



October 14, 2020

Ministry of Agriculture, Food and Rural Affairs  
1 Stone Road West  
Guelph, ON N1G 4Y2  
Sent by e-mail to: [securityfromtrespass.omafra@ontario.ca](mailto:securityfromtrespass.omafra@ontario.ca)

Dear Sir or Madam,

**Re: Comments on the Proposed Regulatory Provisions: *Security from Trespass and Protecting Food Safety Act, 2020***

Ontario Pork welcomes the opportunity to provide comments on the Proposed Regulations Provisions: *Bill 156, The Security from Trespass and Protecting Food Safety Act, 2020* discussion paper and to reiterate our continued support for this important legislation to protect Ontario's farmers, farm animals and food supply.

Our organization is the voice of the province's 1,180 pork farmers, and a leader in the agriculture industry. Led by producers, Ontario Pork is committed to sustainable growth in the pork sector, delivering government representation, research investment, and industry improvements in areas including animal care and environmental sustainability, while growing the brand and reputation of producers and their product. Ontario's pork sector represents a significant part of the Canadian economy, combining — from “farm to fork” — \$876 million in GDP and 13,186 full time jobs.

Ontario's pork farmers are committed to internationally recognized high standards of biosecurity, animal care and farm practices, based on science, education and animal husbandry best practices. They are proud of how they manage their animals and work hard to produce high-quality food for Canadians. They work closely with veterinarians, feed specialists and regulators to raise healthy animals in a sustainable and responsible way.

Freedom of speech and freedom of assembly are rights enjoyed by all Canadians. Pork producers support peaceful protest on public property. Ontario Pork members, like most Canadians, also embrace a system where there are clear consequences for breaking the law and meaningful prosecutions which act as a deterrent to future crimes.

*Bill 136, the Provincial Animal Welfare Services Act, 2019* strengthened animal care standards for all animals, with sections specific to livestock agriculture and provided a legal, safe and bio-secure mechanism for the public to raise animal care issues. For Ontario pork farmers, Bill 136 and Bill 156 will ensure that the highest standards of animal care are followed, while keeping people, animals and food safe from trespassing, harassment and illegal interference.

### **New safety concerns with proclamation of Section 6 (1)**

Ontario Pork supports and appreciates the early proclamation into force of Sections 6(1), (7), 14(1), 3 and 15 (1) of the *Act*. However, we are concerned with potential loopholes being used by activists, as well as perceived police hesitation to lay charges, in relation to S 6(2).

It was our hope that the early introduction of this section would reduce the risk of harm to people and animals. Like any law, success is dependent on effective enforcement by police and the courts.

At Sofina (Burlington) instead of blocking trucks from accessing the plant, animal rights extremists now jostle for position on a narrow median (which is public property), as trucks wait to turn. They continue to stick arms, electronic devices, nozzles, hoses and other items into the trailers, causing additional stress and possible harm to the animals inside. The risks of a person tripping, becoming entangled, or falling from the median unseen by a driver are of serious concern.

It is also our understanding that police appear hesitant to lay charges as they believe “transporting” requires that a vehicle be in motion. We firmly believe that “transporting” livestock should not mean the vehicle needs to be in motion. Under the *Highway Traffic Act*, a ticket can be issued for someone in a stopped vehicle using a cell phone, but activists have not been ticketed for interacting with livestock vehicles when stopped.

***Ontario Pork strongly believes that immediate clarification is required on these important issues.***

Despite these safety concerns and the intent of Government in declaring Section 6(1), Halton Police have indicated that they will not prevent protestors from interfering with trucks from this median until Section 6 (2) of Bill 156 comes into force.

#### **Section 6 (2) reads:**

*No person shall interfere or interact with a farm animal being transported by a motor vehicle without the prior consent of the driver of the motor vehicle.*

***Ontario Pork recommends that Section 6(2) be proclaimed immediately.***

### **Parts 1-4: General definitions to be used throughout the Minister’s Regulation**

Ontario Pork supports the proposed definitions, with exceptions and recommendations provided below.

#### **1.2 “farm animal harm”**

We note that while animal activist incursions on farms cause the animals stress, that stress may not meet the threshold for “undue stress” and require veterinary care. We recommend that the definition of “farm animal harm” delete the word “undue” and that the requirement for veterinary care to determine the degree of harm be removed.

#### **1.3 “food safety harm”**

This definition must make clear that it encompasses the entire food chain and should be revised to include this, versus the current language of “food supply system.”

### 1.5 “hazard”

This definition should include hazards introduced to livestock or poultry feed stored on a farm as well as the sources of water for livestock or poultry.

### 1.7 “financial injury”

Clarification is required as to whether this includes compensation for end value at maturity, for any lost livestock and/or herds.

