

S-3286

1 Amend House File 589, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting clause
4 and inserting:

5 <Section 1. Section 716.7, Code 2011, is amended by
6 adding the following new subsection:

7 NEW SUBSECTION. 2A. a. As used in this
8 subsection, unless the context otherwise requires:

9 (1) "*Agricultural employee*" means a person who
10 works on agricultural premises by performing labor or
11 furnishing services on a full-time or part-time basis.

12 (2) "*Agricultural operation*" means a person,
13 including but not limited to an individual or business
14 association as defined in section 202B.102, who holds a
15 legal interest in an agricultural premises.

16 (3) "*Agricultural premises*" means real property
17 where agricultural production occurs.

18 (4) "*Agricultural production*" means to do any of the
19 following:

20 (a) Keep and provide for the care and feeding of
21 any agricultural animal as defined in section 717A.1,
22 including but not limited to any activity relating
23 to confining, handling, breeding, transporting, or
24 exhibiting the agricultural animal.

25 (b) Keep and preserve any crop as defined in
26 section 717A.1, by planting, nurturing, harvesting, and
27 storing the crop, or by storing, planting, or nurturing
28 the crop's seed.

29 (5) "*Agricultural property*" means an agricultural
30 premises, or personal property located on an
31 agricultural premises.

32 (6) "*Constructive notice*" includes but is not
33 limited to a sign posted on the boundary of an
34 agricultural premises which is reasonably likely to
35 come to the attention of a person entering onto the
36 agricultural premises.

37 (7) "*Recording device*" means an instrument capable
38 of placing or storing a visual or audio reproduction in
39 a tangible medium that can be accessed in a perceivable
40 form.

41 b. The term "*trespass*" shall mean doing any of the
42 following:

43 (1) Entering onto an agricultural premises, if the
44 person so entering has actual or constructive notice
45 that the agricultural operation prohibits the person
46 from entering onto the agricultural premises without
47 the agricultural operation's express, oral or written
48 permission.

49 (2) Remaining on an agricultural premises, if the
50 person so remaining has actual or constructive notice

1 that the agricultural operation prohibits the person
2 from remaining on the agricultural premises without
3 the agricultural operation's express, oral or written
4 permission.

5 (3) Entering onto an agricultural premises with
6 a recording device if the person so entering has
7 actual or constructive notice that the agricultural
8 operation prohibits such entry without the agricultural
9 operation's express, oral or written permission.

10 c. Trespass occurs under paragraph "b" regardless
11 of whether the person entering onto or remaining on
12 the agricultural premises is or is not an agricultural
13 employee.

14 Sec. 2. Section 716.8, Code 2011, is amended by
15 adding the following new subsection:

16 NEW SUBSECTION. 6. a. A person who commits
17 trespass by entering onto an agricultural premises
18 of another, remaining on an agricultural premises of
19 another, or entering onto an agricultural premises of
20 another with a recording device, as provided in section
21 716.7, subsection 2A, commits the following:

22 (1) For the first conviction, an aggravated
23 misdemeanor.

24 (2) For a second or subsequent conviction, a class
25 "D" felony.

26 b. (1) A person who conspires to commit trespass
27 under paragraph "a" is subject to the provisions of
28 chapter 706. A person who aids and abets in the
29 commission of trespass under paragraph "a" is subject
30 to the provisions of chapter 703. When two or more
31 persons, acting in concert, knowingly participate in
32 committing trespass under paragraph "a", each person
33 is responsible for the acts of the other person as
34 provided in section 703.2.

35 (2) A trial information or an indictment need not
36 contain allegations of vicarious liability as provided
37 in chapter 703.

38 c. It shall be an affirmative defense to a
39 prosecution under this subsection that a defendant
40 acted as a whistle-blower. In order to assert the
41 affirmative defense of acting as a whistle-blower, all
42 of the following must apply:

43 (1) Prior to committing the trespass, the defendant
44 had reasonable cause to believe that a criminal offense
45 affecting livestock production was being committed on
46 the agricultural premises, regardless of whether a
47 criminal offense was actually committed.

48 (2) The defendant could not have witnessed the
49 criminal offense described in subparagraph (1) without
50 committing the trespass.

1 (3) The defendant was not involved in the
2 commission of any criminal offense described in
3 subparagraph (1) other than the trespass after entering
4 onto the agricultural premises.

5 (4) The defendant reported the commission of
6 the criminal offense described in subparagraph (1),
7 other than the defendant's own trespass, occurring
8 on the agricultural premises to a state agency or
9 local governmental entity which had jurisdiction to
10 investigate or enforce state law affecting agricultural
11 production, including but not limited to the attorney
12 general, the department of agriculture and land
13 stewardship, an appropriate county attorney, or
14 an appropriate county sheriff. The defendant must
15 have reported the commission of the criminal offense
16 described in subparagraph (1) within seventy-two hours
17 from the time that the defendant first witnessed the
18 criminal offense.

19 (5) The defendant provided the state agency or
20 local governmental entity described in subparagraph (4)
21 with the original and any copies of the visual or audio
22 recordings made by the defendant which may be used
23 as evidence in a prosecution of the criminal offense
24 described in subparagraph (1). The defendant must have
25 provided the original and any copies of the visual or
26 audio recordings when reporting the commission of the
27 criminal offense described in subparagraph (1).

28 *d.* This subsection does not prohibit a person from
29 entering onto or remaining on an agricultural premises
30 if the person is any of the following:

31 (1) A person who holds a legal interest in the
32 agricultural premises or personal property kept on the
33 agricultural premises, which is superior to the legal
34 interest of the agricultural operation.

35 (2) A governmental agency or officer who is taking
36 lawful action involving an agricultural operation or
37 agricultural property.

38 (3) A licensed veterinarian practicing veterinary
39 medicine as provided in chapter 169 according to
40 customary standards of care.

41 (4) An insurance company representative or
42 qualified expert retained by an insurance company
43 for the purpose of investigating a claim, who is
44 taking lawful action in inspecting or examining the
45 agricultural property.>

46 2. Title page, by striking lines 1 and 2 and
47 inserting <An Act relating to conduct occurring on
48 agricultural premises, and providing penalties.>

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