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Bill Analysis
Legislative Service Commission

Sub. S.B. 67

125th General Assembly
(As Passed by the Senate)

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

BILL SUMMARY

- Generally prohibits anyone, without privilege to do so, from knowingly damaging or destroying agricultural products produced for specified purposes or any equipment used in or for the purposes of their production.
- Provides that whoever violates these prohibitions is guilty of damaging agricultural products, the penalty for which is a third, fourth, or fifth degree felony depending on the value of the property or the amount of physical harm involved, also requires restitution for the damages, and states that violators may be prosecuted under the bill, other relevant provisions of state law, or both.

CONTENT AND OPERATION

The bill prohibits any person, without privilege to do so, from knowingly damaging or destroying any agricultural product that is produced either for personal or commercial purposes or for testing or research purposes 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 government agency (sec. 901.511(B)). "Agricultural product" means any field crop, field crop product, timber, timber product, or livestock. "Agricultural product" also includes any wild animal, as "wild animal" is defined in the Division of Wildlife Law, that is raised or maintained for either of the purposes described above.¹ (Sec.

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 bill).

901.511(A)(1).) The bill specifies that the prohibition does not apply to the practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under the Veterinarians Law (sec. 901.511(B)).

The bill also prohibits any person, without privilege to do so, from knowingly damaging or destroying any equipment (sec. 901.511(C)). "Equipment" means any equipment that is used in the production of any agricultural product or any laboratory, research, or fixed equipment that is used to test or analyze the process of producing any agricultural product (sec. 901.511(A)(2)).

Whoever violates either prohibition is guilty of damaging agricultural products. Except as otherwise provided under the bill (see below), damaging agricultural products is a fifth degree felony that is punishable by a fine of up to \$2,500 in addition to the penalties specified for a fifth degree felony in the Felony Sentencing Law. If the value of the property or the amount of physical harm involved is \$5,000 or more, but less than \$100,000, damaging agricultural products is a fourth degree felony. If the value of the property or the amount of physical harm involved is \$100,000 or more, damaging agricultural products is a third degree felony. (Sec. 901.99(E).)

In addition to imposing the penalties described above, the court must require a violator to pay to the victim an amount equal to twice the value of the agricultural product or equipment that has been damaged or destroyed. 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 damage or destruction and the production, research, testing, replacement, and development costs directly related to the agricultural product or equipment that has been damaged or destroyed. Restitution cannot exceed twice the market value prior to the damage or destruction plus twice the actual damages involving production, research, testing, replacement, and development costs directly related to the damaged or destroyed agricultural product or equipment. (Sec. 901.511(D).)

The bill states that its enactment is not intended to require the prosecution exclusively under the bill of an act, series of acts, or course of behavior that could be prosecuted either under the bill 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 bill or under another provision of state law may be prosecuted under the bill, 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 |

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