Ag-gag

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Ag-gag is a term used to describe a class of anti-whistleblower laws in the United States and Australia that apply within the agriculture industry. Coined by Mark Bittman in an April 2011 *New York Times* column, the term "ag-gag" typically refers to state laws that forbid the act of undercover filming or photography of activity on farms without the consent of their owner.[1] Some of these laws (in particular, Pennsylvania's) have a wider scope and could be used to criminalize actions by activists in other industries.[2]

Supporters of ag-gag laws have argued that they serve to protect the agriculture industry from the negative repercussions of exposés by whistleblowers. The proliferation of ag-gag laws have been criticized by various groups, arguing that the laws are intended primarily to censor animal rights abuses by the agriculture industry from the public, create a chilling effect in reporting these violations, and violate the right to freedom of speech.[3]

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Background

Ag Gag laws emerged in the early 1990s in response to threats posed by underground activists with the Animal Liberation Front movement. In Kansas, Montana and North Dakota, state legislators made it a crime to take pictures or shoot video in an animal facility without the consent of the facility's owner.

In 2002, the American Legislative Exchange Council (ALEC) drafted the "Animal and Ecological Terrorism Act", a model law for distribution to lobbyists and state lawmakers. The model law proposed to prohibit "entering an animal or research facility to take pictures by photograph, video camera, or other means with the intent to commit criminal activities or defame the facility or its owner". It also created a "terrorist registry" for those convicted under the law.[4] Since then, bills to ban photographing or videotaping farms without the farmers' consent have been proposed or passed in Iowa (passed), Florida (defeated), New York (died), and Minnesota (died) in 2011; in Indiana (died), Utah (passed), South Carolina (passed), Nebraska (died), Illinois (defeated), and Missouri (passed, modified) in 2012;[5][6] and in Arkansas (passed),[7] Pennsylvania, Illinois, Indiana,[8] Nebraska, New Hampshire (died),[9] New Mexico (died), Tennessee (passed, vetoed),[10][11] Wyoming,[12] California,[13] Vermont,[14] and North Carolina[15] in early 2013 (prompting *Grist* to ask if 2013 will be the "year of ag-gag bills"[16]). Three similar laws, more broad in scope rather than limited primarily to recording, were passed in Kansas, Montana and North Dakota in 1990 and 1991 (for more, see below).[17]

The whistleblower advocacy project Food Integrity Campaign (FIC), a campaign of the non-profit organization the Government Accountability Project calls undercover video of livestock facilities by whistleblowers essential:

> When it comes to bringing horrific truths to the public eye, undercover footage and images are often an effective outlet for whistleblowers who otherwise risk retaliation when speaking up. Going through "proper channels" to report abuse often results in supervisors intimidating those employees who have made complaints to keep quiet. Statements by Ag Gag bill sponsors imply that "real" whistleblowers have a safe and effectual means for speaking up, when history shows that's often not the case.[18]

Ag-gag laws have also drawn criticism on constitutional grounds by eminent legal scholars like Erwin Chemerinsky as a violation of the First Amendment for restricting unpopular forms of speech.[19]

Bills and laws

Australia

In February 2015, Western Australia Senator Chris Back introduced Criminal Code Amendment (Animal Protection) Bill 2015 (http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/s994_first-senate/toc_pdf/1500520.pdf;fileType=application%2Fpdf#search=%22legislation/bills/s994_first-senate/0000%22) to the Australian Senate which would add a new section creating an offense if a person created a "record" of animal abuse and then failed to hand it in within 5 days to authorities. [20][21]

