

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: SB 1246

INTRODUCER: Senator Norman

SUBJECT: Farms

DATE: March 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Spalla	AG	Pre-meeting
2.	_____	_____	CJ	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill makes it a first degree felony to enter onto, photograph, videotape, or otherwise produce images or pictorial records of a farm, or other property where legitimate agriculture operations are occurring, without the written consent of the owner. This bill also defines a “farm” as “any tract of land cultivated for the purpose of agricultural production, the raising and breeding of 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 felony to enter onto, photograph, videotape, or otherwise produce images or pictorial records of a farm, or other property where legitimate agriculture operations are occurring, without the written consent of the owner. This section also defines a “farm” as “any tract of land cultivated for the purpose of agricultural production, the raising and breeding of animals, or the storage of a commodity.”

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

Other Potential Implications:

This bill does not take into account the intent of any violators of the statute nor does it create any exemptions such as for emergency response personnel, those touring a farm or those trespassing on a farm unintentionally.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

There may be potential First Amendment issues with the bill as written because the bill does not require that the offender actually be on private property to be guilty of photographing, etc., without the written consent of the owner.

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)

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.)

None.

B. Amendments:

None.