



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5143

Introduced 2/8/2012, by Rep. Jim Sacia

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Animal Research and Production Facilities Protection Act. Adds definition for "deprive". Changes current prohibited acts into animal facility tampering and adds disrupting operations at the animal facility, if the operations directly relate to agricultural production, animal maintenance, veterinary care, or educational or scientific purposes. Creates the offense of animal facility interference for creating or possessing, without the consent of the owner, a visual or sound recording made at the animal facility, which reproduces a visual or audio experience occurring at the facility. Also includes in animal facility interference exercising control over the animal facility with the intent to deprive the facility of an animal or property, and entering a facility not open to the public. Animal facility interference is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense. Creates the offense of animal facility fraud that retains the current entering a facility under false pretenses, and by theft or deception obtain control over facility property. Adds to animal facility fraud making a false statement or representation on a facility employment application, with the intent to commit an act not authorized by the facility. Penalty for animal facility fraud is a Class 4 felony to a Class 1 felony depending on the amount of loss or damage inflicted. Adds to current civil remedies an authorization for civil damages of treble the amount of actual damages, plus court costs and attorney fees. Provides an exception to animal facility tampering and animal facility interference for certain persons.

LRB097 19340 MRW 64589 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Animal Research and Production Facilities  
5 Protection Act is amended by changing Sections 3, 4, 5, and 6  
6 and by adding Sections 4.3, 4.5, and 6.5 as follows:

7 (720 ILCS 215/3) (from Ch. 8, par. 753)

8 Sec. 3. Definitions.

9 a) "Animal" means every living creature, domestic or wild,  
10 but does not include man.

11 (a-5) "Deprive" means to do any of the following with an  
12 animal maintained at an animal facility or property belonging  
13 to an animal facility:

14 (1) Withhold the animal or property for a period of  
15 time sufficient to significantly reduce the value or  
16 enjoyment of the animal or property.

17 (2) Withhold the animal or property for ransom or upon  
18 condition to restore the animal or property in return for  
19 compensation.

20 (3) Dispose of the animal or property in a manner that  
21 makes recovery of the animal or property by its owner  
22 unlikely.

23 b) "Director" means the Director of the Illinois Department

1 of Agriculture or the Director's authorized representative.

2 c) "Animal facility" means any facility engaging in legal  
3 scientific research or agricultural production of or involving  
4 the use of animals including any organization with a primary  
5 purpose of representing livestock production or processing,  
6 any organization with a primary purpose of promoting or  
7 marketing livestock or livestock products, any person licensed  
8 to practice veterinary medicine, any institution as defined in  
9 the Impounding and Disposition of Stray Animals Act, and any  
10 organization with a primary purpose of representing any such  
11 person, organization, or institution. "Animal facility" shall  
12 include the owner, operator, and employees of any animal  
13 facility and any premises where animals are located.

14 (Source: P.A. 86-1397.)

15 (720 ILCS 215/4) (from Ch. 8, par. 754)

16 Sec. 4. Animal facility tampering ~~Prohibited Acts.~~ A person  
17 commits animal facility tampering when he or she, without the  
18 consent of the owner, knowingly: It shall be unlawful for any  
19 person,

20 (1) releases, steals ~~to release, steal,~~ or otherwise  
21 intentionally cause the death, injury, or loss of any animal at  
22 or from an animal facility and not authorized by that facility;

23 (2) destroys, damages, vandalizes, alters, or steals ~~to~~  
24 ~~damage, vandalize, or steal~~ any property in or on an animal  
25 facility, including but not limited to land, fixtures,

1 structures, equipment, machinery, vehicles, computer software,  
2 or computer data;

3 (2.5) disrupts operations conducted at the animal  
4 facility, if the operations directly relate to agricultural  
5 production, animal maintenance, veterinary care, or  
6 educational or scientific purposes;

7 (3) (Blank). ~~to obtain access to an animal facility by~~  
8 ~~false pretenses for the purpose of performing acts not~~  
9 ~~authorized by that facility;~~

10 (4) enters ~~to enter~~ into an animal facility with an intent  
11 to destroy, damage, alter, duplicate, or obtain unauthorized  
12 possession of records, software, data, materials, equipment,  
13 or animals; or

14 (5) (Blank). ~~by theft or deception knowingly to obtain~~  
15 ~~control or to exert control over records, data, material,~~  
16 ~~equipment, or animals of any animal facility for the purpose of~~  
17 ~~depriving the rightful owner or animal facility of the records,~~  
18 ~~material, data, equipment, or animals or for the purpose of~~  
19 ~~concealing, abandoning, or destroying such records, material,~~  
20 ~~data, equipment, or animals; or~~

21 (6) enters or remains ~~to enter or remain~~ on an animal  
22 facility with the intent to commit an act prohibited under this  
23 Section.

24 (Source: P.A. 86-1397.)

25 (720 ILCS 215/4.3 new)

1       Sec. 4.3. Animal facility interference.

2       (a) A person commits animal facility interference when he  
3 or she, without the consent of the owner, knowingly:

4           (1) creates a record, while on the property of the  
5 animal facility, which reproduces by a photographic, audio  
6 or similar medium an image or sound of a visual or audio  
7 experience occurring at the animal facility;

8           (2) possesses or distributes a record which reproduces  
9 by a photographic, audio or similar medium an image or  
10 sound of a visual or audio experience occurring at the  
11 animal facility;

12           (3) exercises control over the animal facility  
13 including an animal maintained at the animal facility, with  
14 the intent to deprive the animal facility of the animal or  
15 property; or

16           (4) enters onto the animal facility, or remains at the  
17 animal facility, when the person has notice that the  
18 facility is not open to the public.

