



Agriculture & Rural Affairs Committee

Senator Mike Brubaker, Chairman

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August 30, 2010

HOUSE BILL: 511

PRINTER'S NUMBER: 4005

PRIME SPONSOR: CUTLER

SUMMARY:

Agriculture Code:

HB 511 creates a definition of "agricultural biosecurity area" in Title 3 (Agriculture Code). The bill gives the Department of Agriculture specific authority to require that such an area be established if deemed necessary to control or contain disease, and to require that it is clearly and conspicuously posted. The department may develop a regulation to govern the form and content of the required posted notice.

Crimes Code:

Additionally, the legislation will amend the agricultural trespasser section of Title 18 (Crimes Code) to provide a penalty for entering an agricultural biosecurity area (as defined in Title 3) under certain circumstances. The proposal amends Section 3503 by adding a subsection that makes it a misdemeanor of the third degree to enter an agricultural biosecurity area without authorization, and a summary offense to enter such an area without first performing the posted biosecurity measures. If either of the two aforementioned offenses results in death of, or damage to, an animal or plant within the agricultural biosecurity area, the penalty is a misdemeanor of the first degree.

Several factors may contribute to a defense to prosecution if a person knowingly or recklessly fails to perform the posted measures. They are: no method to perform the measures was available; entry is made in response to a serious threat to human or animal health (fire, ambulance, etc.); and entry is made under exigent circumstances by law enforcement in pursuit of a suspected criminal or to prevent the destruction of evidence.

Finally, 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.

Effective date: 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.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 511 Session of
2009

INTRODUCED BY CUTLER, BELFANTI, BOYD, BRENNAN, CLYMER,
DENLINGER, FAIRCHILD, FLECK, GOODMAN, GRUCELA, HENNESSEY,
HESS, HICKERNELL, KAUFFMAN, M. KELLER, W. KELLER, MENSCH,
MILLER, MUSTIO, PHILLIPS, PYLE, SAYLOR, SIPTROTH, STERN,
J. TAYLOR, GEIST, ROHRER, GIBBONS AND MARSHALL,
FEBRUARY 18, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 28, 2010

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 areas" and for
4 "posted notice"; and further providing for keeping and
5 handling of domestic animals, for criminal trespass and for
6 ecoterrorism.

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 AN AGRICULTURAL ←

1 biosecurity area and for which the owner or other authorized
2 person has established procedures to inhibit the transference of
3 transmissible disease OR HAZARDOUS SUBSTANCE: ←

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

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

12 * * *

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

15 * * *

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

17 § 2305. Keeping and handling of domestic animals.

18 The department shall have authority to regulate the keeping
19 and handling of domestic animals to exclude or contain dangerous
20 transmissible diseases and hazardous substances and to protect
21 the environment, including the authority to require the

22 establishment of an agricultural biosecurity area AND THAT ALL ←
23 SUCH AGRICULTURAL BIOSECURITY AREAS SO ESTABLISHED BE CLEARLY
24 AND CONSPICUOUSLY POSTED. THE DEPARTMENT MAY DEVELOP A
25 REGULATION TO GOVERN THE FORM AND CONTENT OF POSTED NOTICE TO
26 IDENTIFY AN AGRICULTURAL BIOSECURITY AREA. Nothing in this

27 section shall be construed to authorize the department to
28 require vaccination of any animal to prevent or control rabies
29 whenever that animal is exempt from vaccination under the act of
30 December 15, 1986 (P.L.1610, No.181), known as the Rabies

1 Prevention and Control in Domestic Animals and Wildlife Act.

2 Section 3. The definition of "specified offense against
3 property" in section 3311(d) of Title 18 is amended to read:
4 § 3311. Ecoterrorism.

5 * * *

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

9 * * *

10 "Specified offense against property." Any of the following
11 offenses:

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

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

15 Section 3304 (relating to criminal mischief).

16 Section 3307 (relating to institutional vandalism).

17 Section 3309 (relating to agricultural vandalism).

18 Section 3310 (relating to agricultural crop destruction).

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

22 Section 3503 (relating to criminal trespass) but only if the
23 actor commits the crime for the purpose of releasing a dangerous
24 transmissible disease or hazardous substance, as those terms are
25 defined under 3 Pa.C.S. § 2303 (relating to definitions),
26 threatening or terrorizing the owner or occupant of the
27 premises, starting or causing to be started any fire upon the
28 premises or defacing or damaging the premises.

