

BILL ANALYSIS

Senate Research Center
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S.B. 472
By: Kolkhorst
Water, Agriculture & Rural Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised regarding the recent actions of individuals who have entered several agricultural facilities without the consent of the facility owner or operator in an effort to gain attention and promote themselves, which has resulted in the damage and destruction to livestock and facilities. Additionally, there is concern that these actions pose a threat to the safety of Texans' food supply with respect to disease and contamination. Producers in Senator Kolkhorst's district reached out to the senator to address these concerns—there was a trespass at a poultry facility in our district. The trespassers broke in but were back on public land (the roadside) before law enforcement arrived, and avoided trespassing charges. S.B. 472 seeks to address these concerns and provide for the protection of animal and crop facilities and the creation of a criminal offense.

This bill is the same as S.B. 1884 passed by the Senate 31-0 in the 86th Legislature.

Key Provisions

- Creates an offense for a person who does the following:
 - intentionally releases, steals, destroys, or otherwise causes the loss of an animal or crop from an animal or crop facility without the consent of the animal's or facility's owner or operator;
 - damages, vandalizes, or steals any property on or from an animal or crop facility;
 - breaks and enters into an animal or crop facility with the intent to destroy or alter records, data, materials, equipment, animals, or crops;
 - knowingly obtains control by theft or deception or exerts unauthorized control over any materials, equipment, animals, or crops of an animal or crop facility for the purpose of depriving the facility's owner or operator or the facility of materials, equipment, animals, or crops; or
 - enters or remains on an animal or crop facility with the intent to commit any of this prohibited conduct.
- Requires the court to order a defendant convicted of an offense under the bill's provisions to pay restitution to the owner or operator of the animal or crop facility in an amount equal to the amount of the loss caused by the actor, including the value of any animal or crop damaged, destroyed, or lost.
- Authorizes the owner or operator of an animal or crop facility to bring an action for injunctive relief against a person who engages or threatens to engage in conduct that constitutes an offense under the bill's provisions and establishes venue for the action in a district court in a county in which any part of the conduct or threatened conduct occurs.

As proposed, S.B. 472 amends current law relating to the protection of animal and crop facilities and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 8, Agriculture Code, by adding Chapter 252, as follows:

CHAPTER 252. ANIMAL AND CROP FACILITIES

Sec. 252.001. DEFINITIONS. Defines "animal," "animal or crop facility," and "crop."

Sec. 252.002. CRIMINAL OFFENSE. (a) Provides that, except as provided by Subsection (b), a person commits an offense if the person:

(1) intentionally releases, steals, destroys, or otherwise causes the loss of an animal or crop from an animal or crop facility without the consent of the owner or operator of the animal or crop facility;

(2) damages, vandalizes, or steals any property on or from an animal or crop facility;

(3) breaks and enters into an animal or crop facility with the intent to destroy or alter records, data, materials, equipment, animals, or crops;

(4) knowingly obtains control by theft or deception or exerts unauthorized control over any materials, equipment, animals, or crops of an animal or crop facility for the purpose of depriving the owner or operator of the facility or the facility of materials, equipment, animals, or crops; or

(5) enters or remains on an animal or crop facility with the intent to commit an act prohibited under this section.

(b) Provides that an actor's conduct described by Subsection (a) does not constitute an offense under this section if the actor causes a loss to the animal or crop facility in an amount less than \$500.

(c) Provides that an offense under this section is a Class B misdemeanor if the actor causes a loss to the animal or crop facility in an amount of at least \$500 but not more than \$2,500 or a Class A misdemeanor if the actor causes a loss to the animal or crop facility in an amount more than \$2,500.

(d) Authorizes a person, except as provided by Subsection (e), if conduct constituting an offense under this section also constitutes an offense under another provision of law, to be prosecuted under either this section or the other provision.

(e) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes a felony under Section 28.03 (Criminal Mischief) or 31.03 (Theft), Penal Code, to be prosecuted only under Section 28.03 or 31.03, Penal Code.

Sec. 252.003. MANDATORY RESTITUTION. (a) Requires the court to order a defendant convicted of an offense under Section 252.002 to pay restitution to the owner or operator of the animal or crop facility in an amount equal to the amount of the loss caused by the actor, including the value of any animal or crop damaged, destroyed, or lost.

(b) Requires the court, after considering the financial circumstances of the defendant, to specify in a restitution order issued under Subsection (a) the manner in which the defendant is required to pay the restitution.

(c) Provides that a restitution order issued under Subsection (a) may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action. Authorizes a victim to recover court costs

and reasonable attorney's fees incurred in enforcing a restitution order as provided by this subsection.

(d) Authorizes the court to hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.

Sec. 252.004. INJUNCTIVE RELIEF. (a) Authorizes the owner or operator of an animal or crop facility to bring an action for injunctive relief against a person who engages or threatens to engage in conduct that constitutes an offense under Section 252.002.

(b) Authorizes the action to be brought in a district court in a county in which any part of the conduct or threatened conduct occurs.

(c) Authorizes the court to grant any appropriate injunctive relief to prevent or abate the conduct or threatened conduct, including a temporary restraining order, temporary injunction, or permanent injunction.

SECTION 2. Effective date: September 1, 2021.