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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH
SESSION

HOUSE FILE No. **1369**

April 4, 2011

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The bill was read for the first time and referred to the Committee on Agriculture and Rural Development Policy and Finance

1.1 A bill for an act
1.2 relating to agriculture; imposing penalties and remedies for certain offenses;
1.3 proposing coding for new law in Minnesota Statutes, chapter 17.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[17.99] DEFINITIONS.**

1.6 Subdivision 1. **Scope.** The definitions in this section apply to sections 17.99 to
1.7 17.998.

1.8 Subd. 2. **Agricultural animal.** "Agricultural animal" means:

1.9 (1) an animal that is maintained for its parts or products having commercial value,
1.10 including but not limited to its muscle tissue, organs, fat, blood, manure, bones, milk,
1.11 wool, hide, pelt, feathers, eggs, semen, embryos, or honey; or

1.12 (2) an animal belonging to the equine species, including horse, pony, mule, jenny,
1.13 donkey, or hinny.

1.14 Subd. 3. **Agricultural production.** "Agricultural production" means an activity
1.15 related to maintaining an agricultural animal at an animal facility or a crop on crop
1.16 operation property.

1.17 Subd. 4. **Animal.** "Animal" means a mammal, bird, fish, reptile, or amphibian,
1.18 including an agricultural animal or any other animal that is maintained by an animal
1.19 facility.

1.20 Subd. 5. **Animal facility.** "Animal facility" means:

1.21 (1) a location where an agricultural animal is maintained, including but not limited
1.22 to a location dedicated to farming, a livestock market, or exhibition;

1.23 (2) a location where an animal is maintained for educational or scientific purposes,
1.24 including, but not limited to, a research facility;

2.1 (3) a location operated by a person licensed to practice veterinary medicine in
 2.2 Minnesota;

2.3 (4) a pound;

2.4 (5) an animal shelter;

2.5 (6) a pet shop;

2.6 (7) a boarding kennel; or

2.7 (8) a commercial kennel.

2.8 Subd. 6. **Consent.** "Consent" means express or apparent assent by a person
 2.9 authorized to provide assent.

2.10 Subd. 7. **Crop.** "Crop" means a plant maintained for its parts or products having
 2.11 commercial value, including but not limited to stalks, trunks and branches, cuttings,
 2.12 grafts, scions, leaves, buds, fruit, vegetables, roots, bulbs, or seeds, if the plant is any of
 2.13 the following:

2.14 (1) a plant produced from an agricultural seed or vegetable seed; or

2.15 (2) a plant that is a tree, shrub, vine, berry plant, greenhouse plant, or flower.

2.16 A plant produced from a noxious weed seed is not a crop unless the plant is produced
 2.17 as a research crop.

2.18 Subd. 8. **Crop operation.** "Crop operation" means a location where a crop is
 2.19 maintained, including but not limited to a crop field, orchard, nursery, greenhouse, garden,
 2.20 elevator, seedhouse, barn, or warehouse.

2.21 Subd. 9. **Crop operation property.** "Crop operation property" means:

2.22 (1) real property that is a crop field, orchard, nursery, greenhouse, garden, elevator,
 2.23 seedhouse, barn, warehouse, or any other associated land or structures located on the land,
 2.24 and personal property located on the land including machinery or equipment, that is
 2.25 part of a crop operation; or

2.26 (2) a vehicle used to transport a crop that was maintained on the crop operation
 2.27 property.

2.28 Subd. 10. **Deprive.** "Deprive" means to do any of the following:

2.29 (1) for an animal maintained at an animal facility or for property kept at an animal
 2.30 facility, to:

2.31 (i) withhold the animal or property for a period of time sufficient to significantly
 2.32 reduce the value or enjoyment of the animal or property;

2.33 (ii) withhold the animal or property for ransom or upon condition to restore the
 2.34 animal or property in return for compensation; or

2.35 (iii) dispose of the animal or property in a manner that makes recovery of the animal
 2.36 or property by its owner unlikely; or

3.1 (2) for crops maintained on crop operation property or for crop operation property, to:
 3.2 (i) occupy any part of a crop operation property for a period of time sufficient to
 3.3 prevent access to the crop or crop operation property; or
 3.4 (ii) dispose of a crop maintained at the crop operation or property kept at the crop
 3.5 operation in a manner that makes recovery of the crop or property by its owner unlikely.

3.6 Subd. 11. **Maintain.** "Maintain" means:

3.7 (1) keep and provide for the care and feeding of any animal, including any activity
 3.8 relating to confining, handling, breeding, transporting, or exhibiting the animal; or

3.9 (2) keep and preserve any crop by planting, nurturing, harvesting, and storing the
 3.10 crop or storing, planting, or nurturing the crop's seed.

