

# Fact Sheet

## Protecting Your Agritourism Operation: Liability and Insurance

### LEGAL ENTITY TYPES



Legal formation can help reduce liability. Research which structure will work best for your operation. Options include:

- Sole Proprietorship
- Partnership
- C-Corporation
- S-Corporation
- Limited Liability Company: LLC

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### CONTRACTS/EVENT CONTRACTS

Consider having a signed contract when hosting private events. Make sure to look at a few different contracts before creating one and seek legal help with the process.



### EVENT AGREEMENT CONTENTS

Things to include:

- Description of Activity
- Awareness & Assumption of Risk
- Agreement to Follow Instructions
- Release/Indemnification
- Fees for Damages
- Applicable Law
- No Duress
- Anti-Lapse
- Consent and Use of Images/Recordings
- Understanding of Agreement
- Reliance on Statements

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### SAFETY IN AGRICULTURE TOURISM ACT

Owners shall not be liable for injury or death if provisions of GOL Section 18-303(1)(a)-(e) are met. Operators must still take reasonable care to prevent foreseeable risks.

Things Required:

- Directional Signage
- Employee Training
- Warning Signs
- Written Information
- Visitor Responsibility Signs
- Right to Refunds

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### WHAT IS AGRITAINMENT?

Agritainment is farm-based entertainment including activities such as hayrides, pony rides, wine tastings, cornfield-maze contests, and harvest festivals.



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## FINDING AGENTS/CARRIERS



Find an agent/carrier that have the following:

- AM Best Rating
- Agent Access
- Credibility
- Referral
- Trust Instinct
- Knowledge of Your Risk
- Pricing

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## DIFFERENT TYPES OF INSURANCE POLICY

- Occurrence Policy: Protects business from any covered incident that happened during the policy period even after the policy is cancelled.
- Claims-Made Policy: If a claim occurs within a specific time period of the policy but the policy is canceled, or a premium isn't paid then any incident that occurred during that period isn't covered.
- Tail Coverage: Can be purchased to extend the claims-made policy to protect policyholder from past incidents.



## KNOW YOUR INSURANCE POLICY

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- Start and End Date
- Cost for Coverage
- Coverage Amount per Incident
- Max Coverage Amount per Year
- What is covered and not covered?

Make sure to review the policy once a year and update any changes with the insurance company.



## INCIDENT REPORTING

What should I do if an accident occurs?

- Fill Out Incident Report (Date, Time, What Happened, and People Present)
- Make Sure Person Injury Signs Incident Report
- If sued: Cease all communication with anyone about the incident except insurance company.
- Forward all paperwork to insurance agent.
- Do not discuss claims on social media.



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## UNDERWRITER

What does an underwriter do?

- Makes sure everything is covered under your policy.
- Inspect farm for risk and make adjustments to the policy to cover the operation.

## Additional Resources:

- Cornell Cooperative Extension Agritourism : <https://cals.cornell.edu/cornell-cooperative-extension/work-teams/agritourism>
- National Agricultural Law Center: <https://nationalaglawcenter.org/research-by-topic/agritourism-2/>
- NY Safety in Agricultural Tourism Act: <https://agriculture.ny.gov/news/state-agriculture-commissioner-releases-guidance-safety-agricultural-tourism-act>