

Amendment to SB 412

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Agricultural Uses of Land; Existing Agricultural Uses. Amend RSA 674:32-b, II to read as  
4 follows:

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

12 2 New Paragraph; Duties of Commissioner of Department of Agriculture, Markets, and Food;  
13 Agritourism Disputes. Amend RSA 425:4 by inserting after paragraph VIII the following new  
14 paragraph:

15 IX. Adjudicate disputes concerning activities that constitute agritourism pursuant to RSA  
16 21:34-a. Prior to a party filing a land use application with a municipality, or after such land use  
17 application is denied, an applicant may petition the commissioner for a declaratory ruling regarding  
18 whether or not a municipality's ordinance bylaw, definition, or policy regarding agritourism  
19 activities, conflicts with RSA 21:34-a. The commissioner's jurisdiction shall be limited to the  
20 question of whether or not a municipality's ordinance, bylaw, definition, or policy on agritourism  
21 conflicts with RSA 21:34-a. The commissioner, or the commissioner's authorized representative,  
22 shall notify the parties, hold a hearing within 30 days of such request, and shall issue a declaratory  
23 ruling within 15 days of the hearing. The commissioner's declaratory ruling shall be dispositive,  
24 including in future land use applications with a municipality where such ordinance, bylaw,  
25 definition, or policy is at issue. A party aggrieved by the declaratory ruling may petition the  
26 commissioner for reconsideration within 20 days of the declaratory ruling, and thereafter, within 30  
27 days of the decision on reconsideration, may appeal such decision to the New Hampshire supreme  
28 court. If the applicant petitions the commissioner for a declaratory ruling, all municipal appeal  
29 processes, including those defined in RSA 677:2 shall be stayed. The 30 day time period in which to  
30 request a rehearing shall begin on the next calendar day after the commissioner issues the  
31 declarative ruling, or after any appeal of the declarative ruling is complete. The commissioner shall  
32 adopt rules pursuant to RSA 541-A relative to the declaratory ruling process, including, but not

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1 limited, an allowance for timely intervention of an aggrieved party. A municipality shall furnish  
2 the commissioner with a copy of any non-confidential appeal decision on any land use application  
3 involving whether or not a municipality's definition or policy on agritourism conflicts with RSA  
4 21:34-a.

5 3 Effective Date. This act shall take effect 60 days after its passage.

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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.