**South Carolina General Assembly**

119th Session, 2011-2012

**A220, R248, S788**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Verdin

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Introduced in the Senate on April 7, 2011

Introduced in the House on April 19, 2012

Last Amended on May 29, 2012

Passed by the General Assembly on May 31, 2012

Governor's Action: June 7, 2012, Signed

Summary: Farm Animal and Research Facilities Protection Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/7/2011 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h%3A%5Csj%20archive%5C2011%5C04-07-11.docx))

 4/7/2011 Senate Referred to Committee on **Agriculture and Natural Resources** ([Senate Journal‑page 6](file:///h%3A%5Csj%20archive%5C2011%5C04-07-11.docx))

 3/14/2012 Senate Committee report: Favorable with amendment **Agriculture and Natural Resources** ([Senate Journal‑page 17](file:///h%3A%5Csj%20archive%5C2012%5C03-14-12.docx))

 4/11/2012 Senate Committee Amendment Adopted ([Senate Journal‑page 38](file:///h%3A%5Csj%20archive%5C2012%5C04-11-12.docx))

 4/12/2012 Senate Read second time ([Senate Journal‑page 17](file:///h%3A%5Csj%20archive%5C2012%5C04-12-12.docx))

 4/12/2012 Senate Roll call Ayes‑36 Nays‑0 ([Senate Journal‑page 17](file:///h%3A%5Csj%20archive%5C2012%5C04-12-12.docx))

 4/18/2012 Senate Read third time and sent to House ([Senate Journal‑page 20](file:///h%3A%5Csj%20archive%5C2012%5C04-18-12.docx))

 4/19/2012 House Introduced and read first time ([House Journal‑page 13](file:///h%3A%5Chj%20archive%5C2012%5C04-19-12.docx))

 4/19/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 13](file:///h%3A%5Chj%20archive%5C2012%5C04-19-12.docx))

 4/19/2012 House Recalled from Committee on **Judiciary** ([House Journal‑page 28](file:///h%3A%5Chj%20archive%5C2012%5C04-19-12.docx))

 4/19/2012 House Referred to Committee on **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 28](file:///h%3A%5Chj%20archive%5C2012%5C04-19-12.docx))

 5/23/2012 House Committee report: Favorable with amendment **Agriculture, Natural Resources and Environmental Affairs** ([House Journal‑page 7](file:///h%3A%5Chj%20archive%5C2012%5C05-23-12.docx))

 5/25/2012 Scrivener's error corrected

 5/29/2012 House Amended ([House Journal‑page 23](file:///h%3A%5Chj%20archive%5C2012%5C05-29-12.docx))

 5/29/2012 House Read second time ([House Journal‑page 23](file:///h%3A%5Chj%20archive%5C2012%5C05-29-12.docx))

 5/29/2012 House Roll call Yeas‑107 Nays‑0 ([House Journal‑page 24](file:///h%3A%5Chj%20archive%5C2012%5C05-29-12.docx))

 5/30/2012 House Read third time and returned to Senate with amendments ([House Journal‑page 16](file:///h%3A%5Chj%20archive%5C2012%5C05-30-12.docx))

 5/31/2012 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 94](file:///h%3A%5Csj%20archive%5C2012%5C05-31-12.docx))

 5/31/2012 Senate Roll call Ayes‑37 Nays‑0 ([Senate Journal‑page 94](file:///h%3A%5Csj%20archive%5C2012%5C05-31-12.docx))

 6/6/2012 Ratified R 248

 6/7/2012 Signed By Governor

 6/19/2012 Effective date 06/07/12

 6/21/2012 Act No. 220

**VERSIONS OF THIS BILL**

[4/7/2011](file:///p%3A%5Cpprever%5C2011-12%5C788_20110407.docx)

[3/14/2012](file:///p%3A%5Cpprever%5C2011-12%5C788_20120314.docx)

[4/11/2012](file:///p%3A%5Cpprever%5C2011-12%5C788_20120411.docx)

[5/23/2012](file:///p%3A%5Cpprever%5C2011-12%5C788_20120523.docx)

[5/25/2012](file:///p%3A%5Cpprever%5C2011-12%5C788_20120525.docx)

[5/29/2012](file:///p%3A%5Cpprever%5C2011-12%5C788_20120529.docx)

(A220, R248, S788)

