

2001 DRAFTING REQUEST

Bill

Received: 07/16/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Alvin Ott (608) 266-5831

By/Representing: Erin

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: **Agriculture - animals**
Criminal Law - miscellaneous

Extra Copies: rlr
ret

Submit via email: NO

Pre Topic:

No specific pre topic given

Topic:

Discases transmitted to animals; exception based on compliance with DATCP directives or agreements regarding disease control

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 09/25/2001	rschluet 10/11/2001		_____			
/P1		rschluet 11/07/2001	jfrantze 10/11/2001	_____	lrb_docadmin 10/11/2001		S&L
/1			jfrantze 11/08/2001	_____	lrb_docadmin 11/08/2001	lrb_docadmin 11/08/2001	

FE Sent For:

At intro

<END>

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/?	mdsida 09/25/2001	rschluet 10/11/2001					
/P1		<i>rcjs</i> 11-5-1	jfrantze 10/11/2001		lrb_docadmin 10/11/2001		

FE Sent For:

Jb 11/8 *Jb 11/8*
11/8
<END>

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Requester's email:

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1?	mdsida	<i>RS + cjs 9-26-11</i>	<i>[Signature] 10/11</i>	<i>[Signature] 10/11</i>			

FE Sent For:

<END>

Dsida, Michael

From: Napralla, Erin
Sent: Tuesday, July 17, 2001 4:43 PM
To: Dsida, Michael
Subject: RE: Agri-terrorism language

Mike,

Thank you for your prompt attention to this issue. We've contacted DATCP and they have some concerns with the language and would possibly like to make an addition. Ruth Heike from DATCP will be in touch with you tomorrow to discuss the Department's intentions. Please do not hesitate to contact me with any questions. I think it's looking more like we'll have to do a trailer bill, but we want to be prepared to do that ASAP after the budget is finished.

Thanks again for your help.

Erin Napralla
Legislative Assistant
Office of Representative Al Ott
3rd Assembly District

-----Original Message-----

From: Dsida, Michael
Sent: Tuesday, July 17, 2001 3:32 PM
To: Napralla, Erin
Subject: Agri-terrorism language

I wasn't sure what penalty you wanted to use for the recklessness provision. I made it a Class A misdemeanor for now, but you can set the penalty at whatever level you think is appropriate. In addition, in the course of looking at other crimes involving negligence or recklessness, I realized that if we revise the agri-terrorism language to include a negligence or recklessness provision, I should probably also move it to ch. 951, which covers crimes against animals. (I originally included it in ch. 943 -- which covers crimes against property -- because s. 943.75, the other crime targeting the activities of certain animal rights activists, is already located in that chapter. That provision, however, probably should have been included in ch. 951 when it was originally drafted.) I haven't included all of the cross-reference changes I would need to make, but here's the new section and subsection I would create:

Maybe Not.
(new section)

951.065 Infecting animals with a contagious disease. (1) In this section, "livestock" means cattle, horses, swine, sheep, goats, farm-raised deer, as defined in s. 95.001 (1) (a), and other animals used or to be used in the production of food, fiber, or other commercial products.

(2) (a) No person may introduce a contagious or infectious disease into livestock without the consent of the owner of the livestock.

(b) No person may introduce a contagious or infectious disease into wild deer without the consent of the department of natural resources.

* * *

(new subsection)

951.18 (1m) (a) In this subsection, "reckless conduct" means conduct which creates a substantial risk of an animal's death or a substantial risk of bodily harm to an animal if the actor is aware of that risk.

(b) 1. Any person who, through reckless conduct, violates s. 951.065 is guilty of a Class A

misdemeanor.

2. Subdivision 1. does not apply to John's disease.

(c) Any person who intentionally violates s. 951.065 is guilty of a Class C felony.

Is this okay?

Mike Dsida

Bob ~~Allenfeldt~~ ^{/ atty} + Ruth Heike - DATCP
224-4880 224-5025

Dept directive
agreements

Wants to exempt transmission
that occur if person ~~who~~
is complying w/ to

control the pathogen

But ~~still~~ no need to exempt ^{such conduct from} civil liability

exception in
Need to ~~to~~ def'n of reckless in 939

Exception for civil action in 951.18(4)

Do I Really Need to Move it to 951???

Since it's in 943, I prob. can just keep it there
Main reason I thought abt moving it (aside from
fact that it's crime vs. animal) is that that

951 already has some negligence references to

w/o a notw/stdy prov'n ~~but~~ (so presumably I wouldn't
need a " " for reckless). But I can just
add another exception to s. 939.24(2)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3528/Q

MGD:.....

rs, gjs PI

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

FRI 10/12

Gen

1 AN ACT ^v relating to: infecting animals with a contagious disease and providing
2 a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INS 113

INS XYZ

INS 114

INS 115

SECTION 1. 943.76 (1) of the statutes, as ~~affected~~ ^{created} by 2001 Wisconsin Act 16, is renumbered 943.76 (1) (a).