United States

Arkansas

In January 2013, the Arkansas state Senate introduced two new bills sponsored by Senator Gary Stubblefied (R-6), SB13 (https://legiscan.com/AR/drafts/SB13/2013) and SB14 (https://legiscan.com/AR/drafts/SB14/2013), both of which ultimately failed to enact ag-gag legislation[22] The first, SB13, would have rewritten the state's animal cruelty law to make an “improper animal investigation” by someone who is not a “certified law enforcement officer” a Class B misdemeanor with the potential for a civil penalty of $5,000. SB13 was amended to remove investigative restrictions and passed into law on April 12, 2013.[23] The second, SB14, would make "interference" with livestock or poultry operations a Class A or B misdemeanor and prohibit image or sound recording, either by concealing equipment or trespass, and applying for livestock or poultry employment for the purpose of doing investigative reporting. SB14 failed May 17, 2013.[24]

California

In February 2013, the California state Assembly introduced the "Animal and Ecological Terrorism Act" (AB343).[25] The bill was withdrawn by its sponsor, Assemblymember Jill Patterson (R-Fresno), on April 17, 2013, "amid stiff and growing opposition", according to the Associated Press.[26]

According to the *San Francisco Chronicle*, the bill would have "require[d] somebody recording a video at a farming operation to turn it over to law officers within 24 hours – in other words, before investigators could document any illegal activity under federal food-handling and safety laws. Fail to turn it in, and you pay a fine."[27]

The bill was sponsored by the California Cattlemen's Association, the trade group representing ranchers and beef producers.[13]

Florida

In Florida, Senate Bill 1246, introduced February 21, 2011, would have "prohibit[ed] a person from entering onto a farm and making any audio record, photograph, or video record at the farm without the owner's written consent".[28] The bill was written "at the behest of Wilton Simpson of Pasco County, whose

Simpson Farms produces 21 million eggs annually for Florida's second-largest egg seller, Tampa Farm Service, Inc."[29] The bill was written by Sen. Jim Norman, R-Tampa.

The language was later included in the omnibus agriculture bill SB1184/HB1021. In January 2012, the "ag gag" language was struck from the bill in committee,[30] and then died in committee on March 9, 2012.[31]

Idaho

In February 2014, Idaho Governor Butch Otter signed Idaho's "ag-gag" bill into law, which will impose fines and jail time on activists who secretly film abuse on Idaho's commercial farms. It came about as the result of the animal rights organization Mercy for Animals releasing a video of animal abuse by workers on Bettencourt Dairy farms, including the sexual abuse of cows.[32]

Illinois

2012

An "ag gag bill" was introduced in Illinois on February 8, 2012, by Rep. Jim Sacia (R-89), but tabled on March 9, 2012.[33]

2013

In February 2013, the Illinois state Senate introduced SB1532 to amend the state's "Humane Care for Animals Act" so that "[i]f the Department of Agriculture determines that a complaint made under the Act against a person or entity is false or unfounded and made with the intent to harass the person or entity, the Department may waive any confidentiality of the complainant and refer the matter to the State's Attorney for consideration of criminal charges against the complainant." The bill's sponsor is Senator Chapin Rose (R-Champaign).[34]

Indiana

2012

An "ag gag bill" was introduced in Indiana on January 4, 2012, by Sens. Travis Holdman (R-19) and Ron Grooms (R-46),[35] but failed to move out of Senate committee.[36] According to The Humane Society of the United States, "S.B.184 would have criminalized videographers who exposed harmful activity on factory farms while shielding abusers from prosecution and keeping the public at arm's length. The bill died in committee when it was denied a hearing. Citizens had raised concerns over the bill's threats to First Amendment rights, food safety, animal welfare and workers' rights."[37]

2013

In January 2013, the Indiana state Senate introduced two new bills – SB373 and SB391. The first, SB373, authored by Senator Travis Holdman (R-19) would make it unlawful to record agricultural or industrial operations, including photographs or video recordings.[38][39] This bill passed the Senate on February 26, 2013,[40] and the House on April 15, 2013, and returned to the Senate with amendments.[41] The bill was in

conference between two senators and two representatives as of April 17, 2013.[42] The House amendments diluted the bill so as not to include bans on photos and cameras, according to a *Journal and Courier* editorial.[43] Before it passed the state Senate, Sen. Holdman had amended it to exempt "anyone who turns over the video or photos to law enforcement within 48 hours from prosecution. However, the exemption is lost if the material is shared with a party outside of law enforcement, like a newspaper or television station."[8] Indiana's General Assembly adjourned for the year on April 29, 2013.[44]

