

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

1ST SESSION, 42ND LEGISLATURE, ONTARIO
68 ELIZABETH II, 2019

Bill 156

**An Act to protect Ontario's farms and farm animals from trespassers
and other forms of interference and to prevent contamination of Ontario's food supply**

The Hon. E. Hardeman
Minister of Agriculture, Food and Rural Affairs

Government Bill

1st Reading December 2, 2019
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

The Bill is intended to protect farm animals, the food supply, farmers and others from risks that are created when trespassers enter places where farm animals are kept or when persons engage in unauthorized interactions with farm animals. The risks include the risk of exposing farm animals to disease and stress, as well as the risk of introducing contaminants into the food supply.

Animal protection zones are defined in section 2 of the Bill as areas on farms, animal processing facilities and other prescribed premises on which farm animals may be kept or located. Subsections 4 (1), (2) and (3) prohibit persons from entering in or on the animal protection zones without the prior consent of the owner or occupier of the farm, facility or premises. Subsection 4 (4) prohibits persons from interfering or interacting with farm animals in or on the animal protection zones or from carrying out prescribed activities in or on the animal protection zones without the prior consent of the owner or occupier of the farm, facility or premises. Section 5 prohibits persons from interfering with a motor vehicle that is transporting farm animals and from interfering or interacting with the farm animals in the motor vehicle without the prior consent of the driver of the motor vehicle.

The Bill provides that a consent is invalid if it is obtained using duress or under false pretences.

Section 7 allows the owner or occupier of a farm, animal processing facility or prescribed premises to take certain actions in situations where a person trespasses on an animal protection zone, or does any of the things prohibited by section 4. Section 8 sets out the actions that the driver of a motor vehicle transporting farm animals may take in situations where a person does anything prohibited by section 5.

Section 14 sets the maximum fine at \$15,000 for a first offence under the Act and \$25,000 for subsequent offences. That fine may be increased by a court in certain prescribed circumstances that increase the gravity of the offence.

Section 15 provides that, if a person is found guilty of an offence under the Act, the court may, in addition to imposing a fine under the Act, require the person found guilty to pay restitution to the owner or occupier of a farm, animal processing facility or prescribed premises or to the driver of a motor vehicle for any injury, loss or damages suffered as a result of the commission of the offence.

Section 20 sets out a two-year limitation period for the commencement of proceeding for an offence under the Act. The two-year period begins on the later of the day the offence was committed or the day on which evidence of the offence first came to the attention of a police officer.

The Bill sets out various provisions relating to the application and enforcement of the Act and the power to make regulations.

**An Act to protect Ontario's farms and farm animals from trespassers
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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PURPOSES, DEFINITIONS AND APPLICATION

Purposes

1 The purposes of this Act are to prohibit trespassing on farms and other properties on which farm animals are located and to prohibit other interferences with farm animals in order to,

- (a) eliminate or reduce the unique risks that are created when individuals trespass on those properties or interfere with farm animals, including the risk of exposing farm animals to disease and stress as well as the risk of introducing contaminants into the food supply;
- (b) protect farm animals and the food supply chain from the risks described in clause (a);
- (c) protect the safety of farmers, their families and persons working in or on farms, animal processing facilities and prescribed premises as well as the safety of drivers of motor vehicles transporting farm animals; and
- (d) prevent any adverse effects the risks described in clause (a) may have on Ontario's overall economy.

