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Consider Liability During the Solar Eclipse

As we expect thousands of tourists to visit Nebraska for the August 21 solar eclipse, some rural landowners may be planning to offer their land for camping and eclipse viewing. If you are one of these landowners, you may want to brush up on potential liability issues.

Landowners have legal protection against tourist personal injury liability if they do not charge a fee to campers or eclipse viewers. If they *do* charge a fee, they must meet 2015 Nebraska agritourism legal requirements in order to reduce their injury liability risk. Below are some questions and answers to address this unusual situation, provided by Dave Aiken, Water Law Specialist at Nebraska Extension:

Why is agritourism liability important?

Property owners may be liable for damages resulting from injuries occurring on their property. A common example would be a slip-and-fall lawsuit against a retail store. This “premises liability” is not limited to business premises, but extends to all property, including farm and ranch land.

So if someone comes onto my property, or into my home, and is accidentally hurt, could I be liable?

That is correct! Not automatically liable, but certainly potentially liable.

If I am a farmer or rancher and someone comes onto my property to camp and watch the eclipse, could I be liable for injuries?

Yes, although a 1965 Nebraska statute limits your liability if you do not charge the campers or eclipse viewers a fee.

But if I do charge a fee, then I could be liable if a camper or eclipse viewer gets hurt?

Correct, and that’s a good example of why the 2015 Nebraska agritourism law was adopted.

So how do Nebraska landowners get limited agritourism liability protection?

You must post your property with the specified agritourism liability signs, and include the same language in any agritourism activity contract, like a camping lease.

The landowner also must (1.) exercise reasonable care to guard against unusual dangers associated with the property, (2.) maintain the property, facilities, and equipment, (3.) train and

properly supervise any employees, and (4.) comply with any related state or local legal requirements (capping an abandoned well, for example).

Are there other legal options?

Yes. Another common option is a written liability waiver. Get more information about this in a recent University of Nebraska news release at unl.edu. In the search box, put “Great Plains’ ecotourism initiative produces liability study”. In this article, find specific language required for an agritourism liability sign and suggested written liability waiver language by Anthony Schutz.

Contact your insurance agent regarding whether your current liability insurance will cover any eclipse-related incidents. Your attorney can also advise you regarding agritourism liability, agritourism leases, and agritourism liability waivers.