SECTION 2. 943.76 (3) of the statutes is created to read:

(END)

1 895.80 (3m) (a) In this subsection, "plant" includes the material taken,
2 extracted, or harvested from a plant, or a seed or other plant material that is being
3 used or that will be used to grow or develop a plant.

4 (b) If the violation of s. 943.01 (1) involves the circumstances under s. 943.01
5 (2d), the court may award a prevailing plaintiff the reasonable attorney fees incurred
6 in litigating the action and, when determining the damages recoverable under sub.
7 (3), shall include the market value of the plant before the damage or destruction, and
8 the costs of production, research, testing, replacement, and plant development
9 directly related to the plant that has been damaged or destroyed.

10 SECTION 3871w. 895.80 (5) of the statutes is amended to read:

11 895.80 (5) No person may bring a cause of action under both this section and
12 s. 95.195, 943.212, 943.245 or 943.51 regarding the same incident or occurrence. If
13 the plaintiff has a cause of action under both this section and s. 943.212, 943.245 or
14 943.51 regarding the same incident or occurrence, the plaintiff may choose which
15 action to bring. If the plaintiff has a cause of action under both this section and s.
16 95.195, the plaintiff must bring the action under s. 95.195."

17 ~~2. Page 1231, line 11. after that line insert:~~

18 ~~SECTION 3929m.~~ 939.24 (2) of the statutes is amended to read:

19 939.24 (2) Except as provided in ss. 940.285, 940.29 and, 940.295, and 943.76,
20 if criminal recklessness is an element of a crime in chs. 939 to 951, the recklessness
21 is indicated by the term "reckless" or "recklessly".

22 ~~3. Page 1236, line 17. after that line insert:~~

23 ~~"SECTION 3938up. 943.01 (2d) of the statutes is created to read:~~

1N sent 1/3

INS XYZ

¶ Sec #. →
943.76(1) of the statutes,
as created by 2001
Wisconsin Act 16, is
renumbered 943.76(1)(intro.)
and amended to read:

~~SECTION 3951n. 943.76 of the statutes is created to read:~~
~~943.76 **Infecting animals with a contagious disease.** (1) In this section, "livestock" means cattle, horses, swine, sheep, goats, farm-raised deer, as defined in s. 95.001 (1) (a), and other animals used or to be used in the production of food, fiber, or other commercial products.~~
~~(2) (a) Whoever intentionally introduces a contagious or infectious disease into livestock without the consent of the owner of the livestock is guilty of a Class C felony.~~
~~(b) Whoever intentionally introduces a contagious or infectious disease into wild deer without the consent of the department of natural resources is guilty of a Class C felony.~~

bold

plain

(intro.)

(a)

∴ ¶ "Livestock"

Strike comma

proof
w/
2001
Wis
Act
16
§ 3951n

1 943.01 (2d) (a) In this subsection, "plant research and development" means
2 research regarding plants or development of plants, if the research or development
3 is undertaken in conjunction or coordination with the state, a federal or local
4 government agency, a university, or a private research facility.

5 (b) Any person violating sub. (1) under all of the following circumstances is
6 guilty of a Class E felony:

7 1. The property damaged is a plant, material taken, extracted, or harvested
8 from a plant, or a seed or other plant material that is being used or that will be used
9 to grow or develop a plant.

10 2. The plant referred to in subd. 1. is or was being grown as feed for animals
11 being used or to be used for commercial purposes, for other commercial purposes, or
12 in conjunction with plant research and development."

13 4. Page 1241, line 18: after that line insert:

14 [#] ^{(1)(b)}
SECTION 3951n. 943.76 of the statutes is created to read:

15 ~~943.76 Infecting animals with a contagious disease. (1) In this section:~~

16 (a) "Livestock" means cattle, horses, swine, sheep, goats, farm-raised deer, as
17 defined in s. 95.001 (1) (a), and other animals used or to be used in the production
18 of food, fiber, or other commercial products.

19 (b) "Reckless conduct" means conduct which creates a substantial risk of an
20 animal's death or a substantial risk of bodily harm to an animal if the actor is aware
21 of that risk.

22 (2) (a) Whoever intentionally introduces a contagious or infectious disease into
23 livestock without the consent of the owner of the livestock is guilty of a Class C felony.

INsert 1/4

A 943.76 (1)

Insert 1/5

1 (b) Whoever intentionally introduces a contagious or infectious disease into
2 wild deer without the consent of the department of natural resources is guilty of a
3 Class C felony.