Definitions

2 In this Act,

“animal processing facility” means a prescribed facility at which farm animals are processed in a prescribed manner; (“installation de transformation d’animaux”)

“animal protection zone”, with respect to a farm, animal processing facility or prescribed premises, means an area on the farm, facility or premises on which farm animals may be kept or located and that is,

- (a) an enclosure for farm animals, whether or not it is marked as an animal protection zone,
- (b) an area that meets prescribed requirements and is marked as an animal protection zone by the owner or occupier using signs in accordance with the regulations, or
- (c) an area prescribed by the regulations as an animal protection zone for the purposes of this Act; (“zone de protection des animaux”)

“farm animal” means an animal that is raised, bred or kept on farms and is prescribed by the regulations; (“animal délevage”)

“Minister” means the Minister of Agriculture, Food and Rural Affairs or any other member of the Executive Council to whom responsibility for the administration of this Act is assigned or transferred under the *Executive Council Act*; (“ministre”)

“motor vehicle” means a motor vehicle as defined in the *Highway Traffic Act*; (“véhicule automobile”)

“occupier” means, with respect to a farm or animal processing facility,

- (a) a person who is in physical possession of the farm or facility,
- (b) a person who has responsibility for and control over the condition of the farm or facility, the activities carried out on the farm or facility or the persons who are allowed to enter the farm or facility, or
- (c) a person prescribed by the regulations; (“occupant”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“prescribed premises” means premises at which farm animals are kept that are prescribed for the purposes of subsection 4 (3); (“lieu prescrit”)

“regulation” means a regulation made under this Act. (“règlement”)

Application

3 This Act applies to all farms, animal processing facilities and prescribed premises at which farm animals are kept except those farms, animal processing facilities and prescribed premises that are exempted from the Act by the regulations.

PROTECTING FARM ANIMALS FROM TRESPASS AND INTERFERENCE

Prohibitions re trespass, etc.

Animal farms

4 (1) No person shall enter in or on an animal protection zone on a farm without the prior consent of the owner or occupier of the farm.

Processing facilities

(2) No person shall enter in or on an animal protection zone on an animal processing facility without the prior consent of the owner or occupier of the facility.

Other animal premises

(3) No person shall enter in or on an animal protection zone on prescribed premises without the prior consent of the owner or occupier of the premises.

No interaction with farm animals

(4) No person shall interfere or interact with a farm animal in or on an animal protection zone on a farm, animal processing facility or prescribed premises, or carry out a prescribed activity in or on the animal protection zone, without the prior consent of the owner or occupier of the farm, facility or premises.

No implied consent

(5) For the purposes of subsections (1), (2), (3) and (4), prior consent of an owner or occupier shall not be inferred by a person seeking to enter in or on an animal protection zone referred to in those subsections, or to interfere or interact with a farm animal or carry out a prescribed activity in or on the animal protection zone, solely on the basis that,

- (a) the owner or occupier has not prohibited the person directly, orally or in writing, from entering the animal protection zone, from interfering or interacting with a farm animal or carrying out the prescribed activity or has not otherwise objected to the person’s presence; or

- (b) no signs have been erected on the farm, animal processing facility or prescribed premises to restrict or prohibit the entry in or on the animal protection zone or the interference, interaction or prescribed activity.

Consent under duress, false pretences

(6) For the purposes of subsections (1), (2), (3) and (4), consent to entering in or on an animal protection zone, to interfering or interacting with farm animals or to carrying out prescribed activities is invalid if it is obtained from the owner or occupier of the relevant farm, animal processing facility or prescribed premises using duress or under false pretences and a consent so obtained shall be deemed not to have been given.

Animal protection zone signs

(7) No person shall deface, alter, damage or remove any signs that have been posted on a farm, animal processing facility or prescribed premises to demarcate an animal protection zone or to prohibit or regulate access to or activities carried out in or on animal protection zones.

Non-application of *Trespass to Property Act*

(8) The *Trespass to Property Act* does not apply to animal protection zones to which this section applies.

Prohibition re transportation of farm animals

5 (1) No person shall stop, hinder, obstruct or otherwise interfere with a motor vehicle transporting farm animals.

No interaction with farm animals

(2) No person shall interfere or interact with a farm animal being transported by a motor vehicle without the prior consent of the driver of the motor vehicle.

