

MINUTES
HOUSE AGRICULTURAL AFFAIRS COMMITTEE

DATE: Thursday, February 20, 2014

TIME: 1:30 P.M.

PLACE: Lincoln Auditorium

MEMBERS: Chairman Andrus, Vice Chairman Boyle, Representative(s) Bolz, McMillan, Batt, Bell, Agidius, Dayley, Miller, Romrell, Stevenson, VanOrden, Pence, Erpelding

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheet will be retained with the minutes in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

Chairman Andrus called the meeting to order at 1:29 p.m.

S 1337: **Rep. Batt**, presented **S 1337**, Ag Production Interference. She said the legislation protects our farm families and agricultural production facilities from interference by wrongful conduct by providing penalties for such conduct and restitution to an injured agricultural producer. She said the definitions for "Agricultural production" section comes from the Right to Farm statute and "Agricultural production facility" comes from the Ag Research Act. She said the penalty provisions if crimes are committed will be a misdemeanor and that restitution be paid to the victim. She said now, more than ever, the farm industry is facing such activities as crops and records destruction and animals being released.

In response to Committee questions regarding the limitations the legislation puts on whistle-blowers and what an employee can do under the law if they witness animal abuse, **Rep. Batt** said the legislation does not prohibit whistle-blowers and Idaho already has state laws that address animal cruelty.

In answer to Committee questions, **Brian Oakey**, Deputy Director, Idaho State Department of Agriculture (ISDA), said they have a responsibility to implement the animal care statute in Idaho. He said they have information on their website available to the public and a complaint line to take calls. He said they have field staff trained by veterinarians to investigate animal care concerns. If there is an incidence where an animal must be taken from the owner, an inspector is on site and makes those determinations.

In response to a Committee question regarding the legislation preventing anyone from reporting animal cruelty, **Mr. Oakey** said ISDA's role will remain the same.

In response to Committee questions about the complaint line, **Mr. Oakey** said it is the role of the staff veterinarian to educate sheriffs and prosecutors on their role in implementing animal care and getting the information to the citizens. He said although they have a role in animal care it does not prevent any citizen from making their own complaint. He said it is ISDA policy to respond within 24 hours to complaints unless it is on the weekend and people who call in can remain anonymous.

Dan Steenson, presented on **S 1337**. He said he represents the hard working dairy farmers of Idaho but he kept all of Idaho farmers in mind when preparing this legislation. He said the purpose of the legislation is to protect Idaho farmers from wrongful interference. He said it occurs when activist groups masquerade as employees and then assume the role of both judge and jury when they publish videos to the media. He said the results can be devastating to the farmers. He said farmers have a right to privacy and they have nothing to hide. He said they care for their animals with moral obligation and to feed the nations population. He said for the structure and content of the bill they looked at similar statutes that had been enacted in other states and at trespass laws in Idaho Code and modified the bill along side the statute. He said they also considered a bill enacted into law last year and asked the Office of the Attorney General to review, incorporate and make suggested changes. He said it does not infringe upon the First Amendment. He said the bill addresses the concerns that resulted in the video whereby someone obtains employment with purposes to prosecute in the media. He said it also addresses entering an agricultural facility, not open to the public, even as a passerby, such as a grazing allotment, and a person uses a piece of equipment to record the operation without written consent from the owner.

Chairman Andrus said for the sake of fairness the Committee would hear testimony in order of sign up and it would be limited to three minutes.

Those speaking **in support** of the legislation were **Charles DeGroot, William Bokma, John Gomez, Clem Fitzgerald, Harry DeWolfe, Cindy Moyle, Terry Jones, Bennet Quellhorst, Jesus Hurtado, Arie Roeloffs, Dan Mauger, Tom Dorsey, Sid Freeman, Dan Schiffler, Pete Wiersma, Richard Durant.**

Those speaking **in opposition** of the legislation were **DeAnna Lee, Morgan Schnell, Shannon Smith, Daniel Whiteley, Elizabeth McFarland, Courtney Washburn, Kris Armstrong.**

Lou Murgoitio, Dairyman, Farmer and Idaho Dairyman's Association (IDA) Board Member, said he **supports** the bill and feels his business shouldn't be any different from a non agricultural business from a security standpoint. He said he believes every farm family has a right to their privacy whether in their homes or their operations. He asked for the Committee to support the bill.

