

**HOUSE BILL No. 2408**

By Committee on Appropriations

4-28

1 AN ACT concerning agritourism; transferring agritourism promotions  
2 from the department of commerce to the department of agriculture;  
3 amending K.S.A. 2010 Supp.74-50,167 and 74-50,168 and repealing  
4 the existing sections; also repealing K.S.A. 2010 Supp. 74-50,173.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) There is hereby established, within and as a part  
8 of the Kansas department of agriculture, the agritourism promotion  
9 program.

10 (b) (1) The secretary of agriculture shall appoint such employees as  
11 may be needed to carry out the powers and duties of the program, and all  
12 such officers and employees shall be within the classified or unclassified  
13 service.

14 (2) All employees shall act for and exercise the powers of the  
15 secretary of agriculture to the extent that authority to do so is delegated by  
16 the secretary of agriculture.

17 (c) The agritourism promotion program within the department of  
18 commerce created by K.S.A. 74-50,165 et seq., and amendments thereto,  
19 is hereby abolished.

20 (d) Except as otherwise provided by this act, all powers, duties and  
21 functions of the agritourism promotion program within the department of  
22 commerce created by K.S.A. 74-50,165 et seq., and amendments thereto,  
23 are hereby transferred to and imposed upon the agriculture marketing and  
24 promotions program within the Kansas department of agriculture.

25 New Sec. 2. (a) The agritourism promotion program within the  
26 Kansas department of agriculture shall be the successor in every way to  
27 the powers, duties and functions of the agritourism promotion program  
28 within the department of commerce which were in effect prior to the  
29 effective date of this act and that are transferred pursuant to section 1.  
30 Every act performed in the exercise of such transferred powers, duties and  
31 functions by or under the authority of the agritourism promotion program  
32 within the Kansas department of agriculture shall be deemed to have the  
33 same force and effect as if performed by the agritourism promotion  
34 program within the department of commerce in which such powers, duties  
35 and functions were in effect prior to the effective date of this act.

36 (b) Whenever the agritourism promotion act or agritourism promotion,

1 or words of like effect, are referred to or designated by a statute, contract,  
2 or other document and such reference is in regard to any of the powers,  
3 duties or functions transferred to the agritourism promotion program such  
4 reference or designation shall be deemed to apply to the program or the  
5 secretary of agriculture.

6 (c) All rules and regulations, orders and directives of the agritourism  
7 promotion program within the department of commerce which relate to the  
8 functions transferred by this act and which are in effect on the effective  
9 date of this order shall continue to be effective and shall be deemed to be  
10 rules and regulations, orders and directives of the agritourism promotion  
11 program within the Kansas department of agriculture transferred herein  
12 until revised, amended, revoked or nullified pursuant to law.

13 New Sec. 3. (a) The balances of all funds or accounts thereof  
14 appropriated or reappropriated for the agritourism promotion program  
15 within the department of commerce relating to the powers, duties and  
16 functions transferred by this act are hereby transferred within the state  
17 treasury to the agritourism promotion program within the Kansas  
18 department of agriculture transferred herein and shall be used only for the  
19 purpose for which the appropriation was originally made.

20 (b) Subject to acts of the legislature, all fees, grant funds, and loan  
21 repayment funds dedicated to the agritourism promotion program within  
22 the department of commerce prior to the effective date of this act shall be  
23 transferred to the agritourism promotion program within the department of  
24 agriculture.

25 (c) Liability for all accrued compensation or salaries of officers and  
26 employees who are transferred from the agritourism development program  
27 within the department of commerce under this act shall be assumed and  
28 paid by the agritourism promotion program within the Kansas department  
29 of agriculture.

30 New Sec. 4. (a) When any conflict arises as to the disposition of any  
31 property, power, duty or function or the unexpended balance of any  
32 appropriation as a result of any abolition or transfer made by or under the  
33 authority of this act, such conflict shall be resolved by the governor, whose  
34 decision shall be final.

35 (b) The agritourism promotion program within the Kansas department  
36 of agriculture shall succeed to all property, property rights and records  
37 which were used for or pertain to the performance of powers, duties and  
38 functions transferred to the department. Any conflict as to the proper  
39 disposition of property, personnel or records arising under this order shall  
40 be determined by the governor, whose decision shall be final.

41 (c) No suit, action or other proceeding, judicial or administrative,  
42 lawfully commenced or which could have been commenced, by or against  
43 any state agency or program mentioned in this act, or by or against any

1 officer of the state in such officer's official duties, shall abate by reason of  
2 the governmental reorganization effected under the provisions of this act.  
3 The court may allow any such suit, action or other proceeding to be  
4 maintained by or against the successor of any such state agency or any  
5 officer affected.

6 (d) No criminal action commenced or which could have been  
7 commenced by the state shall abate by the taking effect of this order.