No implied consent

(3) For the purposes of subsection (2), prior consent of the driver of a motor vehicle transporting farm animals shall not be inferred by a person seeking to interfere or interact with a farm animal being transported solely on the basis that the driver has not specifically prohibited the person from doing so.

Consent under duress, false pretences

(4) For the purposes of subsection (2), consent to interfering or interacting with a farm animal is invalid if it is obtained from the driver of the motor vehicle transporting the farm animal using duress or under false pretences and a consent so obtained shall be deemed not to have been given.

Exceptions, law enforcement, etc.

6 The prohibitions in sections 4 and 5 do not apply to,

- (a) a police officer, provincial officer or person employed to serve or execute a civil process, including a sheriff, deputy sheriff, sheriff's officer and a bailiff of the Small Claims Court, if the person is acting in the course of their duties;
- (b) a firefighter, ambulance attendant, paramedic or other emergency personnel prescribed by the regulations if the person is acting in the course of their duties;
- (c) a person appointed under the *Municipal Act, 2001*, the *City of Toronto Act, 2006*, an Act relating to animal health or welfare or any other Act of Ontario or Canada to exercise a power and who is acting in the course of their duties;
- (d) a person acting pursuant to the *Labour Relations Act, 1995* or the *Agricultural Employees Protection Act, 2002* or a person doing anything in connection with a lockout or a strike if the person is permitted to do so by law; or
- (e) any other person prescribed by the regulations acting in the circumstances that are prescribed by the regulations.

Responses by owner, occupier

7 (1) The owner or occupier of a farm, animal processing facility or prescribed premises who finds a person in or on an animal protection zone on the farm, facility or premises, in contravention of subsection 4 (1), (2) or (3), or doing anything in contravention of subsection 4 (4) or (7) may,

- (a) request that the person provide his or her name and address;
- (b) if the person is doing anything in contravention of subsection 4 (4) or (7), request that the person cease doing so;
- (c) request that the person leave the premises; or
- (d) arrest the person without a warrant.

Compliance with request

(2) A person who receives a request under clause (1) (b) or (c) shall comply promptly with the request.

Prohibition: false or misleading information

(3) No person shall provide false or misleading information in response to a request for the person's name and address made under clause (1) (a).

Arrest by other person

(4) An arrest under clause (1) (d) may be carried out by a person authorized by the owner or occupier of a farm, animal processing facility or prescribed premises, as the case may be, to do so on his or her behalf.

Responses by driver

8 (1) The driver of a motor vehicle transporting farm animals whose vehicle is stopped, hindered, obstructed or otherwise interfered with in contravention of subsection 5 (1) or who finds a person interfering or interacting with a farm animal being transported by the motor vehicle in contravention of subsection 5 (2) may,

- (a) request that the person cease stopping, hindering, obstructing or otherwise interfering with the motor vehicle; or
- (b) request that the person cease interfering or interacting with the farm animal.

Compliance with request

(2) A person who receives a request under clause (1) (a) or (b) shall promptly comply with the request.

Requests by other person

(3) A request under clause (1) (a) or (b) may be made by a person authorized by the driver to do so on his or her behalf.

Reasonable force

9 The owner or occupier of a farm, animal processing facility or prescribed premises, or any other person who carries out an arrest under section 7, may use only such force as is necessary and reasonable in the circumstances to carry out the arrest.

Delivery of arrested person to police

10 (1) Where a person is arrested under section 7, the owner or occupier of the farm, animal processing facility or prescribed premises, or such other person who made the arrest, shall promptly call for the assistance of a police officer and give the person arrested into the custody of the police officer.

Deemed arrest

(2) A police officer who receives custody of a person under subsection (1) shall be deemed to have arrested the person for the purposes of the provisions relating to the release, continued detention and bail of an arrested person under the *Provincial Offences Act*.

Prohibition, interference

11 No person shall or shall attempt to stop, hinder, obstruct or otherwise interfere with,

- (a) the arrest of a person under section 7; or
- (b) the delivery of an arrested person to a police officer under subsection 10 (1).