3.11 Subd. 12. **Owner.** "Owner" means:

3.12 (1) a person, including a public or private entity, who has a legal interest in an
 3.13 animal maintained at the animal facility or other property kept at an animal facility, or a
 3.14 person who is authorized by the holder of the legal interest to act on the holder's behalf in
 3.15 maintaining the animal or keeping the other property; or

3.16 (2) a person, including a public or private entity, who has a legal interest in a
 3.17 crop maintained at the crop operation or other property kept at the crop operation, or a
 3.18 person who is authorized by the holder of the legal interest to act on the holder's behalf in
 3.19 maintaining the crop or keeping the other property.

3.20 Subd. 13. **Record.** "Record" means any printed, inscribed, visual, or audio
 3.21 information that is placed or stored on a tangible medium, and that may be accessed in a
 3.22 perceivable form, including but not limited to any paper or electronic format.

3.23 Subd. 14. **Research crop.** "Research crop" means a crop, including the crop's seed,
 3.24 that is maintained for purposes of scientific research regarding the study or alteration of the
 3.25 genetic characteristics of a plant or associated seed, including its deoxyribonucleic acid,
 3.26 which is accomplished by breeding or by using biotechnological systems or techniques.

3.27 **Sec. 2. [17.991] ANIMAL FACILITY TAMPERING.**

3.28 Subdivision 1. **Prohibited acts.** A person who acts without the consent of the
 3.29 owner of an animal facility to willfully do any of the following is guilty of animal facility
 3.30 tampering:

3.31 (1) damage, destroy, or alter property kept at the animal facility, including but not
 3.32 limited to land, fixtures, structures, equipment, machinery, vehicles, records, or computer
 3.33 software or data;

3.34 (2) kill or injure an animal maintained at the animal facility, including an act of
 3.35 violence or the transmission of a contagious disease;

4.1 (3) take by theft an animal maintained or other property kept at the animal facility; or
 4.2 (4) disrupt operations conducted at the animal facility, if the operations directly
 4.3 relate to agricultural production, animal maintenance, educational or scientific purposes,
 4.4 or veterinary care.

4.5 Subd. 2. **Penalty.** (a) Animal facility tampering in the first degree occurs if the
 4.6 result of the offense is damages incurred by the owner of the animal facility of more than
 4.7 \$100,000. Animal facility tampering in the first degree is a felony punishable by

4.8 (b) Animal facility tampering in the second degree occurs if the result of the
 4.9 offense is damages incurred by the owner of the animal facility of more than \$10,000
 4.10 but not more than \$100,000. Animal facility tampering in the second degree is a felony
 4.11 punishable by

4.12 (c) Animal facility tampering in the third degree occurs if the result of the offense is
 4.13 damages incurred by the owner of the animal facility of more than \$1,000 but not more
 4.14 than \$10,000. Animal facility tampering in the third degree is a gross misdemeanor.

4.15 (d) Animal facility tampering in the fourth degree occurs if the result of the offense
 4.16 is damages incurred by the owner of the animal facility of not more than \$1,000. Animal
 4.17 facility tampering in the fourth degree is a misdemeanor.

4.18 Subd. 3. **Participant in conspiracy.** A person who participates in a conspiracy to
 4.19 commit the offense of animal facility tampering, and who acts in furtherance of that
 4.20 commission, is guilty of the same offense as the person convicted of committing the
 4.21 offense on or in the animal facility.

4.22 Subd. 4. **Restitution.** A person convicted of animal facility tampering is subject
 4.23 to an order of restitution.

4.24 Subd. 5. **Value.** In determining the value of damages incurred by an owner of an
 4.25 animal facility under this section, a court shall calculate the actual and consequential
 4.26 pecuniary losses resulting from the commission of the offense.

