

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4628/P1dn
JEO:jlj:jf

February 25, 2000

Representative Kestell:

I drafted this bill for you at the request of Adam Raschka of the Assembly Republican Caucus. It makes felony violations of s. 943.75, stats. (unauthorized release of animals), into predicate offenses under Wisconsin's Organized Crime Control Act (WOCCA), which is this state's counterpart to 18 USC sec. 1961 *et seq.*, the federal Racketeer Influenced and Corrupt Organizations (RICO) law.

Adam told me that you wanted a bill draft that was similar to a bill that has been drafted in Oregon to include certain so-called "eco-terrorism" crimes in Oregon's counterpart to RICO. I got a copy of the Oregon bill from one of its authors. That bill adds three crimes to Oregon's RICO counterpart. One of the crimes is similar to s. 943.75, stats., relating to unauthorized release of animals, which this bill adds to WOCCA.

The other two Oregon crimes have no exact counterpart in Wisconsin law. The first deals with interference with livestock production and essentially covers theft from, criminal damage to and burglary of livestock production facilities. The acts covered under this Oregon statute are covered under general Wisconsin criminal statutes that prohibit theft, criminal damage and burglary, and felony violations of our theft, criminal damage and burglary statutes are already included under (WOCCA).

The second Oregon statute deals with interference with agricultural operations. It is very broad, prohibiting the obstruction, impairment or hindering of those operations. It seems to me that the acts that would obstruct, impair or hinder agricultural operations would very probably be covered under existing Wisconsin statutes that have more general application and that are already covered by WOCCA—for instance, damage to property and theft. Also, the Oregon statute is so broad that it might be considered by a court to be unconstitutionally vague or, possibly, overbroad.

In sum, this bill follows the Oregon proposal only with respect to the inclusion of felonies relating to the unauthorized release of animals. Because the acts prohibited by the other two Oregon laws are covered under Wisconsin statutes, this bill does not create similar new Wisconsin crimes and add them to WOCCA.

Finally, as you may know, 1999 Assembly Bill 92, which has passed both houses and is awaiting action by the governor, increases the penalties for the unauthorized release

of certain animals. This bill would provide for yet higher penalties if the acts are prosecuted under WOCCA as part of a pattern of racketeering activity.

Please let me know if you have any questions or changes.

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