Arrest by police officers without warrant

12 (1) A police officer may arrest without a warrant,

- (a) any person found in or on an animal protection zone of a farm, animal processing facility or prescribed premises, or any person found interfering or interacting with a farm animal or carrying out a prescribed activity in or on the animal protection zone, if the police officer believes on reasonable and probable grounds that the person is contravening subsection 4 (1), (2), (3), (4) or (7);
- (b) any person that stops, hinders, obstructs or otherwise interferes with a motor vehicle transporting farm animals contrary to subsection 5 (1); or
- (c) any person found interfering or interacting with a farm animal being transported by a motor vehicle contrary to subsection 5 (2).

Arrest of person who leaves the scene

(2) A police officer may arrest a person without a warrant if the police officer believes on reasonable and probable grounds that the person has committed an offence under subsection 4 (1), (2), (3), (4) or (7) or 5 (1) or (2) and has recently departed the place where the offence was committed and,

- (a) the person refuses to give the police officer his or her name and address; or
- (b) the police officer believes on reasonable and probable grounds that the name or address given by the person is false or misleading.

OFFENCES AND PENALTIES

Offences

13 (1) Every person who contravenes any of the following provisions is guilty of an offence:

1. Subsection 4 (1), (2), (3) or (4).
2. Subsection 4 (7).
3. Subsection 5 (1) or (2).
4. Subsection 7 (2) or (3).
5. Subsection 8 (2).
6. Section 11.

Consent under duress, false pretences

(2) Any person who uses duress or false pretences to obtain the consent of the owner or occupier of a farm, animal processing facility or prescribed premises or the driver of a motor vehicle transporting farm animals, to do anything that would otherwise be prohibited under subsection 4 (1), (2), (3) or (4) or 5 (2) is guilty of an offence.

Onus of proof

(3) In the prosecution of an offence under subsection 4 (1), (2), (3) or (4) or 5 (2),

- (a) the consent of the owner or occupier of the farm, animal processing facility or prescribed premises or the consent of the driver of the motor vehicle transporting a farm animal, as the case may be, is presumed not to have been given; and
- (b) the onus is on the person charged with the offence to prove on the balance of probabilities that he or she obtained the consent of the owner or occupier or the consent of the driver, as the case may be, before engaging in the conduct that he or she is accused of doing without consent.

Same, sign

(4) For the purposes of subsection (3), consent is sufficiently proven if the defendant establishes on the balance of probabilities that,

- (a) a sign was posted at or near the animal protection zone on the farm, animal processing facility or prescribed premises authorizing persons to enter in or on the animal protection zone or authorizing the interference or interaction with farm animals or the carrying out of the prescribed activity in or on the animal protection zone; and
- (b) the defendant reasonably believed that the sign authorized the defendant to enter the animal protection zone on the farm, animal processing facility or prescribed premises or to interfere or interact with the farm animal or to carry out the prescribed activity in or on the animal protection zone.

Colour of right as defence

(5) It is a defence to a charge of contravening subsection 4 (1), (2), (3), (4) or (7) that the person charged reasonably believed that he or she had title to or other legal interest in an animal protection zone on the farm, animal processing facility or prescribed premises that entitled him or her to enter the animal protection zone or to do anything that is prohibited under subsection 4 (4) or (7).

Same, s. 5 (2)

(6) It is a defence to a charge of contravening subsection 5 (2) that the person charged reasonably believed that he or she had title to or other legal interest in the farm animal that entitled him or her to interfere or interact with the farm animal.

Use of motor vehicle

(7) If a motor vehicle is used to commit an offence under paragraph 1 or 3 of subsection (1), the driver of the motor vehicle is guilty of an offence under this Act.

