as opposed to swine and horses
- Do not allow participants to bring food or drink near the animals.
- Explain the risk of zoonotic diseases while educating them about the animals.
- CDC resources:
<https://bit.ly/2OTFwd1>



Planning: Utilizing resources to make the best decisions

- 12 Things to Consider When Starting an Agritourism Business: National Agricultural Law Center resources: <https://bit.ly/3ksuawr>
- Agritourism reading room: <https://bit.ly/2rbWJFG>
- Reducing Risk in Agritourism: Factsheet Series (Hall & Bachelor), available at: <https://bit.ly/33W8rBt>
 - *Farm Animals and People: Liability Issues for Agritourism*
 - *Food Sales at Agritourism Operations: Legal Issues*
 - *Agritourism Immunity Laws in the United States*
 - *Agritourism Activities and Zoning*
 - *Agritourism and Insurance*
- Webinar recordings:
 - [The Evolution of Agritourism: Current Legal Issues & Future Trends](#)
 - [Farms and Fun: Reducing Liability Risk for Agritourism](#)
 - [Agritourism, Zoonotic Diseases and Legal Liability](#)
- Additional Resources:
 - [Workbook: Emergency procedures and safety information for agritourism and related outdoor events](#) (Ohio State Extension)
 - [Decision Making for New Agritourism Activities](#) (Ohio State Extension)





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