**AN ACT TO AMEND CHAPTER 21, TITLE 47, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT, SO AS TO PROVIDE THAT THIS CHAPTER ALSO APPLIES TO “CROP OPERATIONS”, TO DEFINE THE TERM “CROP OPERATION”, TO PROVIDE ADDITIONAL LIABILITY EXEMPTIONS TO VETERINARIANS AND PEOPLE WHO HOLD A SUPERIOR INTEREST IN CERTAIN PROPERTY, TO PROVIDE FOR A CIVIL CAUSE OF ACTION FOR A PERSON THAT SUFFERS DAMAGES AS A RESULT OF VIOLATIONS OF THIS CHAPTER RELATING TO ANIMAL FACILITY OPERATIONS, TO PROVIDE THAT IT IS UNLAWFUL TO TAMPER OR INTERFERE WITH CROP OPERATIONS, AND FRAUDULENTLY GAIN ACCESS TO CROP OPERATIONS, TO PROVIDE FOR A CIVIL CAUSE OF ACTION AND CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS RELATED TO CROP OPERATIONS, AND TO MAKE TECHNICAL CHANGES; AND BY ADDING SECTION 47-4-170 SO AS TO PROVIDE THAT CERTAIN INFORMATION PREPARED, OWNED, USED, SUBMITTED TO, IN POSSESSION OF, OR RETAINED BY THE STATE LIVESTOCK-POULTRY HEALTH COMMISSION OR THE STATE VETERINARIAN IS EXEMPT FROM DISCLOSURE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Farm Animal, Crop Operation, and Research Facilities Protection Act**

SECTION 1. Chapter 21, Title 47 of the 1976 Code is amended to read:

“CHAPTER 21

Farm Animal, Crop Operation, and

Research Facilities Protection Act

Article 1

Citation and Definitions

 Section 47‑21‑10. This chapter may be cited as the ‘Farm Animal, Crop Operation, and Research Facilities Protection Act’.

 Section 47‑21‑20. As used in this chapter:

 (1) ‘Actor’ means a person accused of any of the offenses defined in this chapter.

 (2) ‘Animal’ means a warm- or cold‑blooded animal used in food or fiber production, agriculture, research, testing, or education, including poultry, fish, and insects.

 (3) ‘Animal facility’ includes a vehicle, building, structure, or premises where an animal is kept, tested, handled, housed, exhibited, bred, or offered for sale and includes a research facility where research or testing on animals is conducted.

 (4) ‘Consent’ means assent in fact, whether express or apparent.

 (5) ‘Crop operation’ includes a vehicle, building, structure, or premises where a crop is raised, maintained, tested, handled, housed, exhibited, or offered for sale and includes a research facility where research on or testing of crops is conducted.

 (6) ‘Deprive’ means:

 (a) to withhold an animal or other property from the owner permanently or for such an extended time that a major portion of the value or enjoyment of the animal or property is lost to the owner;

 (b) to restore the animal or other property only upon payment for reward or other compensation; or

 (c) to dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.

 (7) ‘Effective consent’ includes consent by a person legally authorized to act for the owner. Consent is not effective if:

 (a) induced by force, threat, false pretenses, or fraud;

 (b) given by a person the actor knows is not legally authorized to act for the owner;

 (c) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions; or

 (d) given solely to detect the commission of an offense.

 (8) ‘Owner’ means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor.

 (9) ‘Person’ means an individual, corporation, association, nonprofit corporation, joint‑stock company, firm, trust, partnership, two or more persons having a joint or common interest, or other legal entity.

 (10) ‘Possession’ means actual care, custody, control, or management.

Article 3

Animal Facilities

 Section 47‑21‑30. Without the effective consent of the owner, it is unlawful for a person to acquire or otherwise exercise control over an animal facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of the facility, animal, or property, and to disrupt or damage the enterprise conducted at the animal facility.

 Section 47‑21‑40. Without the effective consent of the owner, it is unlawful for a person to damage or destroy an animal facility, an animal, or property in or on an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility.

 Section 47‑21‑50. Without the effective consent of the owner, and with the intent to disrupt or damage the enterprise conducted at the animal facility, it is unlawful for a person to:

 (1) enter an animal facility, not then open to the public, with intent to commit an act prohibited by this section;

 (2) remain concealed, with intent to commit an act prohibited by this section, in an animal facility; or

 (3) enter an animal facility and commit or attempt to commit an act prohibited by this section.

 Section 47‑21‑60. (A) Without the effective consent of the owner, it is unlawful for a person to enter or remain in an animal facility with the intent to disrupt or damage the enterprise conducted at the animal facility, and the person:

 (1) had notice that the entry was forbidden; or

 (2) received notice to depart but failed to do so.