Motor vehicle owner and driver liable

(8) If the driver of a motor vehicle that is used to commit an offence under paragraph 1 or 3 of subsection (1) is not the owner of the motor vehicle, then, upon the driver being found guilty of the offence, both the driver and the owner of the motor vehicle shall be held jointly and severally liable to pay the fine payable for the offence under section 14 unless, at the time the offence was committed, the motor vehicle was in the driver's possession without the consent of the owner.

Penalties

14 (1) A person who is found guilty of an offence under subsection 13 (1) is liable on conviction to a fine of,

- (a) for a first offence, not more than \$15,000; and
- (b) for any subsequent offence, not more than \$25,000.

Increased penalties

(2) If a person is found guilty of an offence as a result of a contravention of subsection 4 (1), (2), (3), (4) or (7) or 5 (1) or (2) and the court finds that the offence was committed in prescribed circumstances that resulted in an increase to the gravity of the offence, the amount of the penalty may be increased in accordance with the regulations.

Decision not to increase

(3) If a court determines that the amount of a penalty should not be increased despite the existence of prescribed circumstances mentioned in subsection (2), the court shall include the reasons for this determination in its decision.

Restitution for damages

15 (1) If a person is found guilty of an offence as a result of a contravention of subsection 4 (1), (2), (3), (4) or (7) or 5 (1) or (2), the court may make a restitution order requiring the person found guilty of the offence to pay damages to an owner or occupier of a farm, animal processing facility or prescribed premises or to a driver of a motor vehicle transporting farm animals for any injury, loss or damage suffered by the owner, occupier or driver during or as a result of the commission of the offence, including losses or damages resulting from a disease contracted by farm animals as a result of the commission of the offence.

Same

- (2) A court shall make a restitution order under subsection (1) only if,
- (a) the restitution order is requested by the prosecutor;
 - (b) the person who suffered the injury, loss or damage consents to the order being made; and
 - (c) the injury, loss or damage that are the object of the restitution order are readily ascertainable.

Civil action

(3) A restitution order made under subsection (1) extinguishes the right of the person who suffered the injury, loss or damage to bring a civil action for damages against the person found guilty of the offence based on the same facts that led to the conviction for the offence unless,

- (a) the amount of damages ordered by the court in the restitution order is less than the value of the injury, loss or damage actually suffered by the person; and
- (b) at the time the restitution order was made, the court could not have reasonably known the extent of the injury, loss or damage.

Same

(4) The failure of a prosecutor to request a restitution order under subsection (1) or a refusal by a court to make the order does not affect a right to bring a civil action for damages arising out of the same facts.

Same

(5) If a civil action for damages is brought against a person for the tort of trespassing based on the same facts that resulted in the person being found guilty of an offence under this Act, the conviction under this Act shall be sufficient proof of the liability of the person in tort and the only issue to be determined in the civil action shall be the quantum of damages for the tort.

Costs of prosecution

16 Despite section 60 of the *Provincial Offences Act*, if a person is found guilty of an offence under this Act in a prosecution conducted by a private prosecutor, the court shall make a restitution order requiring the person found guilty of the offence to pay to the prosecutor any costs actually and reasonably incurred in conducting the prosecution.

Fines with restitution

17 A restitution order under section 15 or 16 may be made in addition to any fine imposed under section 14.

Enforcement of restitution order

18 A restitution order made under section 15 or 16 may be filed in a court of competent jurisdiction and, on filing, shall be deemed to be a judgement or order of that court for purposes of enforcement.

GENERAL

Limited liability

19 (1) If a person enters in or on an animal protection zone on a farm, animal processing facility or prescribed premises in contravention of this Act, interferes or interacts with a farm animal or carries out a prescribed activity in or on the animal protection zone in contravention of this Act, the owner or occupier of the farm, facility or premises shall not be liable for any injury, loss or damages suffered by that person unless,

- (a) the owner or occupier created a danger with the deliberate intent of doing harm or damage to the person; or

- (b) the injury, loss or damages were caused by actions taken by the owner or occupier with wilful or reckless disregard for the presence of the person.

