

Ontario Federation of Agriculture

Submission to the

Standing Committee on General
Government

on the

Security from Trespass and Protecting
Food Safety Act
(Bill 156)

June 9, 2020



BACKGROUND:

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 38,000 farm family businesses across Ontario. These farm businesses form the backbone of a robust food system and rural communities with the potential to drive the Ontario economy forward.

Ontario farms have come under increasing threat from trespassers and activists who illegally enter property, barns and buildings, causing significant disruptions to the entire agri-food sector. In many cases, these activists are trespassing under false pretenses to gain entry on to farm properties. They have seized private property and threatened the health and safety of Ontario farms, families, employees, livestock, crops and our food supply. These individuals and organizations are causing health and safety concerns and undue stress to farmers, families, and their businesses. Once peaceful protests, have now escalated to trespassing, invading, barn break-ins, theft and harassment. These incidents distress farmers, their families and employees, and threaten the health of livestock and crops when activists breach biosecurity protocols, ultimately putting the entire food system at risk.

The OFA welcomes this opportunity to present its perspectives on Bill 156, the *Security from Trespass and Protecting Food Safety Act, 2019*. Simply stated, OFA wholeheartedly supports Bill 156, the *Security from Trespass and Protecting Food Safety Act, 2019*.

STRONG SUPPORT FOR PROPOSED CHANGE:

Ontario farmers are firmly in support of the *Security from Trespass and Protecting Food Safety Act, 2019*. At last count, OFA's Act Now website has generated 8,882 letters from farmers to their MPP. They understand the devastating consequences should their farms' biosecurity protocols be breached. They've experienced break-ins and thefts. Police responses to trespass incidents are sometimes non-existent. Farmers are a small minority of Ontarians, less than 2% of Ontario residents are directly engaged in farming, even less in animal agriculture. They are aware of activist invasions here in Ontario as

well as elsewhere. We're looking for legislative provisions that can respond to the threats to animal safety, food safety and to the personal safety of our farmers and their families. The Trespass to Property Act is not up to the task of dealing with activist invasions. We believe Bill 156 is up to that task.

OFA RECOMMENDED BILL 156 REGULATORY ITEM:

OFA recommends that when regulations under the Act are drafted that protection be extended to farm animals at fairs and exhibitions, as well as other public events and businesses such as horse-drawn carriage rides. The personal space of the animals, their owners and their caretakers must be respected.

“WHISTLEBLOWER” PROVISIONS [13(2)]:

Section 13 (2) speaks specifically to consent obtained under “false pretenses” to enter in or on an animal protection zone. It is extremely unusual for an individual to retain employment after their employer discovers that they've lied on the application form or falsified their resumé. In most cases, dishonesty of any kind on one's job application or submitting a falsified resumé are grounds for immediate dismissal. An individual should not be allowed to continue their employment in any situation if it has been gained through the use of duress or under false pretenses.

Someone who has been hired, based on their prior work history and resumé, at a farm, food processing facility, etc. has, in our eyes, an absolute duty to report a perceived instance of animal abuse. They should report their belief immediately to the appropriate authority; not sit on pictures or video over the course of a week, six months or two years. Under the Provincial Animal Welfare Services (PAWS) Act, it is an offence to permit an animal to be in distress. Failure to report suspected abuse immediately denies the opportunity for an objective investigation to be conducted, and for the source of distress to be alleviated for the animal(s).

Private citizens are not trained or equipped to collect evidence of suspected violations. Their evidence is tainted. Activists engaged in so-called “under-cover investigations” are self-appointed vigilantes. They have a specific agenda, which is to end all animal agriculture. The “evidence” collected is skewed in a way to cause the misrepresentation of the agriculture industry.