## 4. “Farm Animals”

We believe that this definition requires expansion to include the full range of livestock, poultry and fish species raised on Ontario farms, and should include:

- (a) bison, cattle, horses, donkeys, mules, sheep, goats, swine, rabbits,
- (b) llamas and alpacas,
- (c) deer and elk,
- (d) poultry, including ratites,
- (e) fur-bearing animals,
- (f) bees,
- (g) cultured fish,
- (h) game animals and birds,
- (i) animals used to produce eggs, milk, cream or wool, or
- (j) any additional animals, birds or fish prescribed by the regulations and raised on a farm.

The definition should also capture livestock used for personal use, or boarded by an operator for another person.

## Part 5: Establishment of Additional Animal Protection Zones on Farms

Part 5 of the proposed regulations raises several questions specific to its purpose and scope. We believe that the definition of an “animal protection zone” must be expanded to include other places where animals are kept and recommend that the regulation encompass the following:

- “animal protection zones” to include farms, pastures, livestock/poultry transport vehicles and other farm animal facilities, and
- “other farm animal facilities” to include agricultural fairs and exhibitions, auction sales, commercial vehicle inspection stations (i.e. weigh scales), community pastures, livestock transport rest stops, sales barns, and stockyards when farm animals are present.

In addition, Part 5 raises questions regarding those animal protection zones that do **not** require signage and those **additional** animal protection zones that **do** require signage. An animal protection zone on private property should not have any trespassers at all. This differentiation is confusing and unnecessary. Unless someone has been invited or permitted to be in an animal protection zone, they have no right to be there.

***Ontario Pork requests further clarification regarding the purpose of the proposed additional signage requirements, given that no one should be trespassing on private property.***

Part 5 of the Discussion Paper also poses some considerations and limitations on the extent of the additional animal protection zone on a farm imposed by owner/occupiers of premises.

Ontario Pork supports the following limitations as found in Part 5:

- *Any additional animal protection zone cannot encompass the entire premises,*
- *On a farm with livestock, the animal protection zone encompasses the buildings which house farm animals, the land located between and directly surrounding those buildings and pastures/ fields where animals are grazed, and*
- *Any additional animal protection zone is limited to the yard(s) directly adjacent to these buildings if the animals are regularly loaded, unloaded in the yards or travel through the yards,*
- *Any additional animal protection zone cannot include land that does not fall within the legal boundaries of the premises.*

However, we again question the signage requirement found in the following limitation:

- *The boundaries of the additional animal protection zone must clearly indicate that no access is allowed.*

If the additional animal protection zone is on a farm, why is additional signage required? We would also caution that as previously stated, the Act's purpose is to prohibit trespassing and interference with farm animals. If additional signage is required, we must also raise that the costs associated with producing and potentially having to replace numerous signs may result in an unexpected burden to those people who are supposed to be protected by the Act and regulations.

Further, for an animal protection zone **not** located on a farm, specifics around sign wording, size and spacing to mark such zones would be useful and would address what we see as inadequacies in the requirements:

- **The sign must be of a sufficient size to allow a circle of 10 centimetres (4 inches) in diameter to be contained wholly within it.** This would make for a very small sign that would also be difficult to see.
- **Markings will be placed so that they are clearly visible in daylight under normal conditions and signs indicating no entry must accompany the markings around the boundaries of the additional animal protection zone.** Where should the signs be placed? How close or far from an animal protection zone at a fairground, rest stop, exhibition, assembly yard or livestock transport vehicle?
- **The Ministry is also contemplating including in the animal protection zone a perimeter around buildings containing animals. This perimeter could be a set distance, such as 5 feet surrounding each building.**
  - For livestock barns, the area immediately around these buildings plus adjacent yards, we propose the perimeter be a minimum of 15 metres (50 feet).
  - We further recommend that this distance also apply to animal processing facilities, assembly yards, sales barns and rest stops.
  - For livestock transport vehicles, and farm animals at fairs and exhibitions, we propose a 3-metre perimeter.

- Thought must also be given as to how enforcement of the prescribed distances will occur. Will an enforcement officer be able to readily measure and implement the specified distance?

### **Part 6: Dealing with Interfering and Interacting with Farm Animals**

Ontario Pork supports Part 6 of the Discussion Paper specific to interactions with farm animals, including restriction, limitation or clarification of actions or gestures. However, as discussed earlier, we strongly recommend that Section 6(2) be immediately proclaimed to ensure that animals on a livestock transport vehicle are within an animal protection zone, regardless of whether the vehicle is stopped or in motion, and that interaction with those animals onboard is strictly prohibited.

Ontario Pork appreciates that the Ministry is including prohibiting specific activities which would involve indirect activity with farm animals, such as removing a farm animal from an animal protection zone or assisting a farm animal to leave an animal protection zone. We also recommend that this section specifically mention entering livestock barns, or other buildings and animal housing facilities, to prevent actions that could place livestock at risk.

