

# Senate Study Bill 1226

## Bill Text

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1 1 Section 1. NEW SECTION. 717A.0A DEFINITIONS.  
1 2 As used in this chapter, unless the context otherwise  
1 3 requires:  
1 4 1. "Agricultural animal" means any of the following:  
1 5 a. An animal that is maintained for its parts or products  
1 6 having commercial value, including but not limited to its  
1 7 muscle tissue, organs, fat, blood, manure, bones, milk, wool,  
1 8 hide, pelt, feathers, eggs, semen, embryos, or honey.  
1 9 b. An animal belonging to the equine species, including  
1 10 horse, pony, mule, jenny, donkey, or hinny.  
1 11 2. "Agricultural production" means any activity related to  
1 12 maintaining an agricultural animal at an animal facility or a  
1 13 crop on crop operation property.  
1 14 3. "Animal" means a warm-blooded or cold-blooded animal,  
1 15 including but not limited to an animal belonging to the  
1 16 bovine, canine, feline, equine, ovine, or porcine species;  
1 17 farm deer as defined in section 189A.2; ostriches, rheas, or  
1 18 emus; an animal which belongs to a species of poultry or fish;  
1 19 mink or other pelt-bearing mammals; any invertebrate; or honey  
1 20 bees.  
1 21 4. "Animal facility" means any of the following:  
1 22 a. A location where an agricultural animal is maintained  
1 23 for agricultural production purposes, including but not  
1 24 limited to a location dedicated to farming as defined in  
1 25 section 9H.1, a livestock market, exhibition, or a vehicle  
1 26 used to transport the animal.  
1 27 b. A location where an animal is maintained for  
1 28 educational or scientific purposes, including an institution  
1 29 as defined in section 145B.1, a research facility as defined  
1 30 in section 162.2, an exhibition, or a vehicle used to  
1 31 transport the animal.  
1 32 c. A location operated by a person licensed to practice  
1 33 veterinary medicine pursuant to chapter 169.  
1 34 d. A pound as defined in section 162.2.  
1 35 e. An animal shelter as defined in section 162.2.  
2 1 f. A pet shop as defined in section 162.2.  
2 2 g. A boarding kennel as defined in section 162.2.  
2 3 h. A commercial kennel as defined in section 162.2.  
2 4 5. "Consent" means express or apparent assent by a person  
2 5 authorized to provide such assent.  
2 6 6. a. "Crop" means any plant maintained for its parts or  
2 7 products having commercial value, including but not limited to  
2 8 stalks, trunks and branches, cuttings, grafts, scions, leaves,  
2 9 buds, fruit, vegetables, roots, bulbs, or seeds, if the plant  
2 10 is any of the following:  
2 11 (1) A plant produced from an agricultural seed or  
2 12 vegetable seed as defined in section 199.1, including any  
2 13 plant producing a commodity listed in section 210.10.  
2 14 (2) A plant which is a tree, shrub, vine, berry plant,  
2 15 greenhouse plant, or flower.  
2 16 b. A plant produced from a noxious weed seed as defined in  
2 17 section 199.1 is not a crop unless the plant is produced as a  
2 18 research crop.  
2 19 7. "Crop operation" means a commercial enterprise where a  
2 20 crop is maintained on the property of the commercial  
2 21 enterprise.

