

SUBJECT: Creating criminal penalties for damage to certain agricultural facilities

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 6 ayes — Springer, Anderson, Buckley, Burns, Fierro, Meza

1 nay — Zwiener

2 absent — Beckley, Raymond

SENATE VOTE: On final passage, May 7 — 31-0

WITNESSES: No public hearing

DIGEST: SB 1884 would establish criminal offenses for certain conduct causing a loss of at least \$500 to an animal or crop facility.

**Offenses.** The bill would make it an offense, with respect to an animal or crop facility, for a person to:

- intentionally release, steal, destroy, or cause the loss of an animal or crop without the consent of the owner or operator;
- damage, vandalize, or steal any property;
- break and enter with the intent to destroy or alter records, data, materials, equipment, animals, or crops;
- knowingly obtain control by theft or deception or exert unauthorized control over any materials, equipment, animals, or crops of an animal or crop facility for the purpose of depriving the owner or operator or the facility of those items; or
- enter or remain on a facility with the intent to commit an act prohibited under this bill.

An "animal or crop facility" would mean a facility used in the agricultural production of animals or crops, including tractors and trailers, implements of husbandry, buildings, structures, greenhouses, laboratories, pasture,

fields, paddocks, ponds, impoundments, certain premises where animals or crops were located, managed bee colonies, and livestock markets.

An offense under this bill would be:

- a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) if the actor caused a loss of at least \$500 but no more than \$2,500; or
- a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) if the actor caused a loss of more than \$2,500.

For conduct constituting an offense under this bill that also constituted an offense under other law, the person could be prosecuted under either law, unless the offense was felony theft or criminal mischief, in which case the person could be prosecuted only under other laws.

**Restitution.** SB 1884 would require a court to order a defendant convicted of an offense under this bill to pay restitution equal to the loss caused by the actor, including the value of any animal or crop damaged. The court, after considering the financial circumstances of the defendant, would have to specify in the restitution order the manner in which the defendant would pay restitution.

The restitution order could be enforced by the state or a victim named in the order in the same manner as a judgment in civil action. A victim could recover court costs and reasonable attorney's fees incurred in enforcing a restitution order.

The court could hold a hearing, make findings of fact, and amend a restitution order if the defendant failed to pay the victim in the manner specified by the court.

**Injunctive relief.** The owner or operator of an animal or crop facility could bring action for injunctive relief against a person who engaged or threatened to engage in conduct that constituted an offense under this bill. This action could be brought in district court in a county in which any part

of the conduct or threatened conduct occurred.

The court could grant any appropriate injunctive relief to prevent or abate the conduct or threatened conduct, including a temporary restraining order or injunction or permanent injunction.

The bill would take effect September 1, 2019.

**SUPPORTERS  
SAY:**

SB 1884 would discourage individuals who would threaten Texans' food supply by illegally accessing or damaging agricultural facilities, livestock, and crops by creating certain criminal penalties for conduct that resulted in a loss of at least \$500 to a facility. Modern agriculture requires tightly controlled conditions, the violation of which can contaminate the crops or livestock. Furthermore, animals startled by trespassers or vandals can stampede, leading to their deaths.

The bill would not affect free speech rights, and conduct that constituted other offenses such as criminal trespass could instead be prosecuted under those state laws. Facilities that are the victims of certain illegal conduct should be able to pursue restitution for damages specific to tampering with crops or livestock. The bill would create penalties for those offenses that are proportionate to the potential damage.

**OPPONENTS  
SAY:**

SB 1884 would establish excessive penalties for actions regarding an agricultural facility that would amount to criminal trespass, which already is illegal. The restitution for damages would be excessive, as it could constitute double restitution, and should be left to the discretion of the courts.

The provisions of the bill that make it an offense to obtain control of materials by theft or deception could discourage whistleblowers who sought to release information about certain agricultural facilities. The bill could have a chilling effect on free speech, including animal rights protests.