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Final Analysis
Legislative Service Commission

Sub. S.B. 67

125th General Assembly
(As Passed by the General Assembly)

Sens. Mumper, Wachtmann, Randy Gardner, DiDonato, Coughlin, Stivers, Austria, Goodman, Carnes, Carey, Schuring, Armbruster, Harris, Jacobson, Spada, White, Amstutz

Reps. Faber, Aslanides, Gibbs, Carmichael, Distel, Domenick, C. Evans, Niehaus, Reinhard, Schlichter, Seaver, Setzer, Wagner, Walcher, Widener, Buehrer, Callender, Carano, Cates, Cirelli, Collier, Core, Daniels, D. Evans, Flowers, Gilb, Grendell, Hagan, Hartnett, Hollister, Hoops, Hughes, Latta, Reidelbach, Willamowski, Wolpert

Effective date: *

ACT SUMMARY

- Prohibits anyone from committing a specified offense involving any agricultural product or equipment with the intent to intimidate or coerce a civilian population, influence the policy of any government by intimidation or coercion, affect the conduct of any government, or interrupt or interfere with agricultural production, agricultural research, or equipment for purposes of disrupting or influencing, through intimidation or other means, consumer confidence or agricultural production methods.
- Prohibits anyone from raising, soliciting, collecting, donating, or providing any material support or resources with the purpose that the material or resources will be used to plan, prepare, carry out, or aid in either a violation of the above prohibition or in the concealment of or an escape from such a violation.

** The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Establishes criminal penalties for violation of either prohibition, authorizes restitution to be paid to the victim of an offense, and states that violators may be prosecuted under the act, other relevant provisions of state law, or both.

CONTENT AND OPERATION

The act prohibits any person from committing a specified offense involving any agricultural product or equipment with the intent to intimidate or coerce a civilian population, influence the policy of any government by intimidation or coercion, affect the conduct of any government, or interrupt or interfere with agricultural production, agricultural research, or equipment for purposes of disrupting or influencing, through intimidation or other means, consumer confidence or agricultural production methods (sec. 901.511(B)). The act defines the following terms for the purpose of this prohibition:

(1) "Agriculture" means any of the following items that is produced for testing or research in the context of a product development program in conjunction or coordination with a private research facility, a university, or any federal, state, or local governmental agency or that is produced for personal, commercial, pharmaceutical, or educational purposes: field crop or field crop product; timber or timber product; forestry product; livestock or livestock product; meat or meat product; milk or dairy product; poultry or poultry product; equine animal; wool; fruit or vegetable crop; aquacultural product; horticultural crop, including plant materials grown in a greenhouse, nursery stock grown inside or outside of a container, ornamental grass, turf grass, ornamental trees, ornamental shrubs, or flowers; sod; mushrooms; viticultural product; apicultural product; tobacco; pasture; wild animal or domestic deer; or any combination of those items (sec. 901.511(A)(1)).¹

(2) "Equipment" means any implement, machinery, real or personal property, building, or structure that is used in the production, growing, harvesting, or housing of any agricultural product and also includes any laboratory, research, product, samples, supplies, or fixed equipment that is used to test, develop, or analyze the process of producing, growing, or maintaining any agricultural product (sec. 901.511(A)(2)).

¹ *"Wild animals" includes mollusks, crustaceans, aquatic insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, and all other wild mammals, but does not include domestic deer (sec. 1531.01(X), not in the act). "Domestic deer" means nonnative deer that have been legally acquired or their offspring and that are held in private ownership for primarily agricultural purposes (sec. 1531.01(YY), not in the act).*

(3) "Specified offense" means either aggravated arson, arson, vandalism, criminal damaging or endangering, criminal mischief, breaking and entering, criminal trespass, theft, tampering with records, or the unauthorized use of property or of computer, cable, or telecommunication property or service or an attempt to commit, complicity in committing, or a conspiracy to commit one of those offenses (sec. 901.511(A)(5)).

The act specifies that the prohibition does not apply to the practice of veterinary medicine by a person who has been issued a valid license, temporary permit, or registration certificate to do so under the Veterinarians Law (sec. 901.511(B)).

Under the act, whoever violates the prohibition is guilty on a first offense of a misdemeanor or a felony that is one degree higher than the penalty for the most serious underlying specified offense that is involved in the violation. However, if that penalty is a felony of the first degree, the violator is guilty of a felony of the first degree. On each subsequent violation, the violator is guilty of a misdemeanor or a felony that is two degrees higher than the penalty for the most serious underlying specified offense that is involved in the subsequent violation. Similarly, if that penalty is a felony of the first or second degree, the violator is guilty of a felony of the first degree. For this purpose, "most serious underlying specified offense" refers to the underlying specified offense that carries the highest maximum penalty. (Sec. 901.99(E).)

The act also prohibits any person from raising, soliciting, collecting, donating, or providing any material support or resources with the purpose that the material support or resources will be used in whole or in part to plan, prepare, carry out, or aid in either a violation of the act's prohibition against committing a specified offense involving any agricultural product or equipment with certain intent (see above) or in the concealment of, or an escape from, such a violation (sec. 901.511(C)). Violation of this prohibition is a felony of the third degree (sec. 901.99(F)). The act defines the following terms for the purpose of this prohibition:

(1) "Material support or resources" means currency, payment instruments, other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials (sec. 901.511(A)(3)).

(2) "Payment instrument" means a check, draft, money order, traveler's check, cashier's check, teller's check, or other instrument or order for the transmission or payment of money regardless of whether the item in question is negotiable (sec. 901.511(A)(4)).



In addition to imposing the penalties described above for either prohibition, the court may require a violator to pay to the victim an amount equal to triple the value of the agricultural product or equipment that was the subject of the violation. When ordering the restitution, the court must consider as part of the value of the agricultural product or equipment both its market value prior to the violation and the production, research, testing, replacement, and development costs directly related to the agricultural product or equipment that was the subject of the violation. (Sec. 901.511(D).)

The act states that its enactment is not intended to require the prosecution exclusively under its provisions of an act, series of acts, or course of behavior that could be prosecuted either under the act or under another provision of state law. One or more acts, series of acts, or courses of behavior that may be prosecuted either under the act or under another provision of state law may be prosecuted under the act, the other provision, or both. (Sec. 901.511(E).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-08-03	p. 252
Reported, S. Agriculture	05-21-03	p. 367
Passed Senate (33-0)	05-21-03	pp. 368-369
Reported, H. Agriculture & Natural Resources	05-05-04	p. 1832
Passed House (94-2)	05-12-04	pp. 1915-1916
Senate concurred in House amendments (32-0)	05-19-04	pp. 1974-1975

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