2 22 8. "Crop operation property" means any of the following:  
2 23 a. Real property that is a crop field, orchard, nursery,  
2 24 greenhouse, garden, elevator, seedhouse, barn, warehouse, any  
2 25 other associated land or structures located on the land, and  
2 26 personal property located on the land including machinery or  
2 27 equipment, that is part of a crop operation.  
2 28 b. A vehicle used to transport a crop that was maintained  
2 29 on the crop operation property.  
2 30 9. "Deprive" means to do any of the following:  
2 31 a. For an animal maintained at an animal facility or  
2 32 property belonging to an animal facility, "deprive" means to  
2 33 do any of the following:  
2 34 (1) Withhold the animal or property for a period of time  
2 35 sufficient to significantly reduce the value or enjoyment of  
3 1 the animal or property.  
3 2 (2) Withhold the animal or property for ransom or upon  
3 3 condition to restore the animal or property in return for  
3 4 compensation.  
3 5 (3) Dispose of the animal or property in a manner that  
3 6 makes recovery of the animal or property by its owner  
3 7 unlikely.  
3 8 b. For crops maintained on crop operation property or for  
3 9 crop operation property, "deprive" means to do any of the  
3 10 following:  
3 11 (1) Occupy any part of a crop operation property for a  
3 12 period of time sufficient to prevent access to the crop or  
3 13 crop operation property.  
3 14 (2) Dispose of a crop maintained on the crop operation  
3 15 property or belonging to the crop operation in a manner that  
3 16 makes recovery of the crop or crop operation property by its  
3 17 owner unlikely.  
3 18 10. "Maintain" means to do any of the following:  
3 19 a. Keep and provide for the care and feeding of any  
3 20 animal, including any activity relating to confining,  
3 21 handling, breeding, transporting, or exhibiting the animal.  
3 22 b. Keep and preserve any crop, by planting, nurturing,  
3 23 harvesting, and storing the crop.  
3 24 11. "Owner" means any of the following:  
3 25 a. A person, including a public or private entity, who has  
3 26 a legal interest in an animal or property belonging to an  
3 27 animal facility or who is authorized by the holder of the  
3 28 legal interest to act on the holder's behalf in maintaining  
3 29 the animal.  
3 30 b. A person, including a public or private entity, who has  
3 31 a legal interest in a crop or crop operation property or who  
3 32 is authorized by the holder of the legal interest to act on  
3 33 the holder's behalf in maintaining the crop.  
3 34 12. "Research crop" means a crop that is maintained for  
3 35 purposes of scientific research regarding the study or  
4 1 alteration of the genetic characteristics of a plant or  
4 2 associated seed, including its deoxyribonucleic acid, which is  
4 3 accomplished by breeding or by using biotechnological systems  
4 4 or techniques.  
4 5 Sec. 2. Section [717A.1](#), subsection 1, Code 2001, is  
4 6 amended by striking the subsection.  
4 7 Sec. 3. Section [717A.1](#), subsection 5, Code 2001, is  
4 8 amended to read as follows:  
4 9 5. a. This section does not prohibit any conduct of a  
4 10 person holding a legal interest in an animal or property which  
4 11 is superior to the interest held by a person suffering from  
4 12 damages resulting from the conduct.  
4 13 b. The section does not apply to

~~activities of~~

- a  
4 14 governmental agency that is taking lawful action against an  
4 15 animal or animal facility.

4 16 Sec. 4. NEW SECTION. 717A.2 CROPS OR CROP OPERATION  
4 17 PROPERTY DAMAGE CIVIL ACTION CRIMINAL PENALTIES.

4 18 1. A person shall not, without the consent of the owner,  
4 19 do any of the following:

4 20 a. Willfully destroy a crop maintained on crop operation  
4 21 property or crop operation property.

4 22 b. Exercise control over a crop maintained on crop  
4 23 operation property or crop operation property with an intent  
4 24 to deprive the owner of the crop or crop operation property.

4 25 c. Enter onto or remain on crop operation property, if the  
4 26 person has notice that the property is not open to the public,  
4 27 and the person has an intent to do one of the following:

4 28 (1) Disrupt agricultural production conducted on the crop  
4 29 operation property, if the agricultural production directly  
4 30 relates to the maintenance of crops.

4 31 (2) Destroy a crop or any portion of a crop maintained on  
4 32 the crop operation property.

4 33 A person has notice that a crop operation property is not  
4 34 open to the public if the person is provided notice  
4 35 prohibiting entry before the person enters onto the crop  
5 1 operation property, or the person refuses to immediately  
5 2 depart from the crop operation property after being notified  
5 3 to leave. The notice may be in the form of a written or  
5 4 verbal communication by the owner, a fence or other enclosure  
5 5 designed to exclude intruders, or a sign posted which is  
5 6 reasonably likely to come to the attention of an intruder and  
5 7 which indicates that entry is prohibited.

5 8 2. a. A person suffering damages resulting from an act  
5 9 which is in violation of this section may bring an action in  
5 10 the district court against the person causing the damage to  
5 11 recover all of the following:

5 12 (1) For damages that are not to a research crop, an amount  
5 13 equaling three times all actual and consequential losses.

5 14 (2) For damages to a research crop, all of the following:

5 15 (a) Twice the amount of damages directly incurred by  
5 16 market losses, based on the lost market value of the research  
5 17 crop due to the damage, assuming that the research crop would  
5 18 have matured undamaged and been sold in normal commercial  
5 19 channels. If the research crop has no market value, the  
5 20 damages shall be twice the amount of actual damages incurred  
5 21 in producing, harvesting, and storing the damaged research  
5 22 crop.

5 23 (b) Twice the amount of damages directly incurred by  
5 24 developmental losses, based on the losses associated with the  
5 25 research crop's expected scientific value. The research  
5 26 crop's scientific value shall be determined by calculating the  
5 27 amount expended in developing the research crop, including  
5 28 costs associated with researching, testing, breeding, or  
5 29 engineering. However, such damages shall not be awarded to  
5 30 the extent that the losses are mitigated by undamaged research  
5 31 crops that have been identically developed.