Anyone who firmly believes that animals are being subjected to abuse, on a farm, in a food processing facility, aquarium, zoo, or private home, has a duty to call the appropriate authorities – immediately. They should not withhold that information for a period of time, but instead immediately call the local police or the Ontario Animal Protection Call Centre (1-833-9-ANIMAL) or one of Ontario’s animal welfare inspectors. They are the authorities with the statutory powers to investigate suspected animal abuse, collect any relevant evidence and file charges. Ontario animal welfare inspectors are appropriately trained in animal husbandry and handling, biosecurity protocols, collection of evidence, and adhere to a code of conduct.

CITIZEN’S ARREST:

OFA is hearing that opponents of Bill 156 are claiming the Bill’s provisions allow for the owner or occupier of a farm to arrest someone who has contravened section 4 of the Act are somehow excessive and unheard of. This is a false assertion. Section 9 of Ontario’s current Trespass to Property Act states: *“the occupier of premises, or a person authorized by the occupier may arrest without a warrant any person he or she believes on reasonable and probable grounds to be on the premises in contravention of section 2”*. In addition, section 17(1) of the Off-Road vehicles Act empowers the owner or occupier of land to *“stop any person driving an off-road vehicle on the land”*. The driver is then required to stop [17(3)] and identify themselves [17(4)]. Likewise, section 16(4) of the Motorized Snow Vehicles Act states, *“upon the request of the owner or occupier of land upon which a person is operating a motorized snow vehicle, the person operating the motorized snow vehicle shall stop and give his or her correct name and address”*.

Federally, section 494(1) of the Criminal Code authorizes “arrest without a warrant” by “any person” and by “the owner in lawful possession of property” in 494(2).

TWO-YEAR LIMITATION:

The current Trespass to Property Act sets a six-month limitation from the date the offence occurred, when charges can be filed. The proposed *Security from Trespass and Protecting Food Safety Act, 2019* changes it to two years from when the offence became known.

It seems that the common practice of animal activists is to take video in a barn and wait for six months plus a day before publicizing it. The six-month limitation has passed, so they cannot be charged. If the claimed “abuse” is as egregious as the activists claim, why wait six months before releasing their video to the public? If their concern is with the alleged abuse that’s been recorded, waiting any period of time allows it to be perpetuated, and denies the animals the chance for the distress to be removed. If one truly believed that the abuse was contrary to accepted standards of care, then their immediate response would be to call the local police or one of Ontario’s animal welfare inspectors. By not reporting abuse immediately, they are condoning these actions and are party to the abuse.

BILL 156 IS NOT AN “AG GAG” LAW:

OFA does not see Bill 156 as stifling free speech, impeding one’s right to protest, exposing the abuse of farm animals or imperilling farm animals. In our opinion, it does none of those things. What we wanted was legislation to protect our family farms from illegal invasions, all couched under the false banner of “protecting the animals from abuse”. We wanted legislation to protect our farm animals from diseases and undue stress from illegal invasions of our farms, barns and homes. OFA believes that Bill 156, the *Security from Trespass and Protecting Food Safety Act, 2019* does provide the protection we’ve sought, but does not impinge on free speech, one’s right to peaceful protest, etc.

ANIMALS ARE PROTECTED FROM ABUSE:

Contrary to the assertions of animal activists, farmed animals in Ontario **are** protected against cruelty under both federal and provincial laws. Part XI of the Criminal Code of Canada penalizes harm to animals, and the newly-enacted PAWS Act (Bill 136), the successor to the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) Act, provides for provincial government staff (animal welfare inspectors) to enforce the Act's animal care provisions.

Both statutes authorize enforcement officers (police and/or provincial animal welfare inspectors) to enter places where animals are kept, including farms, in response to concerns that animals are in distress. Additionally, inspection staff employed by Ontario's supply managed commodity organizations (dairy, chickens, turkeys, eggs) have the authority to enter barns and inspect premises to ensure compliance with the commodity organizations' animal care requirements. Farm animal care is specified by national codes of practice, which are species-specific standards adhered to by commodity groups. Complimenting these standards, some provincial commodity groups promote animal care programs, such as Canadian Pork Excellence, which uses internationally-recognized high standards of care and farm practices, to enhance animal husbandry and animal welfare. These programs allow producers to demonstrate compliance with animal care, food safety and traceability requirements.