4.27 **Sec. 3. [17.992] ANIMAL FACILITY INTERFERENCE.**

4.28 Subdivision 1. **Prohibited acts.** A person who acts without the consent of the
 4.29 owner of an animal facility to willfully do any of the following is guilty of animal facility
 4.30 interference:

4.31 (1) produce a record which reproduces an image or sound occurring at the animal
 4.32 facility if:

4.33 (i) the record is created by the person while at the animal facility; and

4.34 (ii) the record is a reproduction of a visual or audio experience occurring at the
 4.35 animal facility, including but not limited to a photographic or audio medium;

5.1 (2) possess or distribute a record which produces an image or sound occurring at the
5.2 animal facility which was produced as provided in clause (1);

5.3 (3) exercise control over the animal facility including an animal maintained at the
5.4 animal facility or other property kept at the animal facility, with intent to deprive the
5.5 animal facility of the animal or property; and

5.6 (4) enter onto the animal facility, or remain at the animal facility, if the person has
5.7 notice that the facility is not open to the public. A person has notice that an animal facility
5.8 is not open to the public if the person is provided notice before entering onto the facility,
5.9 or the person refuses to immediately leave the facility after being instructed to leave. The
5.10 notice may be in the form of a written or verbal communication by the owner, a fence
5.11 or other enclosure designed to exclude intruders or contain animals, or a sign posted
5.12 that is reasonably likely to come to the attention of an intruder and which indicates that
5.13 entry is forbidden.

5.14 Subd. 2. **Penalty.** A person who commits animal facility interference is guilty
5.15 of a gross misdemeanor.

5.16 For a second or subsequent conviction of animal facility interference, the person is
5.17 guilty of a felony.

5.18 Subd. 3. **Restitution.** A person convicted of animal facility interference is subject
5.19 to an order of restitution.

5.20 **Sec. 4. [17.993] ANIMAL FACILITY FRAUD.**

5.21 Subdivision 1. **Prohibition.** A person who willfully does any of the following
5.22 is guilty of animal facility fraud:

5.23 (1) obtains access to an animal facility by false pretenses for the purpose of
5.24 committing an act not authorized by the owner of the animal facility; or

5.25 (2) makes a false statement or representation as part of an application to be employed
5.26 at the animal facility, if the person knows it to be false.

5.27 Subd. 2. **Penalty.** (a) A person who commits animal facility fraud is guilty of a
5.28 gross misdemeanor.

5.29 (b) For a second or subsequent conviction of animal facility fraud, the person is
5.30 guilty of a felony.

5.31 Subd. 3. **Restitution.** A person convicted of animal facility fraud is subject to an
5.32 order of restitution.

5.33 **Sec. 5. [17.994] CROP OPERATION TAMPERING.**

6.1 Subdivision 1. **Prohibition.** A person who acts without the consent of the owner of
6.2 a crop operation to willfully do any of the following is guilty of crop operation tampering:

6.3 (1) damage, destroy, or alter property kept at the crop operation, including, but not
6.4 limited to, land, fixtures, structures, equipment, machinery, vehicles, records, or computer
6.5 software or data.

6.6 (2) destroy or injure a crop maintained at a crop operation, including by an act of
6.7 violence or the transmission of a disease, including, but not limited to, any disease or pests;

6.8 (3) take by theft a crop maintained or other personal property kept at the crop
6.9 operation; or

6.10 (4) disrupt operations conducted at the crop operation, if the operations directly
6.11 relate to agricultural production, crop maintenance, educational or scientific purposes, or
6.12 horticultural care.

6.13 Subd. 2. **Penalty.** (a) Crop operation tampering in the first degree occurs when the
6.14 result of the offense is damages incurred by the owner of more than \$100,000. Crop
6.15 operation tampering in the first degree is a felony punishable by

6.16 (b) Crop operation tampering in the second degree occurs when the result of the
6.17 offense is damages incurred by the owner of the crop operation of more than \$10,000
6.18 but not more than \$100,000. Crop operation tampering in the second degree is a felony
6.19 punishable by

6.20 (c) Crop operation tampering in the third degree occurs when the result of the
6.21 offense is damages incurred by the owner of the crop operation of more than \$1,000
6.22 but not more than \$10,000. Crop operation property tampering in the third degree is a
6.23 gross misdemeanor.

6.24 (d) Crop operation tampering in the fourth degree occurs when the result of the
6.25 offense is damages incurred by the owner of the crop operation of not more than \$1,000.
6.26 Crop operation tampering in the fourth degree is a misdemeanor.

6.27 Subd. 3. **Conspiracy.** A person who participates in a conspiracy to commit the
6.28 offense of crop operation tampering, and who acts in furtherance of that commission, is
6.29 guilty of the same offense as the person convicted of committing the offense on or in
6.30 the crop operation.

6.31 Subd. 4. **Restitution.** A person convicted of crop operation tampering is subject
6.32 to an order of restitution.

6.33 Subd. 5. **Value of damages.** In determining the value of damages incurred under
6.34 this section, a court shall calculate the actual and consequential pecuniary losses resulting
6.35 from the commission of the offense.