5 32 b. A prevailing plaintiff in an action brought under this  
5 33 section shall be awarded court costs and reasonable attorney  
5 34 fees, which shall be taxed as part of the costs of the action.

5 35 3. A person who damages a research crop or crop operation  
6 1 property where a research crop is maintained is guilty of the  
6 2 following:

6 3 a. For a violation of subsection 1, paragraph "a", the  
6 4 following:

6 5 (1) A class "C" felony if the damage to research crops or  
6 6 research crop operation property exceeds fifty thousand  
6 7 dollars.

6 8 (2) A class "D" felony if the damage to research crops or  
6 9 research crop operation property exceeds five hundred dollars  
6 10 but does not exceed fifty thousand dollars.

6 11 (3) An aggravated misdemeanor if the damage to research  
6 12 crops or research crop operation property exceeds one hundred

6 13 dollars but does not exceed five hundred dollars.  
6 14 (4) A serious misdemeanor if the damage to research crops  
6 15 or research crop operation property exceeds fifty dollars but  
6 16 does not exceed one hundred dollars.  
6 17 (5) A simple misdemeanor if the damage to research crops  
6 18 or research crop operation property does not exceed fifty  
6 19 dollars.  
6 20 b. For a violation of subsection 1, paragraph "b", the  
6 21 person is guilty of a class "D" felony.  
6 22 c. For a violation of subsection 1, paragraph "c", the  
6 23 person is guilty of an aggravated misdemeanor.  
6 24 4. A person who damages a crop other than a research crop  
6 25 or crop operation property where a research crop is not  
6 26 maintained is guilty of the following:  
6 27 a. For a violation of subsection 1, paragraph "a", the  
6 28 following:  
6 29 (1) A class "C" felony if the damage to crops or crop  
6 30 operation property exceeds fifty thousand dollars.  
6 31 (2) A class "D" felony if the damage to crops or crop  
6 32 operation property exceeds ten thousand dollars but does not  
6 33 exceed fifty thousand dollars.  
6 34 (3) An aggravated misdemeanor if the damage to crops or  
6 35 crop operation property exceeds five thousand dollars but does  
7 1 not exceed ten thousand dollars.  
7 2 (4) A serious misdemeanor if the damage to crops or crop  
7 3 operation property exceeds five hundred dollars but does not  
7 4 exceed five thousand dollars.  
7 5 (5) A simple misdemeanor if the damage to crops or crop  
7 6 operation property does not exceed five hundred dollars.  
7 7 b. For a violation of subsection 1, paragraph "b", the  
7 8 person is guilty of an aggravated misdemeanor.  
7 9 c. For a violation of subsection 1, paragraph "c", the  
7 10 person is guilty of a serious misdemeanor.  
7 11 5. a. This section does not prohibit any conduct of a  
7 12 person holding a legal interest in a crop operation that is  
7 13 superior to the interest held by a person suffering from  
7 14 damages resulting from the conduct.  
7 15 b. This section does not apply to a governmental agency  
7 16 that is taking lawful action against a crop or crop operation  
7 17 property.

#### 7 18 EXPLANATION

7 19 This bill amends Code chapter 717A, which currently  
7 20 includes one section, Code section 717A.1, which prohibits a  
7 21 person from interfering with the operations of a facility used  
7 22 to keep animals. The section specifically prohibits a person,  
7 23 without the consent of the owner, to willfully destroy  
7 24 property of an animal facility, or injure an animal maintained  
7 25 there. It prohibits such a person from exercising control  
7 26 over an animal facility or an animal maintained there with  
7 27 intent to deprive the animal facility of an animal or  
7 28 property. It also prohibits a person from entering onto or  
7 29 into an animal facility related to agricultural production,  
7 30 educational or scientific purposes, or veterinary care, or  
7 31 from remaining there, if the person has notice that the  
7 32 facility is not open to the public and the person has an  
7 33 intent to disrupt its operations. A person convicted under  
7 34 the section is subject to a range of criminal penalties  
7 35 ranging from a class "C" felony to a simple misdemeanor. A  
8 1 person suffering damages resulting from a criminal violation  
8 2 has a cause of action against the violator for an amount  
8 3 equaling three times all actual and consequential damages plus  
8 4 court costs and reasonable attorney fees.  
8 5 Code section 717A.1 currently defines an animal broadly to  
8 6 mean a warm-blooded or cold-blooded animal. It specifically  
8 7 names a number of types of animals including livestock, fish,  
8 8 and invertebrates. An animal facility is defined to include a  
8 9 location where an animal is maintained for agricultural

8 10 production. Agricultural production is not defined.

