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History of Senate Bill 318

SENATE BILL 318

An Act to create 943.76 (3) of the statutes; relating to: threatening to infect livestock or wild deer with a contagious or infectious disease and providing penalties. (FE)

2001

- 11-14. S. Introduced by Senators Harsdorf, Hansen, Baumgart, S. Fitzgerald, Huelsman, A. Lasee, Roessler, Rosenzweig, Schultz, Welch and Cowles; cosponsored by Representatives Ott, Gronemus, Albers, Freese, Gard, Hahn, Hundertmark, Kedzie, Krawczyk, Ladwig, Lassa, Lippert, Loeffelholz, McCormick, Musser, Olsen, Owens, Petrowski, Plouff, Rhoades, Ryba, Skindrud, Stone, Suder, Sykora, Urban, Walker, Wasserman and Vrakas.
- 11-14. S. Read first time and referred to committee on Environmental Resources 459
- 11-20. S. Fiscal estimate received.
- 11-29. S. Fiscal estimate received.
- 12-03. S. Fiscal estimate received.
- 12-04. S. Fiscal estimate received.

2002

- 01-10. S. Public hearing held.
- 01-15. S. Fiscal estimate received.
- 01-18. S. Senate amendment 1 offered by Senator Harsdorf 511
- 03-20. S. Failed to pass pursuant to Senate Joint Resolution 1
..... 653

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State Senator Sheila Harsdorf

January 16, 2002

Senator James Baumgart, Chair
Senate Committee on Environmental Resources
Room 306 South
State Capitol
Madison 53707

Dear Senator Baumgart and Committee Members:

I would like to thank you for holding the public hearing on Senate Bill (SB) 318 on January 10, 2002. As you know, SB 318 would provide penalties for threatening to infect livestock or wild deer with a contagious or infectious disease.

I appreciated the opportunity to testify and greatly appreciated your willingness to allow me to testify early in order to accommodate my schedule. While I was unable to stay to listen to the other testimony, it is my understanding that concerns were raised regarding the potential violation of free speech. I share your interest in protecting our First Amendment Rights and that was a concern as I drafted this legislation.

In drafting the bill, I worked closely with legislative attorneys to insure that the language would not violate our freedom of speech protections. The bill is drafted to mirror current law relating to other types of threats, and the legislative attorneys drafting the bill are of the belief it would pass a constitutional freedom of speech challenge.

The bill would create Section 943.76 (3) of the Wisconsin Statutes, which would state, in part:

943.76 (3) (a) Whoever intentionally threatens to introduce a contagious or infectious disease into livestock located in this state without the consent of the owner of the livestock is guilty of a Class D felony if one of the following apply:

1. The owner of the livestock is aware of the threat and reasonably believes that the actor will attempt to carry out the threat.
2. The owner of the livestock is unaware of the threat, but if the owner were apprised of the threat, it would be reasonable for the owner to believe that the actor would attempt to carry out the threat.

By putting the onus on the livestock owner to reasonably believe that such a threat might be carried out, individuals are protected against penalties for making such threats if

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the threat is not possible or likely to be carried out through action. Thus, casual or harmless threats are not punishable, and would not curtail an individual's freedom to make such comments. It only becomes punishable when a livestock owner's protection of their property is at stake.

Furthermore, Wisconsin already has many statutes that deal with threats or implied threats. This list includes, but is not limited to:

Wis. Stat.

939.648(2)(b)3. - penalty enhancer for terrorist threats
940.201 - threat to a witness
940.203 - threat to a judge
940.205 - threat to a DOR employee
940.207 - threat to a department of commerce or DWD employee
940.295(1)(j)1.b., (km)2., and (n)2. - abuse of patients or resident defined to include threats
943.011 and 943.017(2m)(b) - threat to damage the property of a witness
943.013 - threat to damage the property of a judge
943.015 - threat to damage the property of a DOR employee
943.30 and 943.31 - extortion
947.012 (1) - telephone threats
947.013 (1r) - harassment
947.015 - (false) bomb scares
951.095(1)(a) - threats to harm police dogs

I am cognizant of the possible First Amendment challenges that could be made to this legislation. However, I believe we have addressed these concerns by modeling this bill draft after current statutes dealing with various threats.

I hope this information is helpful. Thank you again for holding the public hearing on SB 318. I would be happy to answer any additional questions you have regarding this legislation and would greatly appreciate your support.

Sincerely,



Sheila Harsdorf
State Senator
10th District