Lance Cheney, Veterinarian, said he **supports** the bill and would not be in business if he did not care for the animals. He said there are protocols in place for the health and well being of the animals.

Steve Ballard, Dairy Producer and Cheese Processor, said he **supports** the bill. He said they have tours on their farms and believes no one would abuse cows the way it is shown in the media.

Russ Hendricks, Idaho Farm Bureau, said they **support** the bill. He said it is a private property rights issue guaranteed by the Idaho Constitution and it is the duty of the state to protect these members.

Kelly Hogan, said he **opposes** the bill. He said the video surveillance is evidence that can be provided to authorities for prosecution. He said the public has the right to expose these crimes.

Tony VanderHulst, Dairy Producer and President of Idaho Dairyman's Association, said he was speaking on behalf of numerous individuals who are in strong **support** of this bill. He said animal abuse is not tolerated in dairy production because content cows have better production. He said he fines employees who he witnesses abusing animals. He said it is necessary in order to protect personal property. He urged the Committee to vote yes.

Shawn Mallot, Nature's Harmony Dairy, said he **supports** the bill and he asked the Committee to support the bill. He said they train employees and include severe consequences if there is animal abuse. He said they have had cameras recording the cattle and the employees handling them for twelve years and they do this to protect themselves. He said this bill will prohibit unlawful entry or recordings.

Elham Marder, self, said she **opposes** the bill. She said it shouldn't be limited only to the agricultural industry and there are already laws in places to take care of this. She said there is a First Amendment right to expose this type of conduct.

Heidi Zschach, self, said she **opposes** the bill. She said it is unconstitutional and believes all crimes against animals should be reported and feels the filming should remain the same.

Brent Olmstead, Milk Producers of Idaho, MP Idaho and Lobbyist, said Milk Producers of Idaho **supports** this bill. He said the producers are afraid they will be put out of business by activists. He said the video suggests this is common practice of dairy farmers and it is not. He urged the Committee to support the bill.

Jim Lowe, Food Producers of Idaho and farmer, said he **supports** the bill. He said some activists would like to destroy agriculture as we know it. He said Idaho agriculture has nothing to hide and this bill will make people who seek to disrupt Idaho's largest economic contributor accountable for their actions.

Alix Maass-Hagaman, animal activist, **opposes** the bill because it will hurt the efforts to protect animals.

Wyatt Prescott, Executive Vice President, Idaho Cattle Association, said they **support** the bill. He said the cattle industry has a responsibility to produce the most wholesome and nutritional beef and this will protect the integrity of Idaho agriculture.

Sara Baugh, self, said she **opposes** the bill. She said it violates citizens rights to free speech and Idaho already has laws in place to protect the dairy farmers. She said it is an attack on fundamental values and would perpetuate animal abuse. She said she is in favor of protecting consumer rights to know how their food is raised.

Scott Beckstead, Senior Oregon Director, Humane Society, said they **oppose** this bill. He said he cares deeply about Idaho agriculture and believes this bill poses a greater threat to Idaho agriculture more than the video. He urged the Committee to vote no on it.

Mary Rengel-Yawczak, Retired Veterinarian, Teacher and Business Owner, said she feels the public doesn't have enough information on this bill. She would urge the committee to come to a compromise and consider a proposal to Subsection d, she doesn't think it is needed in this bill.

Chairman Andrus called a recess of the Committee at 3:22 p.m.

Chairman Andrus reconvened the meeting at 3:33 p.m.

Marty Durand, Building Trades Council, said they **oppose** the bill. She said Section d is the problem because simply taking a picture of a construction site would be a crime. She said this bill makes numerous problems for workers and it prohibits helpful communication. She urged the Committee to vote no.

Lisa Kauffman, Idaho State Director, Humane Society for the United States (HSUS), said they **oppose** this bill. She said she was concerned that many Representatives had little knowledge of this bill or the details in it. She said Mercy for Animals sent an investigator to Idaho in 2012 to gain employment at a dairy. There was no target, he applied and was hired at a facility. She said the person who took the video did try and expose it soon after it was taken by telling his supervisor, however, the supervisor did not follow up on it and actually ignored it. She said a high percentage of dairy workers are here illegally and would not report the animal abuse. She said HSUS fully supports Idaho dairies and producers. She asked the Committee to vote no on the bill.