The second bill, SB391, was authored by Senator Carlin Yoder (R-12) and would also make it unlawful to record agricultural operations as well as require the Indiana Board of Animal Health to maintain a registry of persons convicted of such crimes.[38][45] This bill was referred to the Committee on Agriculture and Natural Resources on January 10, 2013.[46]

Iowa

In Iowa, Senate File 431 and House File 589 prohibit anyone from producing, possessing, or distributing a record of a "visual or audio experience occurring at [an] animal facility."[47][48] The House bill, which passed March 17, 2011, was originally introduced by Rep. Annette Sweeney on March 1, 2011.[49][50] Sweeney operates a family cattle operation and she is the former Executive Director of the Iowa Angus Association.[51][52] In the Senate, the bill was initially introduced by Tom Rielly.[53]

The bill passed and was signed by Governor Terry Bradstad on March 2, 2012.[54] According to the *DesMoines Register*, "The National Institute on Money in State Politics has found that almost 10 percent of the $8.9 million Governor Branstad raised in his most recent campaign came from the agriculture industry. And almost $8,000 – more than one-fourth of all the campaign money raised in 2010 by Sen. Joe Seng of Davenport, a self-proclaimed moderate Democrat who led discussion on the bill – came from the ag sector, according to the nonprofit, nonpartisan watchdog group."[55]

Minnesota

Introduced on April 4, 2011, Minnesota's House File No. 1369 is the bill that would ban photos and videos at livestock facilities.[56][57] (The bill is S.F. 1118 in the Minnesota State Senate.[58]) The bill "targets anyone who documents an 'image or sound' of animal suffering in a sweeping list of 'animal facilities', including factory farms, animal experimentation labs, and puppy mills".[59] It bans:

- "Animal facility interference:" Producing "a record which reproduces an image or sound occurring at the animal facility" without the owner's consent. Additionally, this provision targets those who "possess or distribute a record which produces an image or sound occurring at the animal facility."
- "Animal facility tampering:" Bans taking animals from a facility or "disrupting" the operations of a livestock facility.
- "Animal facility fraud:" Targets undercover investigators and whistleblowers who obtain access to an animal facility by "false pretense" (i.e. taking a job at a livestock operation in order to obtain undercover video).

The bill also includes parallel provisions for "crop operation interference", "crop operation tampering", and "crop operation fraud".[59]

H.F. 1369 was authored by six Republicans, several of whom have ties to the agriculture industry:

- Rep. Rod Hamilton, farmer and past president of the Minnesota Pork Producers
- Rep. Dean Urdahl
- Rep. Paul Anderson, farmer[60]
- Rep. Tony Cornish
- Rep. Greg Davids, farm owner[61]
- Rep. Bob Dettmer

In the Senate, the sponsors are:

- Sen. Doug Magnus, farmer[62]
- Sen. Rod Skoe, farmer[63]
- Sen. Bill Ingebrigtsen
- Sen. Dan Sparks

The bill did not get hearings in the House or Senate in 2011 or 2012, and did not move forward.[64]

Missouri

On February 29, 2012, an "ag gag" bill, HB 1860, was introduced in Missouri by State Rep. Casey Guernsey (R-3).[65] An omnibus agricultural bill containing a modified version of ag gag passed the State Senate on May 17, 2012. The version approved by the House would have criminalized undercover videos and limited the ability of animal rights activists to gain access to a livestock farm or facility, whereas the version approved by the Senate requires anyone with photos or video of animal abuse or neglect to report it to law enforcement within 24 hours.[66] The Senate bill, SB 631, was signed by the governor on July 9, 2012.[67]

