



Agriculture & Rural Affairs Committee

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January 8, 2010

SENATE BILL: 906

PRINTER'S NUMBER: 1092

PRIME SPONSOR: FOLMER

SUMMARY:

SB 906 creates a definition of "agricultural biosecurity area" in Title 3 (Agriculture) and gives the Department of Agriculture specific authority to require that such an area be established if deemed necessary to control or contain disease.

Additionally, the legislation will amend the agricultural trespasser section of Title 18 (Crimes Code) to provide a penalty for entering an agricultural biosecurity area under certain circumstances. The proposal amends Section 3503 by adding a subsection that makes it a misdemeanor of the first degree to enter without authorization an agricultural biosecurity area, or to enter such an area without first performing the posted biosecurity measures. Further, trespassing into an agricultural biosecurity area will be considered ecoterrorism under Section 3311 if there is intent to release a dangerous transmissible disease or hazardous substance into the environment.

This act is effective immediately.

SUMMARY OF RELEVANT EXISTING LAW:

Title 3 (Agriculture), Sections 2303 and 2305, related to keeping and handling domestic animals, is amended to include new definitions and specified authority. The department does have the authority now to "regulate the keeping and handling of domestic animals to exclude or contain dangerous transmissible diseases and hazardous substances and to protect the environment". This bill adds specific authority for the department to require the establishment of an "agricultural biosecurity area" should that be necessary to control disease.

Title 18 (Crimes and Offenses), Section 3503 (b.2) contains the current provisions for agricultural trespass, the penalty for which ranges from a misdemeanor 3 to a misdemeanor 2, depending on the nature of the offense.

There are several existing definitions that are referenced in this bill:

Title 18 Section 3311 relates to ecoterrorism and the definition of "specified offense against property" found in subsection (d) is amended by this bill.

Title 18 Section 3503 (b.2)(3) includes the definition of "agricultural and other open lands" which is referred to in the new definition of "agricultural biosecurity area":

"agricultural or other open lands" shall mean any land on which agricultural activity or farming as defined in section 3309 (relating to agricultural vandalism) is conducted or any land populated by forest trees of any size and capable of producing timber or other wood products or any other land in an agricultural security area as defined in the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law, or any area zoned for agricultural use.

Title 18 Section 3309 (c) includes the definitions below, which are referenced in the definition above:

"agricultural activity" and "farming" include public and private research activity, records, data and data-gathering equipment related to agricultural products as well as the commercial production of agricultural crops, livestock or livestock products, poultry or poultry products, trees and timber products, milk, eggs or dairy products, or fruits or other horticultural products.

Act 43 of 1981, known as the Agricultural Area Security Law, contains the definition below, referenced in a definition above:

"Agricultural security area." A unit of 250 or more acres of land used for the agricultural production of crops, livestock and livestock products under the ownership of one or more persons and designated as such by the procedures set forth in this act or designated as such pursuant to the act of January 19, 1968 (1967 P.L.992, No.442), entitled "An act authorizing the Commonwealth of Pennsylvania and the counties thereof to preserve, acquire or hold land for open space uses," prior to the effective date of this amendatory act, by the governing body of the county or governing body of the municipality in which such agricultural land is located on the basis of criteria and procedures which predate the effective date of this amendatory act: Provided, That an owner of land designated as such under the authority of the act of January 19, 1968 (1967 P.L.992, No.442) may withdraw such land from an agricultural security area by providing written notice of withdrawal to the county governing body or governing body of the municipality in which such land is located within 180 days of the effective date of this amendatory act. (Def. amended Nov. 23, 1994, P.L.648, No.100)

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 906 Session of 2009

INTRODUCED BY FOLMER, ALLOWAY, WOZNIAK, WAUGH, COSTA, BOSCOLA
AND BRUBAKER, JUNE 5, 2009

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JUNE 5, 2009

AN ACT

1 Amending Titles 3 (Agriculture) and 18 (Crimes and Offenses) of
2 the Pennsylvania Consolidated Statutes, providing for the
3 definitions of "agricultural biosecurity area" and for
4 "posted notice"; and further providing for keeping and
5 handling of domestic animals, for ecoterrorism and for
6 criminal trespass.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 2303 of Title 3 of the Pennsylvania
10 Consolidated Statutes is amended by adding definitions to read:
11 § 2303. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 * * *

16 "Agricultural biosecurity area." Any of the following areas
17 which has been identified by posted notice as a biosecurity area
18 and for which the owner or other authorized person has
19 established procedures to inhibit the transference of
20 transmissible disease:

1 (1) Agricultural or other open lands as defined under 18
2 Pa.C.S. § 3503(b.2)(3) (relating to criminal trespass).