8 11 The bill makes two fundamental changes. First it amends a  
8 12 number of definitions relating to animal facilities. It  
8 13 provides that an animal specifically includes pelt-bearing  
8 14 mammals and honey bees. It also provides a definition for  
8 15 agricultural production that refers to the maintenance of  
8 16 agricultural animals, which the bill defines as an animal  
8 17 maintained for its parts or products having commercial value  
8 18 or any animal classified as part of the equine species.

8 19 Secondly, the bill prohibits persons from disrupting crop  
8 20 operations. The provisions are similar to those applying to  
8 21 animal facilities. The new provisions specifically apply to  
8 22 land used as part of a crop operation.

8 23 The bill expands the scope of chapter 717A to include crops  
8 24 maintained on crop operation property and crop operation  
8 25 property. The bill defines "crop" to mean grain and forage  
8 26 crops but also trees, shrubs, vines, berry plants, and  
8 27 greenhouse plants that are maintained on crop operation  
8 28 property. "Crop operation property" means a crop field,  
8 29 orchard, nursery, greenhouse, garden, elevator, seedhouse,  
8 30 barn, warehouse, or a vehicle used to transport the crop. The  
8 31 bill also provides for research produced for purposes of  
8 32 scientific research regarding the study or alteration of its  
8 33 genetic characteristics (either through conventional breeding  
8 34 or biotechnology). The bill follows the provisions applying  
8 35 to animals in the current law by prohibiting persons from  
9 1 disrupting research crop operations or destroying crops.

9 2 The bill prohibits a person acting without the consent of  
9 3 the owner from willfully destroying a crop or crop operation  
9 4 property. The bill prohibits a person from exercising control  
9 5 over a crop or crop operation property with an intent to  
9 6 deprive the owner of the crop or crop operation property.

9 7 Finally, the bill prohibits a person from entering onto or  
9 8 remaining on crop operation property, if the person has notice  
9 9 that the property is not open to the public, and the person  
9 10 has an intent to disrupt the operation or destroy the crop.

9 11 The criminal penalties are different based on whether the  
9 12 offense relates to research crops and related operations or  
9 13 other crops and related operations. For the offense of  
9 14 willful destruction of crops or crop operation property, a  
9 15 person is subject to a range of penalties ranging from a  
9 16 simple misdemeanor (imprisonment for not more than 30 days and  
9 17 a fine of \$50 to \$500) to a class "C" felony (imprisonment of  
9 18 not more than 10 years and a fine of \$1,000 to \$10,000), based  
9 19 on the dollar amount of the damages. The schedule for  
9 20 criminal penalties is different based on whether a research  
9 21 crop operation or other crop operation is involved. For the  
9 22 offense of exercising control over a crop or crop operation  
9 23 property, a person is subject to a class "D" felony  
9 24 (imprisonment of not more than five years and a fine of  
9 25 between \$750 to \$7,500) if it involves a research crop  
9 26 operation, and an aggravated misdemeanor (imprisonment of not  
9 27 more than two years and a fine of between \$500 to \$5,000) if  
9 28 it is another type of crop operation. For the offense of  
9 29 entering onto or remaining on crop operation property with an  
9 30 intent to disrupt agricultural operations or destroy a crop, a  
9 31 person is guilty of an aggravated misdemeanor if it involves a  
9 32 research crop operation or a serious misdemeanor (imprisonment  
9 33 of not more than one year and a fine of \$250 to \$1,500) if it  
9 34 does not.

9 35 The bill provides for a private right of action by a person  
10 1 injured by a person acting in violation of the bill's  
10 2 prohibition similar to the private right of action provided to  
10 3 a person suffering damages resulting from an offense involving  
10 4 an animal facility. Under the provisions of the bill, the  
10 5 person's recovery is dependent upon the type of property  
10 6 damaged. If the damages are not to a research crop, the

10 7 person may recover an amount equaling three times actual and  
10 8 consequential losses. If the damages are to a crop, the  
10 9 injured party may receive twice the amount of damages directly  
10 10 incurred by market losses and twice the amount of damages  
10 11 directly incurred by developmental losses based on the  
10 12 research crop's expected scientific value. The prevailing  
10 13 plaintiff shall also be awarded court costs and reasonable  
10 14 attorney fees.

10 15 For both animal facilities and research crop operations,  
10 16 the bill's provisions do not apply to activities involving law  
10 17 enforcement activities.

10 18 LSB 1470SC 79

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