7.1 Sec. 6. **[17.995] CROP OPERATION INTERFERENCE.**

7.2 Subdivision 1. **Prohibition.** A person who acts without the consent of the owner of a
7.3 crop operation to willfully do any of the following is guilty of crop operation interference:

7.4 (1) produce a record which reproduces an image or sound occurring at the crop
7.5 operation if the record is created by the person while at the crop operation, and the record
7.6 is a reproduction of a visual or audio experience occurring at the crop operation, including,
7.7 but not limited to, a photographic or audio medium;

7.8 (2) possess or distribute a record which produces an image or sound occurring at the
7.9 crop operation which was produced as provided in clause (1);

7.10 (3) exercise control over the crop operation, including a crop maintained at the
7.11 crop operation or other property kept at the crop operation, with intent to deprive the
7.12 crop operation of the crop or property; or

7.13 (4) enter onto the crop operation, or remain on or in the crop operation, if the person
7.14 has notice that the crop operation is not open to the public. A person has notice that a crop
7.15 operation is not open to the public if the person is provided notice before entering onto the
7.16 crop operation, or the person refuses to immediately leave the crop operation after being
7.17 instructed to leave. The notice may be in the form of a written or verbal communication
7.18 by the owner, a fence or other enclosure designed to exclude intruders or contain crops, or
7.19 a sign posted which is reasonably likely to come to the attention of an intruder and which
7.20 indicates that entry is forbidden.

7.21 Subd. 2. **Penalty.** (a) A person who commits crop operation interference is guilty
7.22 of a gross misdemeanor.

7.23 (b) For a second or subsequent conviction of crop operation interference, the person
7.24 is guilty of a felony.

7.25 Subd. 3. **Restitution.** A person convicted of crop operation interference is subject
7.26 to an order of restitution.

7.27 Sec. 7. **[17.996] CROP OPERATION FRAUD.**

7.28 Subdivision 1. **Prohibition.** A person who willfully does any of the following
7.29 is guilty of crop operation fraud:

7.30 (1) obtains access to a crop operation by false pretenses for the purpose of
7.31 committing an act not authorized by the owner of the crop operation; or

7.32 (2) makes a false statement or representation as part of an application to be employed
7.33 at a crop operation, if the person knows it to be false.

7.34 Subd. 2. **Penalty.** (a) A person who commits crop operation fraud is guilty of a
7.35 gross misdemeanor.

8.1 (b) For a second or subsequent conviction of crop operation fraud, the person is
8.2 guilty of a felony.

8.3 Subd. 3. **Restitution.** A person convicted of crop operation fraud is subject to an
8.4 order of restitution.

8.5 **Sec. 8. [17.997] CIVIL ACTIONS.**

8.6 Subdivision 1. **Civil recovery.** A person suffering damages resulting from a
8.7 violation of section 17.991, 17.992, 17.994, or 17.995 may bring an action in the district
8.8 court against the person causing the damage to recover all of the following:

8.9 (1) an amount equaling three times all actual and consequential damages; and

8.10 (2) court costs and reasonable attorney fees.

8.11 Subd. 2. **Equitable relief.** In addition to awarding damages as provided in
8.12 subdivision 1, a court may grant any equitable relief that the court determines is
8.13 appropriate. Nothing in this chapter shall prevent a party from petitioning a court for
8.14 equitable relief.

8.15 **Sec. 9. [17.998] ANIMAL FACILITIES; CROP OPERATIONS; EXCEPTIONS.**

8.16 (a) Sections 17.991 and 17.992 do not prohibit any conduct of a person holding a
8.17 legal interest in an animal facility, an animal maintained at the animal facility, or other
8.18 property kept at the animal facility which legal interest is superior to the legal interest held
8.19 by a person incurring damages resulting from the conduct.

8.20 (b) Sections 17.991 and 17.992 do not apply to any of the following:

8.21 (1) a governmental agency or officer who is taking lawful action involving an
8.22 animal facility, an animal maintained at the animal facility, or other property kept at the
8.23 animal facility; or

8.24 (2) a licensed veterinarian practicing veterinary medicine according to customary
8.25 standards of care.

8.26 (c) Sections 17.994 and 17.995 do not prohibit any conduct of a person holding a
8.27 legal interest in a crop operation, a crop maintained at the crop operation, or other property
8.28 kept at the crop operation which legal interest is superior to the legal interest held by a
8.29 person incurring damages resulting from the conduct.

8.30 (d) Sections 17.994 and 17.995 do not apply to a governmental agency or officer
8.31 who is taking lawful action involving a crop operation, a crop maintained at the crop
8.32 operation, or other property kept at the crop operation.