Roger Batt, Idaho Eastern-Oregon Seed Association, said they **support** the bill. He said the bill includes protection for all of Agriculture and would add a much needed layer of protection in Statute for Seed Producers. He said someone could easily be hired by a seed company with the intent to divulge genetically engineered seed crops and nursery and stock seed locations to anti-GMO activists. He said someone entering a seed plot or field could transmit a disease or vector that could contaminate that seed plot and cause that disease or vector to spread to other seed crops within a production area. He asked the Committee for their support of the bill.

Matt Dominguez, Humane Society, said they work to protect animals from cruelty. He said last year there were several of these types of bills and every one failed to pass because the public demands to know what is happening to their food source. He said the intent of this bill is already addressed by Idaho law and if you want to heighten those punishments in the existing laws then the Humane Society will support it. He said as the video shows, abuse does happen by hourly employees and the public does not want to be kept in the dark. He said 77% of Americans oppose this type of legislation and these bills do more harm than good. He said there are no State or Federal laws that protect animals from abuse on a farm. He said this bill exhausts the ability to prove your allegations and we are a society of evidence and this bill takes that evidence away and without the video, animal cruelty will not stop.

Eilien Deshazo, self, said she **opposes** this bill. She said it seeks to silence the messenger because we do not want to hear the message. She said consumers do not want animals abused in the production of their food and the industry refuses to voluntarily regulate animal abuse.

Patricia Plimmer, self, said she **opposes** this bill. She said this bill uses broad language to protect individuals from heinous behavior. She said there are already trespass laws in place. She said these films need to be done and this is not an isolated incident. She asked the Committee to vote no.

Elizabeth Criner, Northwest Food Processors Association, said they **support** the bill. She said the legislation is important because it will provide appropriate protections for our food processing facilities that may be targeted by activists looking to fraudulently gain access to our businesses with the express purpose of causing damage or trying to gain access to our patents. In addition, an infiltration of this sort could do long-term damage to a brand or product type that is important to the strength of Idaho's food industry. She said they also have concerns about the effort that would result in damaged or tainted facilities, both of which could result in millions of dollars in costs or losses for our food processors. This issue also raises concerns regarding food safety and food supply.

Rick Oneida, CFO, Bettencourt Dairy, said he **supports** the bill. He said it is an absolute truth that **Mr. Bettencourt** cares for his animals and employees and has always had a zero tolerance policy on animal cruelty. He said on August 21, 2012 he received a phone call from the Idaho State Department of Agriculture (ISDA) regarding the video tape and immediately an investigation ensued. He said within hours the employees responsible were fired and they met with the Twin Falls Prosecutor. He said they met with every employee and signed agreements, installed cameras and contacted an outside agency to come in and conduct an animal welfare investigation. He said the group who did the videotaping has never followed up to check on the animals. He said they continue to receive threats to this day. He said it is important that private business and individuals have a right to privacy.

Bob Naerebout, Executive Director, Idaho Dairyman's Association (IDA), said this issue goes way beyond dairies but currently there are no laws that protect agriculture. He said 2,400 times last year ISDA visited dairies. He said the dairy owners have been put in jail with the use of the system. He said other states have passed this law. He said Mercy for Animals has tried to destroy the integrity of a business owner and they have done damage by waiting 45 days to release their video. He said the person doing the video taping orchestrated and choreographed it. He said he speaks for IDA and said no one would condone the behavior that was on that video taping. He urged the Committee to vote yes on the bill.

Dan Steenson, in closing said there is no need for any legal argument to show this bill is needed and he referred the Committee to tab 3 of the SB 1337 Document Index handout (See Attached).

MOTION: **Rep. Boyle** made a motion to send **S 1337** to the floor with a **DO PASS** recommendation.

In support of the motion, **Rep. Boyle** said this is a very important issue for agriculture and the no trespassing portion was very important to her. She said the investigating should be left to law enforcement and not to people with an agenda.

Rep. Batt invoked Rule 38 stating a possible conflict of interest.

ROLL CALL VOTE: **Rep. Batt** requested a roll call vote on **S 1337**. **Motion carried by a vote of 13 AYE and 1 NAY.** **Voting in favor** of the motion: **Reps. Boyle, Bolz, McMillan, Batt, Bell, Agidius, Dayley, Miller, Romrell, Stevenson, VanOrden, Pence, Andrus.** **Voting in opposition** to the motion: **Rep. Erpelding.** **Rep. Batt** will sponsor the bill on the floor.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 5:01 p.m.

Representative Andrus
Chair

Angela Sandoval
Secretary