

House File 431 - Introduced

HOUSE FILE 431

BY SWEENEY

A BILL FOR

1 An Act relating to offenses involving agricultural operations,
2 and providing penalties and remedies.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 717A.1, subsection 3, Code 2011, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 3. "Animal" means a mammal, bird, fish, reptile, or
5 amphibian, including an agricultural animal or any other animal
6 that is maintained by an animal facility.

7 Sec. 2. Section 717A.1, subsection 4, paragraphs a and b,
8 Code 2011, are amended to read as follows:

9 a. A location where an agricultural animal is maintained ~~for~~
10 ~~agricultural production purposes~~, including but not limited to
11 a location dedicated to farming as defined in section 9H.1, a
12 livestock market, or exhibition, ~~or a vehicle used to transport~~
13 ~~the animal~~.

14 b. A location where an animal is maintained for educational
15 or scientific purposes, including but not limited to a research
16 facility as defined in section 162.2, ~~an exhibition, or a~~
17 ~~vehicle used to transport the animal~~.

18 Sec. 3. Section 717A.1, subsection 7, Code 2011, is amended
19 to read as follows:

20 7. "*Crop operation*" means a ~~commercial enterprise where a~~
21 ~~crop is maintained on the property of the commercial enterprise~~
22 location where a crop is maintained, including but not limited
23 to a crop field, orchard, nursery, greenhouse, garden,
24 elevator, seedhouse, barn, or warehouse.

25 Sec. 4. Section 717A.1, subsection 9, paragraph a,
26 unnumbered paragraph 1, Code 2011, is amended to read as
27 follows:

28 For an animal maintained at an animal facility or property
29 ~~belonging to~~ kept at an animal facility, "deprive" means to do
30 any of the following:

31 Sec. 5. Section 717A.1, subsection 9, paragraph b,
32 subparagraph (2), Code 2011, is amended to read as follows:

33 (2) Dispose of a crop maintained ~~on~~ at the crop operation or
34 ~~property or belonging to~~ kept at the crop operation in a manner
35 that makes recovery of the crop or ~~crop operation~~ property by

1 its owner unlikely.

2 Sec. 6. Section 717A.1, subsection 11, paragraphs a and b,
3 Code 2011, are amended to read as follows:

4 a. A person, including a public or private entity, who has
5 a legal interest in an animal maintained at the animal facility
6 or other property belonging to kept at an animal facility, or a
7 person who is authorized by the holder of the legal interest to
8 act on the holder's behalf in maintaining the animal or keeping
9 the other property.

10 b. A person, including a public or private entity, who has
11 a legal interest in a crop maintained at the crop operation or
12 ~~crop operation~~ other property kept at the crop operation, or a
13 person who is authorized by the holder of the legal interest to
14 act on the holder's behalf in maintaining the crop or keeping
15 the other property.

16 Sec. 7. Section 717A.1, Code 2011, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 11A. "Record" means any printed, inscribed,
19 visual, or audio information that is placed or stored on a
20 tangible medium, and that may be accessed in a perceivable
21 form, including but not limited to any paper or electronic
22 format.

23 Sec. 8. Section 717A.2, Code 2011, is amended by striking
24 the section and inserting in lieu thereof the following:

25 **717A.2 Animal facility tampering.**

26 1. A person is guilty of animal facility tampering if the
27 person acts without the consent of the owner of an animal
28 facility to willfully do any of the following:

29 a. Damage, destroy, or alter property kept at the animal
30 facility, including but not limited to land, fixtures,
31 structures, equipment, machinery, vehicles, records, or
32 computer software or data.

33 b. Kill or injure an animal maintained at the animal
34 facility, including by an act of violence or the transmission
35 of a disease including but not limited to any infectious or

1 contagious disease designated by the department of agriculture
2 and land stewardship pursuant to section 163.2.

3 *c.* Take by theft an animal maintained or other property kept
4 at the animal facility.

5 *d.* Disrupt operations conducted at the animal facility,
6 if the operations directly relate to agricultural production,
7 animal maintenance, educational or scientific purposes, or
8 veterinary care.