4 (3) (a) Whoever, through reckless conduct, introduces a contagious or infectious
5 disease other than Johne's disease into livestock without the consent of the owner
6 of the livestock is guilty of a Class A misdemeanor.

7 (b) Whoever, through reckless conduct, introduces a contagious or infectious
8 disease other than Johne's disease into wild deer without the consent of the
9 department of natural resources is guilty of a Class A misdemeanor.

10 (c) This subsection does not apply if the actor's conduct is undertaken pursuant
11 to a directive issued by the department of agriculture, trade and consumer protection
12 or an agreement between the actor and the department of agriculture, trade and
13 consumer protection, if the purpose of the directive or the agreement is to prevent
14 or control the spread of the disease.

15 5. Page 1246, line 4: after "943.01 (2)" insert ", (2d)".

16 6. Page 1246, line 8: after "943.70" insert ", 943.76 (2)".

17 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3528/P1

MGD:rs&cjs/jf

keep

1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

soon

retrieve from hold

1 AN ACT to renumber and amend 943.76 (1); to amend 939.24 (2); and to create
2 943.76 (1) (b) and 943.76 (3) of the statutes; relating to: infecting animals with
3 a contagious disease and providing a penalty.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

Insert

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 939.24 (2) of the statutes is amended to read:
5 939.24 (2) Except as provided in ss. 940.285, 940.29 and, 940.295, and 943.76,
6 if criminal recklessness is an element of a crime in chs. 939 to 951, the recklessness
7 is indicated by the term "reckless" or "recklessly".

8 SECTION 2. 943.76 (1) of the statutes, as created by 2001 Wisconsin Act 16, is
9 renumbered 943.76 (1) (intro.) and amended to read:

10 943.76 (1) (intro.) In this section, "~~livestock~~":

1 (a) "Livestock" means cattle, horses, swine, sheep, goats, farm-raised deer, as
2 defined in s. 95.001 (1) (a), and other animals used or to be used in the production
3 of food, fiber, or other commercial products.

4 SECTION 3. 943.76 (1) (b) of the statutes is created to read:

5 943.76 (1) (b) "Reckless conduct" means conduct which creates a substantial
6 risk of an animal's death or a substantial risk of bodily harm to an animal if the actor
7 is aware of that risk.

8 SECTION 4. 943.76 (3) of the statutes is created to read:

9 943.76 (3) (a) Whoever, through reckless conduct, introduces a contagious or
10 infectious disease other than Johne's disease into livestock without the consent of the
11 owner of the livestock is guilty of a Class A misdemeanor. paratuberculosis

12 (b) Whoever, through reckless conduct, introduces a contagious or infectious
13 disease other than Johne's disease into wild deer without the consent of the
14 department of natural resources is guilty of a Class A misdemeanor.

15 (c) This subsection does not apply if the actor's conduct is undertaken pursuant
16 to a directive issued by the department of agriculture, trade and consumer protection
17 or an agreement between the actor and the department of agriculture, trade and
18 consumer protection, if the purpose of the directive or the agreement is to prevent
19 or control the spread of the disease.

20 (END)

SEC X. CR; 943.76 (1) (b)

~~CR~~ # 943.76 (1) (b)

"Paratuberculosis" has the meaning given
in s. 95.001 (1) (c).

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3528/lins
MCD:.....

1

analysis INSERT

Current law prohibits a person from intentionally introducing a contagious or infectious disease into livestock without the consent of the owner of the livestock. Current law also prohibits a person from intentionally introducing a contagious or infectious disease into wild deer without the consent of the department of natural resources (DNR). A person who violates either of these prohibitions may be fined not more than \$10,000 or imprisoned for not more than 15 years or both.

This bill prohibits a person from introducing, through reckless conduct, a contagious or infectious disease other than paratuberculosis (Johne's disease) into livestock without the consent of the owner of the livestock. The bill also prohibits a person from introducing, through reckless conduct, a contagious or infectious disease other than paratuberculosis into wild deer without DNR's consent. A person who violates either of these prohibitions may be fined not more than \$10,000 or imprisoned for not more than nine months or both. These prohibitions do not apply if the actor's conduct is undertaken pursuant to a directive issued by the department of agriculture, trade and consumer protection (DATCP) or an agreement between the actor and DATCP, if the purpose of the directive or the agreement is to prevent or control the spread of the disease.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

November 8, 2001

MEMORANDUM

To: Representative Ott

From: Michael Dsida, Legislative Attorney

Re: LRB-3528/1 Diseases transmitted to animals; exception based on compliance with DATCP directives or agreements regarding disease control

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

please Thank you! (u)

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.