 (B) For purposes of this section, ‘notice’ means:

 (1) oral or written communication by the owner or someone with apparent authority to act for the owner;

 (2) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

 (3) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

 Section 47‑21‑70. This chapter does not apply to, affect, or otherwise prohibit actions taken by:

 (1) the Department of Agriculture, any other federal, state, or local department or agency, or an official or employee of these entities while in the exercise or performance of a power or duty imposed by law or regulation;

 (2) a licensed veterinarian practicing veterinary medicine pursuant to Chapter 69, Title 40 and according to customary standards of care; or

 (3) a person holding a legal interest in an animal facility, an animal from an animal facility, or other property in or on an animal facility who has an interest in the facility, animal, or other property superior to the interest held by the person incurring damages.

 Section 47‑21‑80. (A) A person violating Sections 47‑21‑30, 47‑21‑40, and 47‑21‑50 is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both.

 (B) A person violating Section 47‑21‑60 is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

 Section 47‑21‑90. A person who suffers damages resulting from the commission of an act prohibited by this article has a civil cause of action for treble the amount of his actual damages, for consequential damages, for punitive damages, an injunction, and any other appropriate relief in law or equity. Upon prevailing in the civil action, the plaintiff may recover reasonable attorney’s fees and costs.

Article 5

Crop Operations

 Section 47‑21‑200. Without the effective consent of the owner, it is unlawful for a person to acquire or otherwise exercise control over a crop operation, a crop from a crop operation, or other property from a crop operation with the intent to deprive the owner of the operation, crop, or property, and to disrupt or damage the enterprise conducted at the crop operation.

 Section 47‑21‑210. Without the effective consent of the owner, it is unlawful for a person to damage or destroy a crop operation, a crop, or property in or on a crop operation with the intent to disrupt or damage the enterprise conducted at the crop operation.

 Section 47‑21‑220. Without the effective consent of the owner, and with the intent to disrupt or damage the enterprise conducted at the crop operation, it is unlawful for a person to:

 (1) enter a crop operation, not then open to the public, with intent to commit an act prohibited by this section;

 (2) remain concealed, with intent to commit an act prohibited by this section, in a crop operation; or

 (3) enter a crop operation and commit or attempt to commit an act prohibited by this section.

 Section 47‑21‑230. (A) Without the effective consent of the owner, it is unlawful for a person to enter or remain in a crop operation with the intent to disrupt or damage the enterprise conducted at the crop operation, and the person:

 (1) had notice that the entry was forbidden; or

 (2) received notice to depart but failed to do so.

 (B) For purposes of this section, ‘notice’ means:

 (1) oral or written communication by the owner or someone with apparent authority to act for the owner;

 (2) fencing or other enclosure obviously designed to exclude intruders or to contain a crop; or

 (3) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden.

 Section 47‑21‑240. This chapter does not apply to, affect, or otherwise prohibit actions taken by:

 (1) the Department of Agriculture, any other federal, state, or local department or agency, or an official or employee of these entities while in the exercise or performance of a power or duty imposed by law or regulation; or

 (2) a person holding a legal interest in a crop operation, a crop from a crop operation, or other property in or on a crop operation who has an interest in the operation, crop, or other property superior to the interest held by the person incurring damages.

 Section 47‑21‑250. (A) A person violating Sections 47‑21‑200, 47‑21‑210, and 47‑21‑220 is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both.

 (B) A person violating Section 47‑21‑230 is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

 Section 47‑21‑260. A person who suffers damages resulting from the commission of an act prohibited by this article has a civil cause of action for treble the amount of his actual damages, for consequential damages, for punitive damages, an injunction, and any other appropriate relief in law or equity. Upon prevailing in the civil action, the plaintiff may recover reasonable attorney’s fees and costs.”

**Confidential information**

SECTION 2. Chapter 4, Title 47 of the 1976 Code is amended by adding:

 “Section 47‑4‑170. Information prepared, owned, used, submitted to, in the possession of, or retained by the commission or the State Veterinarian related to the exercise of its official duties pursuant to this chapter, including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory reports, or other records that may be used to identify a person or private business activities subject to regulation by the commission is confidential and exempt from disclosure pursuant to Chapter 4, Title 30 unless the State Veterinarian determines that disclosure is necessary to implement the programs contained in this chapter or the State Veterinarian determines that disclosure is necessary to prevent the spread of animal disease or to protect the public health. Information prepared, owned, used, submitted to, in the possession of, or retained by the commission or the State Veterinarian related to the exercise of its official duties pursuant to this chapter concerning the receipt and expenditure of public funds and summaries of agency activities are not subject to the exemption from Chapter 4, Title 30 provided in this section.”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 6th day of June, 2012.

Approved the 7th day of June, 2012.

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