9 2. A person who commits the offense of animal facility
10 tampering is guilty of the following:

11 *a.* Animal facility tampering in the first degree occurs when
12 the result of the offense is damages incurred by the owner of
13 the animal facility of more than one hundred thousand dollars.
14 A person convicted of animal facility tampering in the first
15 degree is guilty of a class "C" felony.

16 *b.* Animal facility tampering in the second degree occurs
17 when the result of the offense is damages incurred by the owner
18 of the animal facility of more than ten thousand dollars but
19 not more than one hundred thousand dollars. A person convicted
20 of animal facility tampering in the second degree is guilty of
21 a class "D" felony.

22 *c.* Animal facility tampering in the third degree occurs
23 when the result of the offense is damages incurred by the owner
24 of the animal facility of more than one thousand dollars but
25 not more than ten thousand dollars. A person convicted of
26 animal facility tampering in the third degree is guilty of an
27 aggravated misdemeanor.

28 *d.* Animal facility tampering in the fourth degree occurs
29 when the result of the offense is the damages incurred by the
30 owner of the animal facility of more than three hundred dollars
31 but not more than one thousand dollars. A person convicted of
32 animal facility tampering in the fourth degree is guilty of a
33 serious misdemeanor.

34 *e.* Animal facility tampering in the fifth degree occurs when
35 the result of the offense is damages incurred by the owner of

1 the animal facility of three hundred dollars or less. A person
2 convicted of animal facility tampering in the fifth degree is
3 guilty of a simple misdemeanor.

4 3. A person who participates in a conspiracy to commit
5 the offense of animal facility tampering, and who acts in
6 furtherance of that commission, is guilty of the same offense
7 as the person convicted of committing the offense on or in the
8 animal facility.

9 4. A person convicted of animal facility tampering is
10 subject to an order of restitution as provided in chapter 910.

11 5. In determining the value of damages incurred by an
12 owner of an animal facility under this section, a court
13 shall calculate the actual and consequential pecuniary losses
14 resulting from the commission of the offense.

15 Sec. 9. NEW SECTION. 717A.2A **Animal facility interference.**

16 1. A person is guilty of animal facility interference, if
17 the person acts without the consent of the owner of an animal
18 facility to willfully do any of the following:

19 a. Produce a record which reproduces an image or sound
20 occurring at the animal facility as follows:

21 (1) The record must be created by the person while at the
22 animal facility.

23 (2) The record must be a reproduction of a visual or audio
24 experience occurring at the animal facility, including but not
25 limited to a photographic or audio medium.

26 b. Possess or distribute a record which produces an image
27 or sound occurring at the animal facility which was produced
28 as provided in paragraph "a".

29 c. Exercise control over the animal facility including an
30 animal maintained at the animal facility or other property
31 kept at the animal facility, with intent to deprive the animal
32 facility of the animal or property.

33 d. Enter onto the animal facility, or remain at the animal
34 facility, if the person has notice that the facility is
35 not open to the public. A person has notice that an animal

1 facility is not open to the public if the person is provided
2 notice before entering onto the facility, or the person refuses
3 to immediately leave the facility after being informed to
4 leave. The notice may be in the form of a written or verbal
5 communication by the owner, a fence or other enclosure designed
6 to exclude intruders or contain animals, or a sign posted which
7 is reasonably likely to come to the attention of an intruder
8 and which indicates that entry is forbidden.

9 2. A person who commits the offense of animal facility
10 interference is guilty of the following:

11 a. For the first conviction, the person is guilty of an
12 aggravated misdemeanor.

13 b. For a second or subsequent conviction, the person is
14 guilty of a class "D" felony.

15 3. A person convicted of animal facility interference is
16 subject to an order of restitution as provided in chapter 910.

17 Sec. 10. NEW SECTION. 717A.2B Animal facility fraud.

18 1. A person is guilty of animal facility fraud, if the
19 person willfully does any of the following:

20 a. Obtains access to an animal facility by false pretenses
21 for the purpose of committing an act not authorized by the
22 owner of the animal facility.

23 b. Makes a false statement or representation as part of
24 an application to be employed at the animal facility, if the
25 person knows it to be false.

