

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Agriculture Committee

BILL: CS/SB 1246

INTRODUCER: Agriculture Committee and Senator Norman

SUBJECT: Farms

DATE: March 21, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Spalla	AG	Fav/CS
2.			CJ	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This committee substitute makes it a first degree misdemeanor for anyone, other than an employee or agent of the Department of Agriculture and Consumer Services acting pursuant to s. 570.15, F.S., or a law enforcement officer conducting a lawful inspection or investigation, to enter onto a farm or other property where legal agricultural operations are being conducted and produce audio or video records without the written consent of the owner or an authorized representative of the owner. This committee substitute defines “audio or video records” as “any audio or video recording, regardless of the recording medium or format, including but not limited to, photographs, audio or videotapes, cd’s, dvd’s, or streaming media, whether stored on film stock, hard disks, solid state storage, or any electrical, magnetic, or optical form of data storage” and this committee substitute defines “farm” as “any tract of land cultivated for the purpose of agricultural production, the raising and breeding of domestic animals, or the storage of a commodity.”

This bill creates a new unnumbered section of the Florida Statutes.

II. Present Situation:

Chapter 810 of the Florida Statutes provides various penalties for trespassing ranging from a first degree felony to a third degree misdemeanor.

Presently, certain animal rights groups attempt to expose what they consider to be animal abuse on America's farms and processing facilities by trespassing on those facilities, either under the cover of darkness or by other surreptitious means such as posing as potential employees, and taking hidden camera footage of those facilities. This footage is compiled and uploaded to their various websites and used for documentary films which are adversarial to the animal farming business. Examples of this type of investigation are present in the anti-factory farm campaigns of many organizations such as the Humane Society of the United States which sent an undercover investigator into a Cal-Maine egg farm in Waelder, Texas under the pretext of working for the farm for 28 days¹, and the group Mercy for Animals which claims that while "[w]ired with hidden cameras, [their] team of undercover investigators documents the harsh realities of industrial animal agriculture."²

III. Effect of Proposed Changes:

Section 1 makes it a first degree misdemeanor for anyone, other than an employee or agent of the Department of Agriculture and Consumer Services acting pursuant to s. 570.15, F.S., or a law enforcement officer conducting a lawful inspection or investigation, to enter onto a farm or other property where legal agricultural operations are being conducted and produce audio or video records without the written consent of the owner or an authorized representative of the owner. This section also defines "audio or video records" as "any audio or video recording, regardless of the recording medium or format, including but not limited to, photographs, audio or videotapes, cd's, dvd's, or streaming media, whether stored on film stock, hard disks, solid state storage, or any electrical, magnetic, or optical form of data storage" and defines "farm" as "any tract of land cultivated for the purpose of agricultural production, the raising and breeding of domestic animals, or the storage of a commodity."

Section 2 creates an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹*Appalling Animal Abuse and Food Safety Threats at Top Egg Producer*, The Humane Society of the United States, November 17, 2010, found at http://www.humanesociety.org/news/press_releases/2010/11/cal-maine_111710.html (last visited on March 8, 2011).

² *Undercover Investigation: Exposing Animal Abuse*, Mercy for Animals, found at <http://www.mercyforanimals.org/investigations.aspx> (last visited on March 8, 2011)

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Agriculture Committee on March 21, 2011:

This committee substitute amends the original bill in the following ways:

- A person must enter onto and take recordings of a farm (rather than enter onto a farm or take recordings of a farm) without the written consent of the owner or authorized representative in order to be guilty.
- Employees or agents of the Department of Agriculture and Consumer Services acting pursuant to s. 570.15, F.S., are exempt.
- Law enforcement officers conducting lawful inspections or investigations are exempt.
- Audio recordings are prohibited.
- “Audio or video records” are defined.
- A guilty verdict is punishable as a first degree misdemeanor.

B. Amendments:

None.