

HOUSE BILL NO. 120

INTRODUCED BY HAYNE, STEPPLER, KELLER, ELLISON, COBB,
ZOOK, SWYSGOOD, PETERSON, CODY, M. HANSON, GRINDE

IN THE HOUSE

JANUARY 9, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

 FIRST READING.

JANUARY 16, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 17, 1991 PRINTING REPORT.

JANUARY 22, 1991 SECOND READING, DO PASS.

JANUARY 23, 1991 ENGROSSING REPORT.

JANUARY 24, 1991 THIRD READING, PASSED.
AYES, 57; NOES, 43.

 TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 25, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON AGRICULTURE, LIVESTOCK, & IRRIGATION.

 FIRST READING.

MARCH 7, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 11, 1991 SECOND READING, CONCURRED IN AS
AMENDED.

MARCH 12, 1991 THIRD READING, CONCURRED IN.
AYES, 47; NOES, 2.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 16, 1991 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 18, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 120
 2 INTRODUCED BY Hayne Steppley
 3 Kelly Edmon Cody Cook Angela Peterson Cody
 4 M. Hansen Larry Ann Cahoon
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE FARM
 6 ANIMAL AND RESEARCH FACILITIES PROTECTION ACT; AND PROVIDING
 7 AN IMMEDIATE EFFECTIVE DATE."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. Section 1. Short title. [Sections 1
10 through 5] may be cited as the "Farm Animal and Research
11 Facilities Protection Act".

12 NEW SECTION. Section 2. Definitions. As used in
13 [sections 1 through 5], the following definitions apply:

14 (1) "Animal" means any warmblooded or coldblooded
15 animal used in food, fur, or fiber production, agriculture,
16 research, testing, or education. The term includes but is
17 not limited to dogs, cats, poultry, fish, and invertebrates.

18 (2) "Animal facility" includes a vehicle, building,
19 structure, research facility, or premises where an animal is
20 kept, handled, housed, exhibited, bred, or offered for sale.

21 (3) "Consent" means agreement in fact, whether express
22 or apparent.

23 (4) "Deprive" means to:

24 (a) withhold an animal or other property from the owner
25 permanently or for such a period of time that a major

1 portion of the value or enjoyment of the animal or property
2 is lost to the owner;

3 (b) restore the animal or other property only upon
4 payment of reward or other compensation; or

5 (c) dispose of an animal or other property in a manner
6 that makes recovery of the animal or property by the owner
7 unlikely.

8 (5) "Effective consent" means consent by the owner or
9 by a person legally authorized to act for the owner. Consent
10 is not effective if it is:

11 (a) induced by force or threat;

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13 legally authorized to act for the owner; or

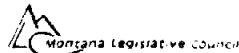
14 (c) given by a person who by reason of youth, mental
15 disease or defect, or being under the influence of drugs or
16 alcohol is known by the offender to be unable to make
17 reasonable decisions.

18 (6) "Notice" means:

19 (a) oral or written communication by the owner or
20 someone with apparent authority to act for the owner;

21 (b) fencing or other enclosure obviously designed to
22 exclude intruders or to contain animals; or

23 (c) a sign or signs posted on the property or at the
24 entrance to a building that are reasonably likely to come to
25 the attention of intruders and that indicate that entry is



1 forbidden.

2 (7) "Owner" means a person who has:

3 (a) title to the property;

4 (b) possession of the property, whether lawful or not;

5 or

6 (c) a greater right to possession of the property than
7 the person alleged to have committed the unlawful act.

8 (8) "Person" means an individual, state agency,
9 corporation, association, nonprofit corporation, joint-stock
10 company, firm, trust, partnership; two or more persons
11 having a joint or common interest; or some other legal
12 entity.

13 (9) "Possession" means actual care, custody, control,
14 or management.

15 (10) "Research facility" means a place, laboratory,
16 institution, medical care facility, elementary school, high
17 school, college, or university at which a scientific test,
18 experiment, or investigation involving the use of a living
19 animal is carried out, conducted, or attempted.

20 NEW SECTION. Section 3. Unlawful acts. (1) A person
21 who does not have the effective consent of the owner may not
22 acquire or otherwise exercise control over an animal
23 facility, an animal from an animal facility, or other
24 property from an animal facility with the intent to deprive
25 the owner of the facility, animal, or property or to damage

1 the enterprise conducted at the animal facility.

2 (2) A person who does not have the effective consent of
3 the owner and who intends to damage the enterprise conducted
4 at an animal facility may not:

5 (a) damage or destroy an animal facility or an animal
6 or property in or on the premises of an animal facility;

7 (b) enter an animal facility that is at the time closed
8 to the public with the intent to commit an act prohibited by
9 [sections 1 through 5];

10 (c) remain concealed in an animal facility with the
11 intent to commit an act prohibited by [sections 1 through
12 5];

13 (d) enter an animal facility and commit or attempt to
14 commit an act prohibited by [sections 1 through 5];

15 (e) enter an animal facility to take pictures by
16 photograph, video camera, or other means; or

17 (f) enter or remain on the premises of an animal
18 facility if the person:

19 (i) had notice that the entry was forbidden; or

20 (ii) received notice to depart but failed to do so.

21 (3) The provisions of [sections 1 through 5] do not
22 apply to lawful activities of a government agency or its
23 employees who are carrying out their duties under law.

24 NEW SECTION. Section 4. Action for damage. (1) A
25 person who has been damaged by reason of a violation of

1 [section 3] may bring against the person who caused the
2 damage an action in the district court to recover:

3 (a) an amount equal to three times all actual and
4 consequential damages; and

5 (b) court costs and reasonable attorney fees.