Nebraska

2012

An "ag gag bill" was introduced in Nebraska on January 10, 2012, by Sen. Tyson Larson (40), Sen. Scott Lautenbaugh (18) and Sen. Ken Schilz (47) (Nebraska's legislature is nonpartisan and unicameral).[68]

2013

In January 2013, the Nebraska state legislature introduced LB204, "to create the offense of damaging or interfering with the operations of an animal facility".[69] The bill – like those introduced in January 2013 in Indiana and Wyoming – focuses on quick reporting of any incident. The bill was introduced by Senator Tyson Larson (40). It was referred to the Judiciary Committee on January 17, 2013.[70] This has been called an "evolution" from 2012's set of "ag gag" bills "because the classic prohibitions against the unauthorized audio-video recording of farm animals under the threat of felony conviction with some real hard prison time has shown up only in Wyoming" in 2013. This evolutionary change can be traced to the bill as modified in Missouri in 2012, which first put an emphasis on quick reporting.[71]

New Hampshire

In January 2013, the New Hampshire state House of Representatives introduced HB110, "requiring persons who record cruelty to livestock to report such cruelty and submit such recordings to a law enforcement agency".[72] The primary sponsor is Representative Robert Haefner (R-37). The bill was retained in the Environment and Agriculture Committee on February 26, 2013.[73] Like those introduced in January 2013 in Nebraska and Wyoming, it focuses on quick reporting of any incident.[71]

New Mexico

In February 2013, the New Mexico state Senate introduced SB552, the "Livestock Operation Interference Act", to prohibit recording image or sound from an agricultural operation without consent and obtaining access to that operation under "false pretenses".[74] The bill was sponsored by Senator Cliff R. Pirtle (R-32),[75] and assigned to both the judicial and conservation committees.[8] It did not pass out of committee before the end of the 2013 legislative session.

New York

An "ag gag" bill was introduced in New York State on May 3, 2011, by Sen. Patty Ritchie (R-48). As of January 4, 2012, it had been referred back to the Agriculture Committee.[76] According to The Humane Society of the United States, "The New York state legislature is considering a dangerous measure (S.5172) to curtail free speech by prohibiting whistle-blowing at factory farms. Responding to a recent investigation at New York's largest dairy factory that revealed shocking images of animal abuse,[77] NY's agribusiness industry is now attempting to shield its inhumane practices from any further public scrutiny and debate. Existing law already prohibits trespass. This bill aims to stifle open dialogue of the treatment of animals on factory farms by targeting legal investigative reporting."[78]

North Carolina

In April 2013, the North Carolina state Senate introduced the "Commerce Protection Act" (SB648), which journalist Will Potter called "a good example of how corporations and industry groups are responding to the media backlash" against "ag-gag" bills.[15] He was referring to a March 2012 Associated Press article that was widely published[79] and an April 2013 *New York Times* front-page article.[80]

Despite the North Carolina bill's bland name, it contains the same language and provisions as many of the "ag-gag" bills listed below, including 1) photography bans, 2) job application/fraud, and 3) mandatory reporting within (in this case) 24 hours.[15] The bill was re-referred to the Senate committee on the Judiciary on May 7, 2013.[81]

According to Potter, "[t]he legislation was introduced on the same day that a fifth Butterball employee pleaded guilty to criminal cruelty to animals – charges that wouldn't be possible without the undercover investigations that bills like this aim to criminalize."[15] The Butterball criminal charges came to light due to an undercover investigation by Mercy for Animals (video at left) that "recorded workers stomping and kicking birds, throwing them by their necks into metal cages, and beating them with metal bars. The animals had festering wounds on their bodies and eyes. Some writhed in pain on the ground. For three

weeks, the employee, an undercover investigator for Mercy for Animals, documented abuse after abuse."[82] The investigation also "led to the ousting of a top Ag official in North Carolina on obstruction of justice", according to Potter in a debate on *Democracy Now!*[83]