26 2. A person who commits the offense of animal facility fraud
27 is guilty of the following:

28 a. For the first conviction, the person is guilty of an
29 aggravated misdemeanor.

30 b. For a second or subsequent conviction, the person is
31 guilty of a class "D" felony.

32 3. A person convicted of animal facility fraud is subject to
33 an order of restitution as provided in chapter 910.

34 Sec. 11. NEW SECTION. 717A.2C Animal facilities — civil
35 actions.

1 1. A person suffering damages resulting from the commission
2 of animal facility tampering as provided in section 717A.2 or
3 animal facility interference as provided in section 717A.2A
4 may bring an action in the district court against the person
5 causing the damages to recover all of the following:

6 a. An amount equaling three times all actual and
7 consequential damages.

8 b. Court costs and reasonable attorney fees.

9 2. In addition to awarding damages as provided in subsection
10 1, a court may grant any equitable relief that the court
11 determines is appropriate. Nothing in this chapter shall
12 prevent a party from petitioning a court for equitable relief.

13 **Sec. 12. NEW SECTION. 717A.2D Animal facilities —**
14 **exceptions.**

15 1. Section 717A.2 or 717A.2A does not prohibit any conduct
16 of a person holding a legal interest in an animal facility, an
17 animal maintained at the animal facility, or other property
18 kept at the animal facility which legal interest is superior to
19 the legal interest held by a person incurring damages resulting
20 from the conduct.

21 2. Section 717A.2 or 717A.2A does not apply to any of the
22 following:

23 a. A governmental agency or officer who is taking lawful
24 action involving an animal facility, an animal maintained at
25 the animal facility, or other property kept at the animal
26 facility.

27 b. A licensed veterinarian practicing veterinary medicine as
28 provided in chapter 169 and according to customary standards
29 of care.

30 **Sec. 13. Section 717A.3, Code 2011, is amended by striking**
31 **the section and inserting in lieu thereof the following:**

32 **717A.3 Crop operation tampering.**

33 1. A person is guilty of crop operation tampering if
34 the person acts without the consent of the owner of a crop
35 operation to willfully do any of the following:

1 *a.* Damage, destroy, or alter property kept at the crop
2 operation, including but not limited to land, fixtures,
3 structures, equipment, machinery, vehicles, records, or
4 computer software or data.

5 *b.* Destroy or injure a crop maintained at a crop operation,
6 including by an act of violence or the transmission of a
7 disease including but not limited to any disease or pests.

8 *c.* Take by theft a crop maintained or other personal
9 property kept at the crop operation.

10 *d.* Disrupt operations conducted at the crop operation, if
11 the operations directly relate to agricultural production,
12 crop maintenance, educational or scientific purposes, or
13 horticultural care.

14 2. A person who commits the offense of crop operation
15 tampering is guilty of the following:

16 *a.* Crop operation tampering in the first degree occurs when
17 the result of the offense is damages incurred by the owner of
18 more than one hundred thousand dollars. A person convicted of
19 crop operation tampering in the first degree is guilty of a
20 class "C" felony.

21 *b.* Crop operation tampering in the second degree occurs when
22 the result of the offense is damages incurred by the owner of
23 the crop operation of more than ten thousand dollars but not
24 more than one hundred thousand dollars. A person convicted of
25 crop operation tampering in the second degree is guilty of a
26 class "D" felony.

27 *c.* Crop operation tampering in the third degree occurs when
28 the result of the offense is damages incurred by the owner of
29 the crop operation of more than one thousand dollars but not
30 more than ten thousand dollars. A person convicted of crop
31 operation property tampering in the third degree is guilty of
32 an aggravated misdemeanor.

33 *d.* Crop operation tampering in the fourth degree occurs
34 when the result of the offense is damages incurred by the owner
35 of the crop operation of more than three hundred dollars but

1 not more than one thousand dollars. A person convicted of crop
2 operation tampering in the fourth degree is guilty of a serious
3 misdemeanor.