3 (2) A building or animal or plant containment area
4 fenced or enclosed in a manner manifestly designed to exclude
5 trespassers or to confine domestic animals or plants used in
6 research or agricultural activity or farming as defined in 18
7 Pa.C.S. § 3309 (relating to agricultural vandalism).

8 * * *

9 "Posted notice." Notice posted in a manner which is
10 reasonably likely to come to the attention of a person.

11 * * *

12 Section 2. Section 2305 of Title 3 is amended to read:

13 § 2305. Keeping and handling of domestic animals.

14 The department shall have authority to regulate the keeping
15 and handling of domestic animals to exclude or contain dangerous
16 transmissible diseases and hazardous substances and to protect
17 the environment, including the authority to require the
18 establishment of an agricultural biosecurity area. Nothing in
19 this section shall be construed to authorize the department to
20 require vaccination of any animal to prevent or control rabies
21 whenever that animal is exempt from vaccination under the act of
22 December 15, 1986 (P.L.1610, No.181), known as the Rabies
23 Prevention and Control in Domestic Animals and Wildlife Act.

24 Section 3. The definition of "specified offense against
25 property" in section 3311(d) of Title 18 is amended to read:

26 § 3311. Ecoterrorism.

27 * * *

28 (d) Definitions.--As used in this section, the following
29 words and phrases shall have the meanings given to them in this
30 subsection:

1 * * *

2 "Specified offense against property." Any of the following
3 offenses:

4 Section 3301(a), (c), (d), (d.1) and (f) (relating to arson
5 and related offenses).

6 Section 3302 (relating to causing or risking catastrophe).

7 Section 3304 (relating to criminal mischief).

8 Section 3307 (relating to institutional vandalism).

9 Section 3309 (relating to agricultural vandalism).

10 Section 3310 (relating to agricultural crop destruction).

11 Section 3502 (relating to burglary) but only if the actor
12 commits the crime for the purpose of committing one of the other
13 offenses listed in this definition.

14 Section 3503 (relating to criminal trespass) but only if the
15 actor commits the crime for the purpose of releasing a dangerous
16 transmissible disease or hazardous substance, as those terms are
17 defined under 3 Pa.C.S. § 2303 (relating to definitions),

18 threatening or terrorizing the owner or occupant of the
19 premises, starting or causing to be started any fire upon the
20 premises or defacing or damaging the premises.

21 Section 3921 (relating to theft by unlawful taking or
22 disposition).

23 Section 3922 (relating to theft by deception).

24 Section 4101 (relating to forgery).

25 Section 4120 (relating to identity theft).

26 Section 4. Section 3503 of Title 18 is amended by adding a
27 subsection to read:

28 § 3503. Criminal trespass.

29 * * *

30 (b.3) Agricultural biosecurity area trespasser.--

1 (1) A person commits an offense if the person does any
2 of the following:

3 (i) Enters an agricultural biosecurity area unless
4 the owner or other authorized person expressly authorizes
5 entry or entry is authorized by law.

6 (ii) Knowing that he or she is not licensed or
7 privileged to do so, enters an agricultural biosecurity
8 area without performing the measures for biosecurity that
9 by posted notice are directed to be performed for entry
10 to the area.

11 (iii) Knowingly or recklessly enters an agricultural
12 biosecurity area without performing the measures for
13 biosecurity that by posted notice are directed to be
14 performed for entry to the area.

15 (2) An offense under this subsection shall constitute a
16 misdemeanor of the first degree.

17 (3) For the purposes of this subsection, the phrases
18 "agricultural biosecurity area" and "posted notice" shall
19 have the meanings given to them in 3 Pa.C.S. § 2303 (relating
20 to definitions).

21 * * *

22 Section 5. This act shall take effect immediately.