

2A:42A-9 and 2A:42A-10
LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Farmers--civil liability)

NJSA: 2A:42A-9 and 2A:42^A-10

LAWS OF: 1997 CHAPTER: 378

BILL NO: S1332

SPONSOR(S): Kyrillos and Singer

DATE INTRODUCED: June 20, 1996

COMMITTEE: ASSEMBLY: ---
SENATE: Senior Citizens

AMENDED DURING PASSAGE: No Senate Substitute Enacted

DATE OF PASSAGE: ASSEMBLY: January 12, 1998
SENATE: January 12, 1998

DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

§§1,2
C. 2A:42A-9
&
2A:42A-10
§3
Note To §§1,2

P.L. 1997, CHAPTER 378, *approved January 19, 1998*
Senate Substitute for
Senate, No. 1332

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.

4

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

7

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

11

12 2. Notwithstanding the provisions of any law to the contrary, an
13 owner, lessee or occupant of agricultural or horticultural land shall not
14 have a legal duty to protect a person who is invited onto the land for
15 the purposes of picking or taking agricultural or horticultural products
16 from the natural risks or hazards that are inherent characteristics of
17 agricultural or horticultural land, and shall not be liable if such a
18 person invited onto the land is injured because of any natural risks or
19 hazards that are inherent characteristics of agricultural or horticultural
20 land.

21

22 3. This act shall take effect immediately and shall apply only to
23 any cause of action that arises after the effective date of this act.

24

25

26

STATEMENT

27

28 The Legislature recognizes that agricultural or horticultural
29 operations are used for the purposes of inviting the public to come
30 onto the land to pick and to take agricultural and horticultural
31 products. The Legislature also recognizes that this activity is a
32 valuable business resource for New Jersey agriculture. Individuals that
33 invite the public on to agricultural or horticultural land for purposes
34 of picking or taking horticultural products need to be distinguished
35 from the operators of other types of businesses with respect to

1 liability. According to the provisions of this bill, owners, lessees or
2 occupants of agricultural or horticultural land who invite the public
3 onto the land for the purposes of picking or taking agricultural or
4 horticultural products shall not be responsible for injuries that occur
5 because of the intrinsic hazards or natural conditions of agricultural or
6 horticultural operations.

7

8

9

10

11 Provides limited civil liability immunity to farmers for "pick your own"
12 operations.

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.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
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.

12
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.

2

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.

9

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.

12

13

14

STATEMENT

15

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.

37

38

39

40

41

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

SENATE SENIOR CITIZENS, VETERANS' AFFAIRS AND
AGRICULTURE COMMITTEE

STATEMENT TO

SENATE, No. 1332

STATE OF NEW JERSEY

DATED: OCTOBER 7, 1996

The Senate Senior Citizens, Veterans' Affairs and Agriculture Committee favorably reports Senate Bill No. 1332.

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

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

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

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

SENATE SUBSTITUTE FOR
SENATE, No. 1332

STATE OF NEW JERSEY

ADOPTED DECEMBER 11, 1997

Sponsored by Senators KYRILLOS, SINGER and Matheussen

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.

4

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

7

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

11

12 2. Notwithstanding the provisions of any law to the contrary, an
13 owner, lessee or occupant of agricultural or horticultural land shall not
14 have a legal duty to protect a person who is invited onto the land for
15 the purposes of picking or taking agricultural or horticultural products
16 from the natural risks or hazards that are inherent characteristics of
17 agricultural or horticultural land, and shall not be liable if such a
18 person invited onto the land is injured because of any natural risks or
19 hazards that are inherent characteristics of agricultural or horticultural
20 land.

21

22 3. This act shall take effect immediately and shall apply only to
23 any cause of action that arises after the effective date of this act.

24

25

26

STATEMENT

27

28 The Legislature recognizes that agricultural or horticultural
29 operations are used for the purposes of inviting the public to come
30 onto the land to pick and to take agricultural and horticultural
31 products. The Legislature also recognizes that this activity is a
32 valuable business resource for New Jersey agriculture. Individuals that
33 invite the public on to agricultural or horticultural land for purposes
34 of picking or taking horticultural products need to be distinguished
35 from the operators of other types of businesses with respect to

1 liability. According to the provisions of this bill, owners, lessees or
2 occupants of agricultural or horticultural land who invite the public
3 onto the land for the purposes of picking or taking agricultural or
4 horticultural products shall not be responsible for injuries that occur
5 because of the intrinsic hazards or natural conditions of agricultural or
6 horticultural operations.

7

8

9

10

11 Provides limited civil liability immunity to farmers for "pick your own"
12 operations.

[Passed Both Houses]

SENATE SUBSTITUTE FOR
SENATE, No. 1332

STATE OF NEW JERSEY

ADOPTED DECEMBER 11, 1997

Sponsored by Senators KYRILLOS, SINGER, Matheussen,
Assemblywoman Vandervalk, Assemblymen Garrett,
Blee and LeFevre

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.

4

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

7

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

11

12 2. Notwithstanding the provisions of any law to the contrary, an
13 owner, lessee or occupant of agricultural or horticultural land shall not
14 have a legal duty to protect a person who is invited onto the land for
15 the purposes of picking or taking agricultural or horticultural products
16 from the natural risks or hazards that are inherent characteristics of
17 agricultural or horticultural land, and shall not be liable if such a
18 person invited onto the land is injured because of any natural risks or
19 hazards that are inherent characteristics of agricultural or horticultural
20 land.

21

22 3. This act shall take effect immediately and shall apply only to
23 any cause of action that arises after the effective date of this act.

24

25

26

STATEMENT

27

28 The Legislature recognizes that agricultural or horticultural
29 operations are used for the purposes of inviting the public to come
30 onto the land to pick and to take agricultural and horticultural

1 products. The Legislature also recognizes that this activity is a
2 valuable business resource for New Jersey agriculture. Individuals that
3 invite the public on to agricultural or horticultural land for purposes
4 of picking or taking horticultural products need to be distinguished
5 from the operators of other types of businesses with respect to
6 liability. According to the provisions of this bill, owners, lessees or
7 occupants of agricultural or horticultural land who invite the public
8 onto the land for the purposes of picking or taking agricultural or
9 horticultural products shall not be responsible for injuries that occur
10 because of the intrinsic hazards or natural conditions of agricultural or
11 horticultural operations.

12

13

14

15

16 Provides limited civil liability immunity to farmers for "pick your own"
17 operations.