

House File 589 - Reprinted

HOUSE FILE 589
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 431)

(COMPANION TO LSB 2093SV BY
COMMITTEE ON AGRICULTURE)

(As Amended and Passed by the House March 17, 2011)

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

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

23 (b) 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 (2) Possess or distribute a record which produces an image
27 or sound occurring at the animal facility which was produced as
28 provided in subparagraph (1).

29 (3) Subparagraphs (1) and (2) do not apply to an animal
30 shelter, a boarding kennel, a commercial kennel, a pet shop, or
31 a pound, all as defined in section 162.2.

32 b. Exercise control over the animal facility including an
33 animal maintained at the animal facility or other property
34 kept at the animal facility, with intent to deprive the animal
35 facility of the animal or property.

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

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

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

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

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

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

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

23 *a.* Obtains access to an animal facility by false pretenses
24 for the purpose of committing an act not authorized by the
25 owner of the animal facility.

26 *b.* Makes a false statement or representation as part of
27 an application to be employed at the animal facility, if the
28 person knows the statement to be false, and makes the statement
29 with an intent to commit an act not authorized by the owner of
30 the animal facility.

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

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

35 *b.* For a second or subsequent conviction, the person is

1 guilty of a class "D" felony.

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

4 4. This section does not apply to an animal shelter, a
5 boarding kennel, a commercial kennel, a pet shop, or a pound,
6 all as defined in section 162.2.

7 Sec. 11. NEW SECTION. 717A.2C **Animal facilities — civil**
8 **actions.**

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

14 a. An amount equaling three times all actual and
15 consequential damages.

16 b. Court costs and reasonable attorney fees.

17 2. In addition to awarding damages as provided in subsection
18 1, a court may grant any equitable relief that the court
19 determines is appropriate. Nothing in this chapter shall
20 prevent a party from petitioning a court for equitable relief.

21 Sec. 12. NEW SECTION. 717A.2D **Animal facilities —**
22 **exceptions.**

23 1. Section 717A.2 or 717A.2A does not prohibit any conduct
24 of a person holding a legal interest in an animal facility, an
25 animal maintained at the animal facility, or other property
26 kept at the animal facility which legal interest is superior to
27 the legal interest held by a person incurring damages resulting
28 from the conduct.

29 2. Section 717A.2 or 717A.2A does not apply to any of the
30 following:

31 a. A governmental agency or officer who is taking lawful
32 action involving an animal facility, an animal maintained at
33 the animal facility, or other property kept at the animal
34 facility.

35 b. A licensed veterinarian practicing veterinary medicine as

1 provided in chapter 169 and according to customary standards
2 of care.

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

5 **717A.3 Crop operation tampering.**

6 1. A person is guilty of crop operation tampering if
7 the person acts without the consent of the owner of a crop
8 operation to willfully do any of the following:

9 a. Damage, destroy, or alter property kept at the crop
10 operation, including but not limited to land, fixtures,
11 structures, equipment, machinery, vehicles, records, or
12 computer software or data.

13 b. Destroy or injure a crop maintained at a crop operation,
14 including by an act of violence or the transmission of a
15 disease including but not limited to any disease or pests.

16 c. Take by theft a crop maintained or other personal
17 property kept at the crop operation.

18 d. Disrupt operations conducted at the crop operation, if
19 the operations directly relate to agricultural production,
20 crop maintenance, educational or scientific purposes, or
21 horticultural care.

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

24 a. Crop operation tampering in the first degree occurs when
25 the result of the offense is damages incurred by the owner of
26 more than one hundred thousand dollars. A person convicted of
27 crop operation tampering in the first degree is guilty of a
28 class "C" felony.

29 b. Crop operation tampering in the second degree occurs when
30 the result of the offense is damages incurred by the owner of
31 the crop operation of more than ten thousand dollars but not
32 more than one hundred thousand dollars. A person convicted of
33 crop operation tampering in the second degree is guilty of a
34 class "D" felony.

35 c. Crop operation tampering in the third degree occurs when

1 the result of the offense is damages incurred by the owner of
2 the crop operation of more than one thousand dollars but not
3 more than ten thousand dollars. A person convicted of crop
4 operation property tampering in the third degree is guilty of
5 an aggravated misdemeanor.

6 *d.* Crop operation tampering in the fourth degree occurs
7 when the result of the offense is damages incurred by the owner
8 of the crop operation of more than three hundred dollars but
9 not more than one thousand dollars. A person convicted of crop
10 operation tampering in the fourth degree is guilty of a serious
11 misdemeanor.

12 *e.* Crop operation tampering in the fifth degree occurs when
13 the result of the offense is damages incurred by the owner of
14 the crop operation of three hundred dollars or less. A person
15 convicted of crop operation tampering in the fifth degree is
16 guilty of a simple misdemeanor.

17 3. A person who participates in a conspiracy to commit
18 the offense of crop operation tampering, and who acts in
19 furtherance of that commission, is guilty of the same offense
20 as the person convicted of committing the offense on or in the
21 crop operation.

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

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

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

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

31 *a.* Produce a record which reproduces an image or sound
32 occurring at the crop operation as follows:

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

35 (2) The record must be a reproduction of a visual or audio

1 experience occurring at the crop operation, including but not
2 limited to a photographic or audio medium.

3 *b.* Possess or distribute a record which produces an image
4 or sound occurring at the crop operation which was produced as
5 provided in paragraph "a".

6 *c.* Exercise control over the crop operation, including a
7 crop maintained at the crop operation or other property kept at
8 the crop operation, with intent to deprive the crop operation
9 of the crop or property.

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

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

23 *a.* For the first conviction, the person is guilty of an
24 aggravated misdemeanor.

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

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

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

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

32 *a.* Obtains access to a crop operation by false pretenses for
33 the purpose of committing an act not authorized by the owner
34 of the crop operation.

35 *b.* Makes a false statement or representation as part of an

1 application to be employed at a crop operation, if the person
2 knows the statement to be false, and makes the statement with
3 an intent to commit an act not authorized by the owner of the
4 crop operation.

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

7 a. For the first conviction, the person is guilty of an
8 aggravated misdemeanor.

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

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

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

15 1. A person suffering damages resulting from the commission
16 of crop operation tampering as provided in section 717A.3 or
17 crop operation interference as provided in section 717A.3A
18 may bring an action in the district court against the person
19 causing the damage to recover all of the following:

20 a. An amount equaling three times all actual and
21 consequential damages.

22 b. Court costs and reasonable attorney fees.

23 2. In addition to awarding damages as provided in subsection
24 1, a court may grant any equitable relief that the court
25 determines is appropriate. Nothing in this chapter shall
26 prevent a party from petitioning a court for equitable relief.

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

29 1. Section 717A.3 or 717A.3A does not prohibit any conduct
30 of a person holding a legal interest in a crop operation, a
31 crop maintained at the crop operation, or other property kept
32 at the crop operation which legal interest is superior to the
33 legal interest held by a person incurring damages resulting
34 from the conduct.

35 2. Section 717A.3 or 717A.3A does not apply to a

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1 governmental agency or officer who is taking lawful action
2 involving a crop operation, a crop maintained at the crop
3 operation, or other property kept at the crop operation.