Same, transportation of farm animals

(2) If a person contravenes this Act by stopping, hindering, obstructing or otherwise interfering with a motor vehicle transporting farm animals or by interfering or interacting with a farm animal being transported on a motor vehicle, the driver of the motor vehicle shall not be liable for any injury, loss or damages suffered by that person unless,

- (a) the driver created a danger with the deliberate intent of doing harm or damage to the person; or
- (b) the injury, loss or damages were caused by actions taken by the driver with wilful or reckless disregard for the presence of the person.

Power to arrest

(3) Nothing in subsection (1) or (2) shall affect the right of an owner or occupier of a farm, animal processing facility or prescribed premises or of any other person to carry out an arrest under section 7, subject to the requirements set out in section 9.

Limitation on proceedings

20 (1) No proceeding shall be commenced for an offence under this Act on a day that is more than two years after,

- (a) the day on which the offence was committed; or
- (b) subject to subsection (2), the day on which evidence of the offence first came to the attention of a police officer.

Same

(2) In the case of an offence under this Act committed before the day this section comes into force, a proceeding for the offence shall be commenced no later than two years after the day on which the offence was committed.

Common law rights not affected

21 Nothing in this Act limits or affects any rights or remedies the owner or occupier of a farm, animal processing facility or prescribed premises may have at common law.

Regulations

22 The Minister may make regulations governing anything necessary or advisable for the effective administration and enforcement of this Act including,

- (a) prescribing animal processing facilities for the purposes of this Act;
- (b) governing animal protection zones to which this Act applies, determining the areas on a farm, animal processing facility or prescribed premises that may be marked using signs as an animal protection zone by the owner or occupier of the farm, facility or premises, respecting the manner in which such animal protection zones may be marked and prescribing areas on a farm, animal processing facility or prescribed premises as animal protection zones for the purposes of this Act;
- (c) prescribing farm animals for the purposes of this Act and specifying animals that are not farm animals for the purposes of this Act;
- (d) prescribing persons who are occupiers for the purposes of clause (c) of the definition of “occupier” in section 2;
- (e) exempting farms, animal processing facilities and prescribed premises from the application of all or part of this Act for the purposes of section 3;
- (f) prescribing premises at which farm animals are kept for the purposes of subsection 4 (3);
- (g) governing interferences and interactions with farm animals that are prohibited under subsection 4 (4) or 5 (2) including restricting, limiting or clarifying the types of actions or gestures that are considered to be interferences or interactions for the purposes of those subsections;
- (h) prescribing emergency personnel for the purposes of clause 6 (b) and prescribing persons to whom the prohibitions in section 4 and 5 do not apply or circumstances for the purposes of clause 6 (e);
- (i) governing the increase in penalties under subsection 14 (2), including prescribing circumstances that may increase the gravity of an offence for the purposes of subsection 14 (2) and respecting the amount of the increase or the manner in which the amount of the increase shall be determined;
- (j) defining “farm” for the purposes of this Act;
- (k) prescribing anything that this Act requires or authorizes to be prescribed or to be done in accordance with the regulations.

AMENDMENT, COMMENCEMENT AND SHORT TITLE

Bill 136 — *Provincial Animal Welfare Services Act, 2019*

23 (1) This section applies only if Bill 136 (*Provincial Animal Welfare Services Act, 2019*, introduced on October 29, 2019) receives Royal Assent.

(2) References in this section to the provisions of Bill 136 are references to those provisions as they were numbered in the first reading version of the Bill.

(3) On the later of the day section 6 of this Act comes into force and the day section 5 of Bill 136 comes into force, clause 6 (c) of this Act is amended by striking out “an Act relating to animal health or welfare” and substituting “the *Provincial Animal Welfare Services Act, 2019*”.

Commencement

24 This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

25 The short title of this Act is *Security from Trespass and Protecting Food Safety Act, 2019*.