19       (b) A person has notice that an animal facility is not open  
20 to the public if the person is provided notice before entering  
21 the facility, or the person refuses to immediately leave the  
22 facility after being informed to leave. The notice may be in  
23 the form of a written or verbal communication by the owner, a  
24 fence or other enclosure designed to exclude intruders or  
25 contain animals, or a sign posted which is reasonably likely to  
26 come to the attention of an intruder and which indicates that

1 entry is forbidden.

2 (720 ILCS 215/4.5 new)

3 Sec. 4.5. Animal facility fraud. A person commits animal  
4 facility fraud when he or she knowingly:

5 (1) obtains access to an animal facility by false pretenses  
6 for the purpose of performing acts not authorized by that  
7 facility;

8 (2) by theft or deception obtains control or exerts control  
9 over records, data, material, equipment, or animals of any  
10 animal facility for the purpose of depriving the rightful owner  
11 or animal facility of the records, material, data, equipment,  
12 or animals or for the purpose of concealing, abandoning, or  
13 destroying such records, material, data, equipment, or  
14 animals; or

15 (3) makes a false statement or representation as part of an  
16 application to be employed at the animal facility, with the  
17 intent to commit an act not authorized by that facility.

18 (720 ILCS 215/5) (from Ch. 8, par. 755)

19 Sec. 5. Penalties.

20 (a) (1) Any person who commits animal facility tampering or  
21 animal facility fraud is ~~violates any provision of Section~~  
22 ~~4 shall be~~ guilty of a Class 4 felony for each such  
23 violation, unless the loss, theft, or damage to the animal  
24 facility property exceeds \$300 in value.

1           (2) If the loss, theft, or damage to the animal  
2 facility property exceeds \$300 in value but does not exceed  
3 \$10,000 in value, the person is guilty of a Class 3 felony.

4           (3) If the loss, theft, or damage to the animal  
5 facility property exceeds \$10,000 in value but does not  
6 exceed \$100,000 in value, the person is guilty of a Class 2  
7 felony.

8           (4) If the loss, theft, or damage to the animal  
9 facility property exceeds \$100,000 in value, the person is  
10 guilty of a Class 1 felony.

11           (a-5) Any person who commits animal facility interference  
12 is guilty of a Class A misdemeanor for a first offense and a  
13 Class 4 felony for a second or subsequent offense.

14           (b) Any person who, with the intent that any violation of  
15 any provision of Sections 4, 4.3, or 4.5 ~~Section 4~~ be  
16 committed, agrees with another to the commission of the  
17 violation and commits an act in furtherance of this agreement  
18 is guilty of the same class of offense ~~felony~~ as provided in  
19 this Section ~~subsection (a)~~ for that violation.

20           (c) Restitution.

21           (1) Court shall conduct a hearing to determine the  
22 reasonable cost of replacing materials, data, equipment,  
23 animals and records that may have been damaged, destroyed,  
24 lost or cannot be returned, and the reasonable cost of  
25 repeating any experimentation that may have been  
26 interrupted or invalidated as a result of a violation of

1        Sections 4, 4.3, or 4.5 ~~Section 4.~~

2            (2) Any persons convicted of a such violation of  
3        Sections 4, 4.3, or 4.5 shall be ordered jointly and  
4        severally to make restitution to the owner, operator, or  
5        both, of the animal facility in the full amount of the  
6        reasonable cost determined under paragraph (1).

7        (Source: P.A. 86-1397.)

8            (720 ILCS 215/6) (from Ch. 8, par. 756)

9        Sec. 6. Private rights of action. Nothing in this Act shall  
10       preclude any animal facility injured in its business or  
11       property by a violation of this Act from seeking appropriate  
12       relief under any other provision of law or remedy including  
13       damages of treble the amount of actual damages and the issuance  
14       of a permanent injunction against any person who violates any  
15       provision of this Act. The animal facility owner or operator  
16       may petition the court to permanently enjoin such person from  
17       violating this Act and the court shall provide such relief.

18       (Source: P.A. 86-1397.)

19            (720 ILCS 215/6.5 new)

20        Sec. 6.5. Animal facility offense exemptions. Sections 4  
21        and 4.3 do not apply to the conduct of the following persons or  
22        entities:

23            (1) A person holding a legal interest in the animal  
24        facility, an animal maintained at the animal facility, or other

1 property kept at the animal facility if the legal interest is  
2 superior to the legal interest held by the person incurring  
3 damages resulting from the conduct.

4 (2) A governmental agency or officer who is taking lawful  
5 action involving an animal facility, an animal maintained at  
6 the animal facility, or other property kept at the animal  
7 facility.

8 (3) A licensed veterinarian practicing veterinary medicine  
9 according to customary standards of care.

1 INDEX

2 Statutes amended in order of appearance

3	720 ILCS 215/3	from Ch. 8, par. 753
4	720 ILCS 215/4	from Ch. 8, par. 754
5	720 ILCS 215/4.3 new	
6	720 ILCS 215/4.5 new	
7	720 ILCS 215/5	from Ch. 8, par. 755
8	720 ILCS 215/6	from Ch. 8, par. 756
9	720 ILCS 215/6.5 new	