4 e. Crop operation tampering in the fifth degree occurs when
5 the result of the offense is damages incurred by the owner of
6 the crop operation of three hundred dollars or less. A person
7 convicted of crop operation tampering in the fifth degree is
8 guilty of a simple misdemeanor.

9 3. A person who participates in a conspiracy to commit
10 the offense of crop operation tampering, and who acts in
11 furtherance of that commission, is guilty of the same offense
12 as the person convicted of committing the offense on or in the
13 crop operation.

14 4. A person convicted of crop operation tampering is subject
15 to an order of restitution as provided in chapter 910.

16 5. In determining the value of damages incurred under this
17 section, a court shall calculate the actual and consequential
18 pecuniary losses resulting from the commission of the offense.

19 Sec. 14. NEW SECTION. 717A.3A **Crop operation interference.**

20 1. A person is guilty of crop operation interference, if
21 the person acts without the consent of the owner of a crop
22 operation to willfully do any of the following:

23 a. Produce a record which reproduces an image or sound
24 occurring at the crop operation as follows:

25 (1) The record must be created by the person while at the
26 crop operation.

27 (2) The record must be a reproduction of a visual or audio
28 experience occurring at the crop operation, including but not
29 limited to a photographic or audio medium.

30 b. Possess or distribute a record which produces an image
31 or sound occurring at the crop operation which was produced as
32 provided in paragraph "a".

33 c. Exercise control over the crop operation, including a
34 crop maintained at the crop operation or other property kept at
35 the crop operation, with intent to deprive the crop operation

1 of the crop or property.

2 *d.* Enter onto the crop operation, or remain on or in
3 the crop operation, if the person has notice that the crop
4 operation is not open to the public. A person has notice that
5 a crop operation is not open to the public if the person is
6 provided notice before entering onto the crop operation, or the
7 person refuses to immediately leave the crop operation after
8 being informed to leave. The notice may be in the form of a
9 written or verbal communication by the owner, a fence or other
10 enclosure designed to exclude intruders or contain crops, or a
11 sign posted which is reasonably likely to come to the attention
12 of an intruder and which indicates that entry is forbidden.

13 2. A person who commits the offense of crop operation
14 interference is guilty of the following:

15 *a.* For the first conviction, the person is guilty of an
16 aggravated misdemeanor.

17 *b.* For a second or subsequent conviction, the person is
18 guilty of a class "D" felony.

19 3. A person convicted of crop operation interference is
20 subject to an order of restitution as provided in chapter 910.

21 Sec. 15. NEW SECTION. 717A.3B **Crop operation fraud.**

22 1. A person is guilty of crop operation fraud, if the person
23 willfully does any of the following:

24 *a.* Obtains access to a crop operation by false pretenses for
25 the purpose of committing an act not authorized by the owner
26 of the crop operation.

27 *b.* Makes a false statement or representation as part of an
28 application to be employed at a crop operation, if the person
29 knows it to be false.

30 2. A person who commits the offense of crop operation fraud
31 is guilty of the following:

32 *a.* For the first conviction, the person is guilty of an
33 aggravated misdemeanor.

34 *b.* For a second or subsequent conviction, the person is
35 guilty of a class "D" felony.

1 3. A person convicted of crop operation fraud is subject to
2 an order of restitution as provided in chapter 910.

3 Sec. 16. NEW SECTION. 717A.3C Crop operations — civil
4 actions.

5 1. A person suffering damages resulting from the commission
6 of crop operation tampering as provided in section 717A.3 or
7 crop operation interference as provided in section 717A.3A
8 may bring an action in the district court against the person
9 causing the damage to recover all of the following:

10 a. An amount equaling three times all actual and
11 consequential damages.

12 b. Court costs and reasonable attorney fees.

13 2. In addition to awarding damages as provided in subsection
14 1, a court may grant any equitable relief that the court
15 determines is appropriate. Nothing in this chapter shall
16 prevent a party from petitioning a court for equitable relief.

17 Sec. 17. NEW SECTION. 717A.3D Crop operations —
18 exceptions.

19 1. Section 717A.3 or 717A.3A does not prohibit any conduct
20 of a person holding a legal interest in a crop operation, a
21 crop maintained at the crop operation, or other property kept
22 at the crop operation which legal interest is superior to the
23 legal interest held by a person incurring damages resulting
24 from the conduct.