6 (2) [Sections 1 through 5] may not be construed to
7 affect any other rights of a person who has been damaged by
8 reason of a violation of [sections 1 through 5]. The
9 provisions of subsection (1) may not be construed to limit
10 the exercise of any rights arising out of or relating to a
11 violation of [section 3].

12 NEW SECTION. Section 5. Penalty. (1) A person
13 convicted of violating [section 3(2)(f)] shall be fined not
14 less than \$50 or more than \$500 or be imprisoned in the
15 county jail for a term not to exceed 3 months, or both.

16 (2) A person convicted of an act that violates [section
17 3(1) and (2)(a) through (2)(e)] and that results in \$500 or
18 less in damage or destruction shall be fined not more than
19 \$500 or be imprisoned in the county jail for a term not to
20 exceed 6 months, or both.

21 (3) A person convicted of an act that violates [section
22 3(1) and (2)(a) through (2)(e)] and that results in more
23 than \$500 in damage or destruction shall be fined not more
24 than \$50,000 or be imprisoned in the state prison for a term
25 not to exceed 5 years, or both.

1 NEW SECTION. Section 6. Effective date. [This act] is
2 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 120

INTRODUCED BY HAYNE, STEPLER, KELLER, ELLISON, COBB,
ZOOK, SWYSGOOD, PETERSON, CODY, HANSON, GRINDE

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animal used in food, fur, or fiber production, agriculture
AND ITS RELATED ACTIVITIES, research, testing, or education.
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SECOND READING



1 entrance to a building that are reasonably likely to come to
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THIRD READING



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-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 7, 1991

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration House Bill No. 120 (third reading copy -- blue), respectfully report that House Bill No. 120 be amended and as so amended be concurred in:

1. Page 1, line 16.

Following: "animal"

Strike: "used in"

Insert: "lawfully confined for"

2. Page 1, line 21.

Following: "is"

Insert: "lawfully"

3. Page 3, line 5.

Following: "property;"

Insert: "or"

4. Page 3, lines 6 through 9.

Following: "(b)" on line 6

Insert: "lawful"

Following: "property" on line 6

Strike: remainder of line 6 through "act" on line 9

5. Page 3, line 21.

Following: "is"

Insert: "lawfully"

6. Page 4, line 18.

Following: "means"

Insert: "with the intent to commit criminal defamation"

7. Page 4, line 24.

Following: "a"

Insert: ": (a)"

8. Page 4, line 25.

Following: "law"

Insert: "; and

(b) humane animal treatment shelter or its employees whose primary purpose is the bona fide control or humane care of animals or the enforcement of 45-8-211"

9. Page 6, line 2.

Strike: "20"

Insert: "10"

Signed: Greg Jergeson

Greg Jergeson, Chairman

LB 3/7/91 SB 3/7 1:10
Amd. Cbord. Sec. of Senate

SENATE
HB 120

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 9, 1991 11:36 am

Mr. Chairman: I move to amend House Bill No. 120 (third reading copy -- blue) as follows:

1. Page 4, line 25.

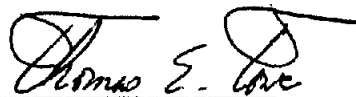
Following: "under law"

Insert: "or to the lawful activities of a financial institution or other secured party"

ADOPT

REJECT

Signed: _____



Senator Towe

JM 3-9-91
Amd. Coord.

JL 3-9 12:35
Sec. of Senate

SENATE
HB 120

1 HOUSE BILL NO. 120

2 INTRODUCED BY HAYNE, STEPLER, KELLER, ELLISON, COBB,

3 ZOOK, SWYSGOOD, PETERSON, CODY, M. HANSON, GRINDE

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(d) enter an animal facility and commit or attempt to commit an act prohibited by [sections 1 through 5];

(e) enter an animal facility to take pictures by photograph, video camera, or other means WITH THE INTENT TO COMMIT CRIMINAL DEFACTION; or

(f) enter or remain on the premises of an animal facility if the person:

(i) had notice that the entry was forbidden; or

(ii) received notice to depart but failed to do so.

(3) The provisions of [sections 1 through 5] do not

1 apply to lawful activities of a:

2 (A) government agency or its employees who are carrying
 3 out their duties under law OR TO LAWFUL ACTIVITIES OF A
 4 FINANCIAL INSTITUTION OR OTHER SECURED PARTY; AND

5 (B) HUMANE ANIMAL TREATMENT SHELTER OR ITS EMPLOYEES
 6 WHOSE PRIMARY PURPOSE IS THE BONA FIDE CONTROL OR HUMANE
 7 CARE OF ANIMALS OR THE ENFORCEMENT OF 45-8-211.

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 16 affect any other rights of a person who has been damaged by
 17 reason of a violation of [sections 1 through 5]. The
 18 provisions of subsection (1) may not be construed to limit
 19 the exercise of any rights arising out of or relating to a
 20 violation of [section 3].

21 NEW SECTION. Section 5. Penalty. (1) A person
 22 convicted of violating [section 3(2)(f)] shall be fined not
 23 less than \$50 or more than \$500 or be imprisoned in the
 24 county jail for a term not to exceed 3 months, or both.

25 (2) A person convicted of an act that violates [section

1 3(1) and (2)(a) through (2)(e)] and that results in \$500 or
 2 less in damage or destruction shall be fined not more than
 3 \$500 or be imprisoned in the county jail for a term not to
 4 exceed 6 months, or both.

5 (3) A person convicted of an act that violates [section
 6 3(1) and (2)(a) through (2)(e)] and that results in more
 7 than \$500 in damage or destruction shall be fined not more
 8 than \$50,000 or be imprisoned in the state prison for a term
 9 not to exceed 5 ~~20~~ 10 years, or both.

10 NEW SECTION. Section 6. Effective date. [This act] is
 11 effective on passage and approval.

-End-