

SENATE BILL No. 389

By Committee on Agriculture and Natural Resources

1-24

1 AN ACT concerning agriculture; relating to the farm animal and field crop
2 and research facilities protection act; prohibiting entering or remaining
3 on and knowingly making false statements to gain access to animal
4 facilities and field crop production areas; providing penalties for
5 violations thereof; removing the intent to destroy property; amending
6 K.S.A. 47-1826 and 47-1827 and repealing the existing sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 47-1826 is hereby amended to read as follows: 47-
10 1826. As used in the farm animal and field crop and research facilities
11 protection act:

12 (a) "Animal" means any warm or coldblooded animal used in food,
13 fur or fiber production, agriculture, research, testing or education—and
14 "Animal" includes dogs, cats, poultry, fish and invertebrates.

15 (b) "Animal facility" includes any vehicle, building, structure,
16 research facility or premises where an animal is kept, handled, housed,
17 exhibited, bred or offered for sale.

18 (c) "Consent" means assent in fact, whether express or apparent.

19 (d) "Deprive" means to:

20 ~~(1) Withhold an animal or other property from the owner permanently~~
21 ~~or for so extended a period of time that a major portion of the value or~~
22 ~~enjoyment of the animal or property is lost to the owner;~~

23 ~~(2) restore the animal or other property only upon payment of reward~~
24 ~~or other compensation; or~~

25 ~~(3) dispose of an animal or other property in a manner that makes~~
26 ~~recovery of the animal or property by the owner unlikely.~~

27 (e) "Effective consent" includes consent by a person legally
28 authorized to act for the owner. Consent is not effective if:

29 (1) Induced by force, fraud, deception, duress or threat;

30 (2) given by a person the offender knows is not legally authorized to
31 act for the owner; or

32 (3) given by a person who by reason of youth, mental disease or
33 defect or under the influence of drugs or alcohol is known by the offender
34 to be unable to make reasonable decisions.

35 (f) "Owner" means a person who has title to the property, possession
36 of the property, whether lawful or not, or a greater right to possession of

1 the property than the actor.

2 ~~(g)~~(e) "Person" means any individual, state agency, corporation,
3 association, nonprofit corporation, joint stock company, firm, trust,
4 partnership, two or more persons having a joint or common interest or
5 other legal entity.

6 ~~(h)~~ "Possession" means actual care, custody, control or management.

7 ~~(i)~~(f) "Research facility" means any place, laboratory, institution,
8 medical care facility, elementary school, secondary school, college or
9 university, ~~at which~~ *where* any scientific test, experiment or investigation
10 involving the use of any living animal or field crop product is carried out,
11 conducted or attempted.

12 Sec. 2. K.S.A. 47-1827 is hereby amended to read as follows: 47-
13 1827. (a) No person shall:-

14 (1) Without the effective consent of the owner ~~and with the intent to~~
15 ~~damage the enterprise conducted at the animal facility,~~ damage or destroy
16 an animal facility or any animal or property in or on an animal facility;

17 (2) *enter or remain upon or in any animal facility, including flying an*
18 *aircraft within the airspace directly above such animal facility but below*
19 *the minimum safe altitude prescribed in 14 C.F.R. 91.119(c), as in effect*
20 *on July 1, 2024, without the consent of the owner; or*

21 (3) *knowingly make false statements on an employment application to*
22 *gain access to an animal facility.*

23 ~~(b) No person shall, without the effective consent of the owner,~~
24 ~~acquire or otherwise exercise control over an animal facility, an animal~~
25 ~~from an animal facility or other property from an animal facility, with the~~
26 ~~intent to deprive the owner of such facility, animal or property and to~~
27 ~~damage the enterprise conducted at the animal facility.~~

28 ~~(c) No person shall, without the effective consent of the owner and~~
29 ~~with the intent to damage the enterprise conducted at the animal facility:~~

30 ~~(1) Enter an animal facility, not then open to the public, with intent to~~
31 ~~commit an act prohibited by this section;~~

32 ~~(2) remain concealed, with intent to commit an act prohibited by this~~
33 ~~section, in an animal facility;~~

34 ~~(3) enter an animal facility and commit or attempt to commit an act~~
35 ~~prohibited by this section; or~~