25 2. Section 717A.3 or 717A.3A does not apply to a
26 governmental agency or officer who is taking lawful action
27 involving a crop operation, a crop maintained at the crop
28 operation, or other property kept at the crop operation.

29 EXPLANATION

30 GENERAL. This bill amends Code chapter 717A, which
31 prohibits a person from entering on or damaging property
32 associated with a facility or operation where animals or
33 crops are maintained. An animal facility includes a location
34 where an animal is produced for agricultural or educational
35 scientific purposes, or a location operated by a licensed

1 veterinarian, or a commercial or nonprofit pet establishment.
2 A crop operation includes a crop field, orchard, or other
3 location where a crop is grown, harvested, or stored. The bill
4 strikes and rewrites provisions specifying the offenses.

5 TAMPERING. The bill prohibits a person from tampering with
6 property associated with an animal facility or crop operation,
7 including damaging property, killing or injuring an animal or
8 crop, committing theft, or disrupting operations. The various
9 degrees of the offense based on loss incurred by the owner of
10 the property, and ranging from a class "C" felony for a loss of
11 more than \$100,000 to a simple misdemeanor for a loss of \$300
12 or less. A person is guilty of the same offense for conspiracy
13 in furtherance of the act. A person convicted of tampering is
14 subject to an order of restitution (Code chapter 910).

15 INTERFERENCE. The bill prohibits a person from interfering
16 with an animal facility or crop operation. This includes
17 producing an audio or visual record which reproduces an image
18 or sound occurring on or in the location, or possessing or
19 distributing the record. It also prohibits a person from
20 exercising control over the location or property, with intent
21 to deprive the owner of the property, or entering onto the
22 location, if the person has notice that the location is not
23 open to the public. The severity of the offense is based on
24 whether there has been a previous conviction. For the first
25 conviction, the person is guilty of an aggravated misdemeanor,
26 and for a second or subsequent conviction, the person is guilty
27 of a class "D" felony.

28 FRAUD. The bill prohibits a person from committing fraud,
29 by obtaining access to an animal facility or crop operation
30 by false pretenses for the purpose of committing an act not
31 authorized by the owner, or making a false statement as part of
32 an application to be employed at the location. The severity
33 of the offense is based on whether there has been a previous
34 conviction. For the first conviction, the person is guilty
35 of an aggravated misdemeanor, and for a second or subsequent

1 conviction, the person is guilty of a class "D" felony. A
2 person convicted of tampering is subject to an order of
3 restitution (Code chapter 910).

4 CONVICTION FOR OFFENSES — PENALTIES. A class "C" felony
5 is punishable by confinement for no more than 10 years and a
6 fine of at least \$1,000 but not more than \$10,000. A class
7 "D" felony is punishable by confinement for no more than five
8 years and a fine of at least \$750 but not more than \$7,500. An
9 aggravated misdemeanor is punishable by confinement for no more
10 than two years and a fine of at least \$625 but not more than
11 \$6,250. A serious misdemeanor is punishable by confinement for
12 no more than one year and a fine of at least \$315 but not more
13 than \$1,875. A simple misdemeanor is punishable by confinement
14 for no more than 30 days or a fine of at least \$65 but not more
15 than \$625 or by both.

16 CIVIL PENALTIES. In addition to the criminal penalties,
17 a person suffering damages resulting from the commission of
18 tampering or interference may bring an action in the district
19 court against the person causing the damages to recover an
20 amount equaling three times all actual and consequential
21 damages, and court costs and reasonable attorney fees. In
22 addition, a court may grant a petitioner equitable relief.

23 EXCEPTIONS. The provisions in the bill do not prohibit
24 any conduct of a person holding a legal interest in an animal
25 facility, crop operation, animal, crop, or property which legal
26 interest is superior to the legal interest held by a person
27 incurring damages resulting from the conduct; an action by a
28 governmental agency or officer; or an action by a licensed
29 veterinarian.