On May 28, 2013, HSUS launched a series of television advertisements showing animal cruelty and urging state lawmakers to "block a special interest bill that would make it a crime for investigative journalists and advocates for the protection of animals, consumers and worker safety to document and expose inhumane and illegal activity at industrial agriculture facilities".[84]

Pennsylvania

In February 2013, the Pennsylvania General Assembly introduced HB683 to "provid[e] for the offense of interfering with agricultural operations". The bill includes a prohibition against recording image or sound from an agricultural operation without consent and obtaining access to that operation under "false pretenses". These offenses would be considered second or third degree felonies. The bill was introduced by Representative Gary Haluska (D-73). It was referred to the Judiciary Committee on February 12, 2013.[85]

South Carolina

On April 7, 2011, Senator Daniel B. Verdin, III (R-9) introduced S788, the "Farm Animal and Research Facilities Protection Act", to the South Carolina state Senate. The bill was amended and passed the Senate on April 12 and the House on May 30, with changes concurred to by the Senate on May 31, and signed into law by Governor Nikki Haley on June 7, 2012.[6]

According to *Mother Jones*, South Carolina's law criminalizes "trespassing at an animal facility with the intent to cause damage or harm".[86] According to the full act summary, "A person commits an offense if, without the effective consent of the owner, the person exercises control over an animal facility or the property located there, or if that person damages the facility or its property. A person also commits an offense if he or she enters a facility without the effective consent of the owner and remains concealed with the intent to disrupt or damage the enterprise conducted at the animal facility. Violation for disruption or damage to a facility or its property is a misdemeanor with a fine of up to $10,000 and/or 3 years imprisonment. Violation for illegal entry is a misdemeanor with a fine up to $5,000 and/or 1 year imprisonment."[87]

Tennessee

2012

An "ag gag bill" was introduced in Tennessee on January 26, 2012, by Representative Andy Holt (R-76) in the state House of Representatives (HB3620 (http://www.capitol.tn.gov/Bills/107/Bill/HB3620.pdf)) and by Senator Dolores R. Gresham (R-26) in the state Senate (SB3460 (http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=%20SB3460&GA=107)).[88] Under this bill, according to the Animal Law Coalition, "it would be a crime for anyone to apply for employment with the intent to cause economic damage to the employer by taking unauthorized video or audio recordings while on the premises and then releasing the recording to a third party such as a newspaper. Under the bill

evidence of animal cruelty captured on the recording would not be admissible. A first violation would be a Class B misdemeanor. A second violation would be a Class A misdemeanor."[89] Both bills died in committee.

2013

In February 2013, the Tennessee state legislature introduced two companion bills –SB1248 and HB1191 – to require anyone who records cruelty to animals to submit unedited photographs or video recordings to law enforcement within 24 hours. (Similar bills were introduced in Nebraska, Wyoming, and New Hampshire in 2013, focusing on quick reporting.) The bill was introduced in the Senate by Senator Dolores R. Gresham (R-26) and in the House by Representative Andy Holt(R-76). The bill passed both the House and the Senate on April 17, 2013, and was sent to the governor for his signature,[10] but Governor Bill Haslam vetoed the bill on May 13, 2013.[11]

In public debate over Tennessee's bill after the bill passed and before it was signed into law by the governor, Rep. Holt sent an email to HSUS Public Policy Coordinator Kayci McLeod saying that "propagandist groups of radical animal activists, like your fraudulent and reprehensibly disgusting organization of maligned animal abuse profiteering corporatists ... are intent on using animals the same way human-traffickers use 17 year old women," and referring to HSUS methods as "tape and rape".[90]

On May 13, 2013, Tennessee Governor Bill Haslam said he will veto the bill because the Attorney General called the law "constitutionally suspect", because it appears to repeal parts of Tennessee's Shield Law without saying so, and because "there are concerns from some district attorneys that the act actually makes it more difficult to prosecute animal cruelty cases".[91]