8 New Sec. 5. (a) The secretary of agriculture shall determine such  
9 employees as are necessary to enable the secretary to carry out the duties  
10 of the agritourism promotion program. All officers and employees of the  
11 agritourism development program within the department of commerce  
12 who, immediately prior to the effective date of this order, are engaged in  
13 the exercise and performance of the powers, duties and functions  
14 transferred by this act, who are determined by the secretary of agriculture  
15 to be engaged in providing services that are essential to the exercise and  
16 performance of the powers, duties and functions transferred by this act, are  
17 hereby transferred to the agritourism promotion program within the  
18 Kansas department of agriculture. All classified employees so transferred  
19 shall retain their status as classified employees. Thereafter, the secretary of  
20 agriculture may convert vacant classified positions to positions in the  
21 unclassified service under the Kansas civil service act.

22 (b) Officers and employees of the agritourism promotion program  
23 within the department of commerce transferred by this order shall retain all  
24 retirement benefits and leave balances and rights which had accrued or  
25 vested prior to the date of transfer. The service of each such officer and  
26 employee so transferred shall be deemed to have been continuous. Any  
27 subsequent transfers, layoffs or abolition of classified service positions  
28 under the Kansas civil service act shall be made in accordance with the  
29 civil service laws and any rules and regulations adopted thereunder.  
30 Nothing in this order shall affect the classified status of any transferred  
31 person employed by the agriculture products development division of the  
32 department of commerce prior to the date of transfer.

33 Sec. 6. K.S.A. 2010 Supp. 74-50,167 is hereby amended to read as  
34 follows: 74-50,167. As used in K.S.A. 2010 Supp. 74-50,165 through 74-  
35 50,172, and amendments thereto:

36 (a) "Agritourism activity" means any activity which allows members  
37 of the general public, for recreational, entertainment or educational  
38 purposes, to view or enjoy rural activities, including, but not limited to,  
39 farming activities, ranching activities or historic, cultural or natural  
40 attractions. An activity may be an agritourism activity whether or not the  
41 participant pays to participate in the activity. An activity is not an  
42 agritourism activity if the participant is paid to participate in the activity.

43 (b) "Inherent risks of a registered agritourism activity" means those

1 dangers or conditions which are an integral part of such agritourism  
 2 activity including, but not limited to, certain hazards such as surface and  
 3 subsurface conditions; natural conditions of land, vegetation, and waters;  
 4 the behavior of wild or domestic animals; and ordinary dangers of  
 5 structures or equipment ordinarily used in farming or ranching operations.  
 6 "Inherent risks of a registered agritourism activity" also includes the  
 7 potential of a participant to act in a negligent manner that may contribute  
 8 to injury to the participant or others, such as failing to follow instructions  
 9 given by the registered agritourism operator or failing to exercise  
 10 reasonable caution while engaging in the registered agritourism activity.

11 (c) "Participant" means any person who engages in a registered  
 12 agritourism activity.

13 (d) "Registered agritourism activity" means any agritourism activity  
 14 registered with the secretary pursuant to K.S.A. 2010 Supp. 74-50,168,  
 15 and amendments thereto.

16 (e) "Registered agritourism location" means a specific parcel of land  
 17 which is registered with the secretary pursuant to K.S.A. 2010 Supp. 74-  
 18 50,168, and amendments thereto, and where a registered agritourism  
 19 operator engages in registered agritourism activities.

20 (f) "Registered agritourism operator" means any person who is  
 21 engaged in the business of providing one or more agritourism activities  
 22 and is registered with the secretary pursuant to K.S.A. 2010 Supp. 74-  
 23 50,168, and amendments thereto.

24 (g) *"Secretary" means the secretary of agriculture.*

25 Sec. 7. K.S.A. 2010 Supp. 74-50,168 is hereby amended to read as  
 26 follows: 74-50,168. (a) Any person who is engaged in the business of  
 27 providing one or more agritourism activities may register with the  
 28 secretary of ~~commerce~~*agriculture*. The registration shall contain all of the  
 29 following:

30 (1) Information describing the agritourism activity which the person  
 31 conducts or intends to conduct.

32 (2) Information describing the location where the person conducts or  
 33 intends to conduct such agritourism activity.

34 (b) The secretary shall maintain a list of all registered agritourism  
 35 operators, the registered agritourism activities conducted by each operator  
 36 and the registered agritourism location where the operator conducts such  
 37 activities. Such list shall be made available to the public. The secretary, in  
 38 conjunction with other agritourism and rural economic efforts of the  
 39 secretary, shall promote and publicize registered agritourism operators,  
 40 activities and locations to advance the purpose of this act by promoting  
 41 and encouraging tourism.

42 (c) Registration pursuant to this section shall be for a period of five  
 43 years.

- 1 (d) No fee shall be charged to persons registering under this section.
- 2 Sec. 8. K.S.A. 2010 Supp. 74-50,167, 74-50,168 and 74-50,173 are
- 3 hereby repealed.
- 4 Sec. 9. This act shall take effect and be in force from and after its
- 5 publication in the statute book.
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