Our existing federal and provincial laws and enforcement personnel are empowered to address concerns about animals potentially in distress. Farmers and farm animals do not need self-appointed individuals entering livestock and poultry barns. Being unable to see inside does not justify trespassing. Being unable to see inside a barn, etc. does not mean that the animals inside are automatically "in distress". To suggest, as is the activist's assertion, that all farmed animals exist in abusive conditions, in an animal protection vacuum, is entirely false.

NATIONAL FARM ANIMAL CARE COUNCIL'S (NFACC) CODES OF PRACTICE:

Farm animal care is set out in the National Farm Animal Care Council's (NFACC) Codes of Practice; these codes are used as the standard for animal care in the province. Twelve sets of codes are current and an additional four are currently under review. Reviews are conducted every five years to ensure the Codes are as up to date as possible. The NFACC Codes are developed with broad-based input, from farmers, animal welfare organizations, veterinarians, animal welfare researchers, government, etc. They reflect the best available, and current, scientific knowledge on how best to feed, care and house one's livestock or poultry.

FARM ANIMALS ARE A MINORITY OF CALLS:

Under the OSPCA, a minority of calls involved farmed animals. OSPCA data from 2011 showed that of the 15,901 calls they received that year, 1,839 (or 12%) involved farmed animals and of that number, 1,200 or 65% involved horses. Meaning, if we exclude horses, 639 calls involved cattle, sheep, poultry, pork, etc., which results in a mere 4% of the overall number of calls to the OSPCA. And let us be clear, calls reporting animals suspected of being in distress do not translate to actual incidents of distress.

BIOSECURITY:

Modern livestock and poultry farms restrict human access to their animals to minimize the potential for introducing diseases. Diseases and pests pose a significant biosecurity threat on livestock and crop farms. Farm staff who are in direct contact with the animals do not visit other farms. They wear special clothing and footwear while in the facilities. They have biosecurity protocols in place to ensure the health and safety of the animals. In some barns, they must shower before entering the barn, and before leaving to maintain herd/flock health.

Trespass which breaches biosecurity has the potential to pose a risk much larger than to just that single operation. Ontario farmers follow high standards of care and biosecurity protocols designed to protect animals and crops from diseases and pests. Animal diseases can affect the health of animals, wildlife, the environment, the economy, and

also the health of people. Infectious diseases and pests can spread through direct contact with an animal, and indirect contact through contaminated means. Movement between barns, farm properties, and the outside environment can introduce new diseases which can have a significant and widespread negative impact. An individual or group entering farms or farm buildings, handling animals, or moving between barns and farm properties without observing biosecurity protocols puts the health of animals, the safety and security of food, and the livelihood of farms at risk.

Farmed animals become familiar with the person or persons looking after their care; the presence of unfamiliar people can cause undue stress upon them, potentially causing deaths.

ANIMAL WELFARE AND ANIMAL RIGHTS:

“Sentient” is an adjective that describes a capacity for feeling. A “feeling” is a specific activity in a sensory system of which an animal is aware. The term sentience has no universally accepted definition, as feelings and emotions are subjective and cannot be measured directly. The concept of “sentient beings” refers to beings with the power to reason and think. The term also implies beings with an awareness of their surroundings who respond to sensations, have cognitive thoughts and have the capacity to perceive and experience life subjectively. Feeling is a subjective state, available only to the animal feeling it. As animals and humans are built and function differently, it is unfair to automatically attribute the sensations experienced by humans to be the same as those experienced by animals. Humans have the ability to communicate their experiences, and what they feel. Since animals cannot communicate with us, there’s a huge assumption by animal activists that animals have emotional responses and the ability to reason and think, in the same way that humans do. We simply do not know if animals are capable of reasoning and cognitive thought, therefore we cannot attribute human qualities of reasoning and cognitive thought on animals as the activists would like.