Utah

An "ag gag" bill was introduced in Utah February 8, 2012, sponsored by Rep. John G. Mathis (R-55), a veterinarian.[92][93] The bill went through two substitutions before passing the House and Senate, sponsored by Sen. David P. Hinkins (R-27), in late February.[94][95] Governor Gary Herbert signed the bill on March 20, 2012.[96]

In April 2013, Will Potter broke the news in his *Green is the New Red* blog that the first charge based on Utah's new "ag gag" law had been made against a woman, Amy Meyer, who had reportedly filmed a slaughterhouse in Draper, Utah using her smart phone.[97][98] The charges had actually been filed February 19, with the filming occurring on February 8, according to the *Salt Lake Tribune*. She was charged with a Class B misdemeanor under the new law. However, a day after the news broke, the public prosecutor dropped the case against her, citing "new evidence" received during a hearing April 18. Prosecutor Benjamin Rasmussen explained that Meyer had provided "video footage showing that she was on public property during at least some of the time she was filming the slaughterhouse". Meyer had previously pleaded not guilty to the charge. Both she and her defense attorney, Stewart Gollan, claim that she never left public property.[99] According to a written statement, Meyer observed several examples of animal cruelty at the slaughterhouse, including "a live cow who appeared to be sick or injured being carried away from the building in a tractor, as though she were nothing more than rubble", as well as "piles of horns scattered around the property and flesh being spewed from a chute on the side of the building".[100]

Vermont

In March 2013, the Vermont state Senate introduced "an act relating to agricultural facility fraud" (S. 162), which specifies a fine of up to $1,000 for anyone who "makes a knowingly false statement or representation as part of an application to be employed at an agricultural facility". It was sponsored by Senators Robert Starr (D-Essex-Orleans), Norm McAllister (R-Franklin), John Rodgers (D-Essex-Orleans), and Richard Westman (R-Lamoille).[14]

Sen. Westman told the *Stowe Reporter* that he sponsored the bill at the request of Sen. Starr as well as the Green Mountain Dairy Farmers Cooperative Association, which he said wants the bill. According to the *Reporter*, "The association is made up of Agri-Mark – the large New England dairy consortium, which includes the makers of Cabot Cheese – St. Albans Co-op and other dairy farm organizations around Vermont." The article also points out that a "number of high-profile animal abuse cases, including in Vermont, have come to light through the efforts of agricultural whistleblowers, who often pose as people who want to work on a farm, only to use the access to film abuses there."[101]

Wyoming

In January 2013, the Wyoming state House of Representatives introduced HB126, "establishing the offense of interference with an agricultural operation" and "requiring reporting of cruelty to livestock". It was sponsored in the House by libertarian Representative Sue Wallis (R-52) and in the Senate by Senator Ogden Driskill (R-1).[102] It passed the House on February 5, 2013, and moved to the Senate for discussion and vote.[103] According to the *Food Poisoning Bulletin*, "The bill makes it a crime to 'knowingly or intentionally' record images or sounds of an agricultural operation with concealed devices without the owner's consent. The bill does state that anyone who reports abuse to local police 'within 48 hours' is immune from civil liability. Criminal penalties, however, include six months in jail and a $750 fine."[12]

Predecessors to modern "Ag Gag" bills

The above bills and laws were not the first to try to limit activists' and investigative journalists' access to livestock facilities. The first "ag gag" bill was passed in Kansas long before Mark Bittman coined the term – in 1990. According to Doris Lin, animal rights attorney and the Vice President of Legal Affairs for the Bear Education and Resource Group, and Bret Hopman of the American Society for the Prevention of Cruelty to Animals, "The modern laws tend to focus on undercover investigations, while the older laws were also concerned about property damage and the liberation/theft of animals."[17] Some bills, like Washington State's 2010 SB 6566 above, focused on both.