29 Section 3921 (relating to theft by unlawful taking or
30 disposition).

1 Section 3922 (relating to theft by deception).

2 Section 4101 (relating to forgery).

3 Section 4120 (relating to identity theft).

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

6 § 3503. Criminal trespass.

7 * * *

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

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

11 (i) Enters an agricultural biosecurity area unless ←
12 the owner or other authorized person expressly authorizes
13 entry or entry is authorized by law.

14 (ii) Knowing that he or she is not licensed or
15 privileged to do so, enters an agricultural biosecurity
16 area without performing the measures for biosecurity that
17 by posted notice are directed to be performed for entry
18 to the area.

19 (iii) Knowingly or recklessly enters an agricultural
20 biosecurity area without performing the measures for
21 biosecurity that by posted notice are directed to be
22 performed for entry to the area.

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

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

29 (I) ENTERS AN AGRICULTURAL BIOSECURITY AREA, KNOWING ←
30 THAT THE PERSON IS NOT LICENSED OR PRIVILEGED TO DO SO.

1 (II) KNOWINGLY OR RECKLESSLY FAILS TO PERFORM
2 REASONABLE MEASURES FOR BIOSECURITY THAT BY POSTED NOTICE
3 ARE REQUIRED TO BE PERFORMED FOR ENTRY TO THE
4 AGRICULTURAL BIOSECURITY AREA.

5 (2) IT IS A DEFENSE TO PROSECUTION UNDER PARAGRAPH (1)

6 (II) THAT:

7 (I) NO REASONABLE MEANS OR METHOD WAS AVAILABLE TO
8 PERFORM THE MEASURES THAT THE POSTED NOTICE REQUIRED TO
9 BE PERFORMED FOR ENTRY TO THE AGRICULTURAL BIOSECURITY
10 AREA;

11 (II) ENTRY IS MADE IN RESPONSE TO A CONDITION WITHIN
12 THE AGRICULTURAL BIOSECURITY AREA THAT THE PERSON
13 REASONABLY BELIEVES TO BE A SERIOUS THREAT TO HUMAN OR
14 ANIMAL HEALTH AS NECESSITATING IMMEDIATE ENTRY TO THE
15 AGRICULTURAL BIOSECURITY AREA; OR

16 (III) ENTRY IS MADE UNDER EXIGENT CIRCUMSTANCES BY A
17 LAW ENFORCEMENT OFFICER TO:

18 (A) PURSUE AND APPREHEND A SUSPECT OF CRIMINAL
19 CONDUCT REASONABLY BELIEVED BY THE OFFICER TO BE
20 PRESENT WITHIN THE AGRICULTURAL BIOSECURITY AREA; OR

21 (B) PREVENT THE DESTRUCTION OF EVIDENCE OF
22 CRIMINAL CONDUCT REASONABLY BELIEVED BY THE OFFICER
23 TO BE LOCATED WITHIN THE AGRICULTURAL BIOSECURITY
24 AREA.

25 (3) (I) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), AN
26 OFFENSE UNDER PARAGRAPH (1) (I) CONSTITUTES A MISDEMEANOR
27 OF THE THIRD DEGREE.

28 (II) EXCEPT AS SET FORTH IN SUBPARAGRAPH (III), AN
29 OFFENSE UNDER PARAGRAPH (1) (II) CONSTITUTES A SUMMARY
30 OFFENSE.

1 (III) IF AN OFFENSE UNDER PARAGRAPH (1) CAUSES
2 DAMAGE TO OR DEATH OF AN ANIMAL OR PLANT WITHIN AN
3 AGRICULTURAL BIOSECURITY AREA, THE OFFENSE CONSTITUTES A
4 MISDEMEANOR OF THE FIRST DEGREE.

5 (4) FOR PURPOSES OF THIS SUBSECTION, THE TERMS
6 "AGRICULTURAL BIOSECURITY AREA" AND "POSTED NOTICE" SHALL
7 HAVE THE MEANINGS GIVEN TO THEM IN 3 PA.C.S. § 2303 (RELATING
8 TO DEFINITIONS).

9 * * *

10 Section 5. This act shall take effect immediately.