CHAPTER 56
SB 412 - FINAL VERSION

03/15/2018 1011s
05/03/2018 1822EBA

2018 SESSION

18-3004
08/01

SENATE BILL ***412***

AN ACT relative to agritourism.

SPONSORS: Sen. Giuda, Dist 2; Sen. Gannon, Dist 23; Rep. Weyler, Rock. 13; Rep. Binford, Graf. 15; Rep. Eaton, Ches. 3

COMMITTEE: Ways and Means

AMENDED ANALYSIS

This bill prohibits municipalities from adopting an ordinance, bylaw, definition, or policy regarding agritourism that conflicts with state statute.

This bill also allows the commissioner of the department of agriculture, markets, and food to issue a declaratory ruling on whether agricultural activities constitute agritourism.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to agritourism.

Be it Enacted by the Senate and House of Representatives in General Court convened:

56:1 Agricultural Uses of Land; Existing Agricultural Uses. Amend RSA 674:32-b, II to read as follows:

II. Any new establishment, re-establishment after abandonment, or significant expansion of a farm stand, retail operation, or other use involving on-site transactions with the public, including agritourism as defined in RSA 21:34-a, may be made subject to applicable special exception, building permit, or other local land use board approval and may be regulated to prevent traffic and parking from adversely impacting adjacent property, streets and sidewalks, or public safety. ***No municipality shall adopt an ordinance, bylaw, definition, or policy regarding agritourism activities that conflicts with the definition of agritourism in RSA 21:34-a.***

56:2 New Paragraph; Duties of Commissioner of Department of Agriculture, Markets, and Food; Agritourism Disputes. Amend RSA 425:4 by inserting after paragraph VIII the following new paragraph:

IX. Adjudicate disputes concerning activities that constitute agritourism pursuant to RSA 21:34-a. Prior to a party filing a land use application with a municipality, or after such land use application is denied, an applicant may petition the commissioner for a declaratory ruling regarding whether or not a municipality's ordinance, bylaw, definition, or policy regarding agritourism activities conflicts with RSA 21:34-a. The commissioner's jurisdiction shall be limited to the question of whether or not a municipality's ordinance, bylaw, definition, or policy on agritourism conflicts with RSA 21:34-a. The commissioner, or the commissioner's authorized representative, shall notify the parties, hold a hearing within 30 days of such request, and shall issue a declaratory ruling within 15 days of the hearing. The commissioner's declaratory ruling shall be dispositive, including in future land use applications with a municipality where such ordinance, bylaw, definition, or policy is at issue. A party aggrieved by the declaratory ruling may petition the commissioner for reconsideration within 20 days of the declaratory ruling, and thereafter, within 30 days of the decision on reconsideration, may appeal such decision to the New Hampshire supreme court. If the applicant petitions the commissioner for a declaratory ruling, all municipal appeal processes, including those defined in RSA 677:2 shall be stayed. The 30 day time period in which to request a rehearing shall begin on the next calendar day after the commissioner issues the declarative ruling, or after any appeal of the declarative ruling is complete. The commissioner shall

adopt rules pursuant to RSA 541-A relative to the declaratory ruling process, including, but not limited to, an allowance for timely intervention of an aggrieved party. A municipality shall furnish the commissioner with a copy of any non-confidential appeal decision on any land use application involving whether or not a municipality's definition or policy on agritourism conflicts with RSA 21:34-a.

56:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 16, 2018
Effective Date: July 15, 2018