California

On February 21, 2008, California State Assemblyman Gene Mullin introduced AB 2296, the "Animal Enterprise Protection Act (http://www.greenisthenewred.com/blog/wp-content/Images/ca_aepa_draft.pdf)," which prohibits the posting of publicly available information about "animal enterprises" on activist websites, restricts access to public meetings, and requires heavy-handed penalties for non-violent civil disobedience. The bill expanded upon the federal Animal Enterprise Terrorism Act, which was signed in November 2006. California's bill, as amended to narrow the scope of "animal enterprise" to the protection

of "academic researcher"s, was signed into law as the "Researcher Protection Act of 2008" on September 28, 2008.[104] As such, it had the support of the University of California system and passed both houses with bipartisan unanimous support.[105]

Kansas

The Kansas "Farm Animal and Field Crop and Research Facilities Protection Act," was enacted in 1990 to prohibit persons from damaging or harming farm and agriculture research facilities.[106]

Montana

In 1991, Montana enacted the "Farm Animal and Research Facility Protection Act", which is similar to Kansas' 1990 "Farm Animal and Field Crop and Research Facilities Protection Act".[107]

North Dakota

In 1991, North Dakota enacted the "Animal Research Facility Damage" law, which is similar to both Kansas' "Farm Animal and Field Crop and Research Facilities Protection Act" and Montana's "Farm Animal and Research Facility Protection Act".[108]

Tennessee (2006)

In February 2006, State Rep. Frank S. Niceley introduced HB 3307, the "Tennessee Ecoterrorism Act (http://www.capitol.tn.gov/Bills/104/Bill/HB3307.pdf),"[109] which would have made it a crime to "[d]amage or destroy an enterprise facility or damage, free, or destroy any animal, plant, or property in or on an enterprise facility with the intent to disrupt or damage the enterprise conducted at the facility". The bill did not pass out of committee.

Speaking in favor of the bill, Rep. Niceley said:

> First let me try to explain eco-terrorism. I'm surprised that you haven't heard of it. Take one group, the PETA group. According to the FBI they're the number one domestic terrorist group in America. They are considered eco-terrorists.
>
> Eco-terrorists are, uh, I guess left-wing eco-greenies. They don't have leader. They're a leaderless terrorism group. They just kind of spring up sporadically. They do things like, uh, turn research animals out on the interstate, turn farm animals loose from semis in the middle of town. They drive spikes in logs going that go into the saw mill so that it will knock the teeth out of the saw mills. They put sugar in uh, in firefighting equipment in the, in the national forest, and, and just uh, it's a different type of terrorism. They don't have Osama bin Laden leadin' 'em…"[110]

According to Will Potter, "PETA isn't listed as a 'terrorist' organization, and activists don't release animals on the interstate or the middle of town, but facts don't mean much in this 'War on Terrorism'. ... [The bill] never made it out of committee, but its language appeared in the Animal Enterprise Terrorism Act."[111]

Washington

On January 10, 2010, Washington State Senator Val Stevens introduced SB 6566, which contains a sweeping definition of "eco-terrorist organization", defines civil disobedience – specifically, "[e]ntering or remaining on the premises of an animal or horticultural facility if the person or organization" has "received notice to depart but failed to do so" – as "terrorism", and targets those who "[p]articipate in or support animal or ecological terrorism, including raising, soliciting, collecting, or providing any person with material, financial support, or other resources such as lodging, training, safe houses, false documentation, or identification, communications, equipment, or transportation that will be used in whole or in part to encourage, plan, prepare, carry out, publicize, promote, or aid an act of animal or ecological terrorism, the concealment of, or an escape from an act of animal or ecological terrorism."[112] Journalist Will Potter pointed out in a February 2010 article that, "if you replace 'animal and ecological' with 'civil rights' throughout this bill, it could easily have been used against those activists at the Woolworth's lunch counter, the Greensboro Four."[113]

Wyoming

In March 2015, the state of Wyoming passed a law making it illegal to trespass "to unlawfully collect resource data and unlawful collection of resource data."[114]