From the perspective of animal agriculture, a key aspect of the concept of “sentient beings” is the belief that they should not be considered property and that holding them as

property means that animals are enslaved. That is simply not the case. When an animal is “owned”, as under provincial legislation, there is a legal obligation for the owner or caregiver to provide for the standards of care to the animals. This affords the animal protection under the law, to be cared for in a manner that is deemed acceptable, and helps ensure physical and mental well-being. Considering animals as property allows for the prosecution of an owner/caregiver when the standards of care are not being provided. Ontario farmers are committed to the humane treatment of all animals, and uphold high standards of care in alignment with provincial welfare legislation and accepted codes of practice.

There is a big difference between animal welfare and animal rights. The two terms are not interchangeable. Those advocating animals as sentient beings are animal rightists. Animal welfare is the premise that we humans have an ethical, moral or religious obligation to treat animals well; provide them with food, water, shelter; protect them from injury or predation and provide appropriate medical treatment when required. Animal rightists come from the perspective that animals themselves are beings with moral, ethical status, just like humans, and they should not simply have the protection of the law (welfare) but be part of the legal system with rights of their own. OFA would like to point out that while humans have rights under our laws, they also have obligations, which the laws hold them to. We don't see the animal rights activists supporting the premise that animals should be held accountable for their actions.

Animal activists are promoting their concept of transparency; first with the PAWS Act and now with Bill 156 (the *Security from Trespass and Protecting Food Safety Act, 2019*). Their perspective on “transparency” goes far beyond our perspective to include their “right” to enter barns, abattoirs, food processing facilities, etc. to “ensure” that the animals within are not being routinely subjected to ongoing abuse. They believe that it is only the activists who can expose this abuse. Animal activists ignore or discount the role of enforcement to do this. No other industries are subject to this form of “transparency”. Activists believe that because farmed animals are housed in barns, and therefore unseen by the general public, that they are subject to routine and ongoing abuse. While there are bad actors in every walk of life, it is a huge overreach to assume all livestock and poultry

farmers abuse animals because of the actions of a few; actions we oppose. When activists steal animals (liberate in their words), they are taken to a “sanctuary”. This is the activist’s term for a farm. The animals are confined, housed, fed and cared for in a given allotted space. This is no different than the farm from which they were taken.

The goal of animal activists is to bring an end to animal agriculture, and to animal use in general, not on improving animal welfare. Many of these activists are vegan extremists, whose aim is to bring an end to animal agriculture (and animal ownership) by whatever means necessary. It is critical that people have ready access to sufficient, safe, and nutritious food to maintain their health. Animal products, raised on farms that uphold the standards of care, can be part of that choice.

ONLINE BULLYING:

Online bullying of farmers by extremists adds to the every-day stress of farming. It is more than enough to deal with international trade uncertainties, unpredictable weather and international commodity prices without adding the stress on farmers and their families from online bullying. While bullying is top of mind in the context of schools and workplaces, including its negative impacts on mental health, not enough is being done to combat online bullying through social media platforms. OFA recommends the provincial government recognize the added stress, anxiety and mental health consequences from online bullying through social media.

The public does have an obligation to expose animal cruelty by utilizing our existing enforcement services, either police and/or provincial animal welfare inspectors, who have the requisite authority and training to fulfil these responsibilities.

The OFA welcomes this opportunity to present its perspectives on Bill 156, the *Security from Trespass and Protecting Food Safety Act, 2019*. We would like to commend the government in introducing this Bill to protect Ontario’s farms, families, employees, their animals and the safety of the entire food system. We trust that the Standing Committee



on June 9, 2020 will carefully consider OFA's perspectives on the *Security from Trespass and Protecting Food Safety Act, 2019* and not propose amendments to Bill 156.

Thank you.