36 ~~(4) enter an animal facility to take pictures by photograph, video~~
37 ~~camera or by any other means.~~

38 ~~(d) (1) No person shall, without the effective consent of the owner~~
39 ~~and with the intent to damage the enterprise conducted at the animal~~
40 ~~facility, enter or remain on an animal facility if the person:~~

41 ~~(A) Had notice that the entry was forbidden; or~~

42 ~~(B) received notice to depart but failed to do so.~~

43 ~~(2) For purposes of this subsection (d), "notice" means:~~

1 (A) ~~Oral or written communication by the owner or someone with~~
2 ~~apparent authority to act for the owner;~~

3 (B) ~~fencing or other enclosure obviously designed to exclude~~
4 ~~intruders or to contain animals; or~~

5 (C) ~~a sign or signs posted on the property or at the entrance to the~~
6 ~~building, reasonably likely to come to the attention of intruders, indicating~~
7 ~~that entry is forbidden.~~

8 ~~(e)~~(b) No person shall;

9 (1) ~~Without the effective consent of the owner and with the intent to~~
10 ~~damage or destroy the field crop product, damage or destroy any field crop~~
11 ~~product that is grown in the context of a product development program in~~
12 ~~conjunction or coordination with a private research facility or, a university~~
13 ~~or any federal, state or local governmental agency;~~

14 (2) *enter or remain upon or in any property in a field crop production*
15 *area of a product development program in conjunction or coordination*
16 *with a private research facility, a university or any federal, state or local*
17 *government entity, including flying an aircraft within the airspace directly*
18 *above such property area but below the minimum safe altitude prescribed*
19 *in 14 C.F.R. 91.119(c), as in effect on July 1, 2024, without the consent of*
20 *the owner; or*

21 (3) *knowingly make false statements on an employment application to*
22 *gain access to a field crop production area of a product development*
23 *program in conjunction or coordination with a private research facility, a*
24 *university or any federal, state or governmental agency.*

25 ~~(f) No person shall, without the effective consent of the owner and~~
26 ~~with the intent to damage or destroy the field crop product, enter any~~
27 ~~property, with the intent to damage or destroy any field crop product that is~~
28 ~~grown in the context of a product development program in conjunction or~~
29 ~~coordination with a private research facility or a university or any federal,~~
30 ~~state or local governmental agency.~~

31 ~~(g)~~(c) (1) Violation of subsection (a)(1) or ~~(e)~~ (b)(1) is a severity level
32 7, nonperson felony if the facility, animals, field crop product or property
33 is damaged or destroyed to the extent of \$25,000 or more. Violation of
34 subsection (a) or (e) is a severity level 9, nonperson felony if the facility,
35 animals, field crop product or property is damaged or destroyed to the
36 extent of at least \$1,000 but less than \$25,000. Violation of subsection (a)
37 or (e) is a class A nonperson misdemeanor if the facility, animals, field
38 crop product or property damaged or destroyed is of the value of less than
39 \$1,000 or is of the value of \$1,000 or more and is damaged to the extent of
40 less than \$1,000.

41 (A) *Class A nonperson misdemeanor, except as provided in*
42 *subparagraph (B) or (C);*

43 (B) *severity level 9, nonperson felony if property damaged or*

1 *destroyed is of a value of more than \$1,000 but less than \$25,000; or*
2 *(C) severity level 7, nonperson felony if the property damaged or*
3 *destroyed is of a value more than \$25,000.*

4 ~~(2) Violation of subsection (b) is a severity level 10, nonperson~~
5 ~~felony.~~

6 ~~(3)~~ Violation of subsection ~~(e)~~ (a)(2) or (b)(2) is a class A₇ nonperson
7 misdemeanor.

8 ~~(4)~~(3) Violation of subsection ~~(d)~~ (a)(3) or ~~(f)~~ (b)(3) is a class B
9 nonperson misdemeanor.

10 ~~(h)~~(d) The provisions of this section shall not apply to lawful
11 activities of any governmental agency or employees or agents thereof
12 carrying out their duties under law.

13 Sec. 3. K.S.A. 47-1826 and 47-1827 are hereby repealed.

14 Sec. 4. This act shall take effect and be in force from and after its
15 publication in the statute book.