Support

Proponents of the laws note that public documentation of factory farming practices will result in negative consequences for the industry. "State Sen. David Hinkins (R), who sponsored Utah's law, said it was aimed at the 'vegetarian people who are trying to kill the animal industry.'" [115] When investigators publicize documentation of factory farms, the company generally loses business. For instance, in 2007, an undercover investigator from The Humane Society of the United States visited the Hallmark/Westland slaughterhouse in Chino, California and filmed downed cows, too sick to stand up, being "dragged by chains and pushed by forklifts to the kill floor". A large amount of the meat from this slaughterhouse had been consumed through the National School Lunch Program, and the footage compelled "the U.S. Department of Agriculture to announce what was at the time the largest meat recall in U.S. history".[115] Similarly, a Mercy for Animals investigation at Sparboe Farms resulted in McDonald's, Target, Sam's Club, and Supervalu all dropping Sparboe as an egg supplier. The investigation revealed cages full of dead hens rotting alongside living hens who were still laying eggs for human consumption. The investigator documented standard practices such as painful debeaking without painkillers and tossing live birds into plastic bags to suffocate, along with other behaviour deemed "sadistic" and "malicious".[116][117]

Opposition

Fifty-nine groups, including a wide variety of welfare, civil liberties, environmental, food safety and First Amendment organizations have publicly stated opposition to ag-gag laws. Some of these groups include the American Civil Liberties Union (ACLU), Animal Legal Defense Fund (ALDF), American Society for the Prevention of Cruelty to Animals (ASPCA), Amnesty International USA, Farm Sanctuary, Food and Water

Watch, Food Chain Workers Alliance], Humane Society Veterinary Medical Association, International Labor Rights Forum, National Consumers League, and United Farm Workers, among many others. The statement of opposition explains:

> These bills represent a wholesale assault on many fundamental values shared by all people across the United States. Not only would these bills perpetuate animal abuse on industrial farms, they would also threaten workers' rights, consumer health and safety, law enforcement investigations and the freedom of journalists, employees and the public at large to share information about something as fundamental as our food supply.[118]

Individuals and groups such as the ones listed above are concerned that the bills are written to hide welfare and safety violations in the animal agriculture industry from the public view. While laws aimed at restricting documentation or employee applications directly restrict documentation, the third type of law (e.g. Missouri's) is said to be intended to promote the rapid prosecution of any business displaying such practices. However, critics of the bills contend that when all material must be turned over to authorities in such a short amount of time (generally within twenty-four hours), establishments can easily cover up or change their practices or fire the employee before further documentation can occur, making a thorough investigation of any farm virtually impossible.

Legal challenges

On July 22, 2013, the ALDF, PETA and others filed a lawsuit challenging Utah's ag-gag law on constitutional grounds.[119]

In December 2013, the ALDF and PETA filed a lawsuit that challenged the constitutionality of "ag gag" laws under the First Amendment. Utah's law makes it illegal to obtain access to an agricultural operation under false pretenses, such as providing inaccurate information on a job application, which is one of the ways that investigative reporters document violations and abuses.[120]

In March 2014, a coalition of organizations dedicated to civil liberties, animal protection, food safety, labor rights, and the environment, along with journalists, filed a federal lawsuit to overturn Idaho's newly passed "ag gag" statute, signed into law by Idaho governor C.L. “Butch” Otter on February 28. The lawsuit challenges the constitutionality of Idaho’s ag gag law (Idaho Code sec. 18-7042), and was filed in the U.S. District Court for the District of Idaho by national nonprofits Animal Legal Defense Fund (ALDF), People for the Ethical Treatment of Animals (PETA), the American Civil Liberties Union of Idaho (ACLU), and the Center for Food Safety (CFS). Idaho is the seventh state to pass an ag gag law, and the first to do so since 2012.[121]

See also

- Food libel laws

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