### **Part 7: Dealing with Obtaining Consent Under False Pretenses Under Sections 5(6) and 6(4)**

Part 7 of the Discussion Paper outlines the situations in which consent would be voided, unless the person is exempted as a journalist and there is no harm. We wish to identify several concerns regarding an exemption for journalists.

### **Part 8: Exemptions Under Section 7(g) of the Act**

#### **8.1: Exemptions for Journalists in the Minister's Regulation**

In the Ministry's consideration of an exemption for journalists, it states that two provisions would have to be included: a definition of "journalist" and how the exemption for journalists would work. Also stated is that at Committee, it was raised that the Act might limit the ability of journalists to report animal abuse or other issues. Ontario Pork does not agree with this statement.

The proposed definition of "journalist" includes a new section that states "...and gained entry to an animal protection zone or the motor vehicle transporting farm animals with a bona fide journalistic purpose." We do not support this and question why journalists would be given the right to enter an animal protection zone or transport vehicle, when the purpose of the Act is to prohibit trespassing on farms and other properties where farm animals are located, and limiting interactions with farm animals to ensure the safety of people and the entire food chain, as recommended in the definition of "food safety harm."

Ontario Pork believes that journalists and the media have an important role within society; however, this does not mean they have any more rights to access private property than any other member of the public. As the proposed regulation currently reads, having a "bona fide" journalistic purpose is enough to enter an animal protection zone, trespass on private property, enter a vehicle and potentially jeopardize safety, animal health and strict biosecurity protocols. As well, the risk to human safety must not be overlooked: Entering a livestock vehicle without permission, journalist or not, would be incredibly dangerous to the individual.

While the proposed definition states that “journalist” must be the person’s main occupation and their primary means of making a living, in the age of social media, this is not a regulated profession and there are many people who now consider themselves to be journalists. Who will ensure that the person is a “bona fide” journalist? Who will ensure that a journalist is aware of and follows the strict biosecurity and safety measures practiced on farms, and in other animal protection zones?

There is no mention of the journalist being asked or invited onto an animal protection zone. If a journalist is indeed on a private property of their own accord, then they are trespassing. In almost all cases, farms are where people live and raise their families. No individual or group has the right to enter private property or places of business or interact with animals without consent. Exemptions from key provisions based on profession (with the exception of enforcement officers) undermines the entire purpose of this *Act*. It is integral to the *Act* that no one has the right to enter an animal protection zone who does not have legislative or inspection authority to be given special permission to be excluded from the *Act*.

### **8.2: Exemptions for Whistleblowers in the Minister’s Regulation**

In the Ministry’s proposed exemption for whistleblowers, it is stated that Committee hearings identified concerns that the *Act* may limit the ability of employees to report animal abuse or other issues to the proper authorities. Ontario Pork recognizes the important role whistleblowers have within society, and their function in exposing animal abuse. If an employee has been hired based on their prior work history and experience, and is thus a “bona fide” employee, then it is their duty to report a perceived instance of animal abuse for proper investigation and resolution.

As well, being hired as a “bona fide” employee means that the employee did not enter an animal protection zone under false pretenses, nor would this be considered trespassing. The purpose of the *Act* is to protect farmers and the food system from trespass and biosecurity breaches, and ensure legitimate consent is obtained to be within an animal protection zone. Thus, we question the need for an exemption for whistleblowers.

### **Part 9: Dealing with Obtaining Consent Under False Pretenses in Section 14(2) in Relation to Journalists and Whistleblowers**

To exempt certain persons or professions from obtaining legitimate consent to enter animal protection zones or interact with livestock undermines the entire purpose of this *Act*. If whistleblowers are “bona fide” employees, they would already have gained legitimate consent to be within an animal protection zone, and to interact with livestock, and therefore already exempt from the false pretenses portion of the *Act*. The purpose of any trespass legislation is to give greater control over entry or use of an owner’s or tenant’s premises, to provide penalties and remedies for breaches of the *Act*, and to facilitate the recreational use of private lands. Journalists, or any other profession other than officers with enforcement and investigative powers, do not have the right to violate the law.

### **Part 10: Increased Penalties for Presence of One or More Aggravating Factors**

Ontario Pork supports the proposed aggravating factors allowing for increased penalties for persons who are found guilty of committing offences under the *Act*.

**Additional Item**

An area that we believe is remiss from the regulations is a prohibition on the use of drones, except with express consent. Ontario Pork believes that uninvited surveillance of farms, businesses, agriculture facilities and animals with modern surveillance techniques such as drones, should be deemed as trespassing.

***Ontario Pork recommends that the Ministry give consideration to the use of drones, by consent only.***

The line between legal protests and illegal activities has been crossed by extremist groups and individuals who have grown increasingly brazen in their attacks on the agriculture industry. Activists trespassing on private property, stepping in front of moving transport trucks, stealing animals and harassing workers and families cross the line from peaceful protest to illegal activity. Farmers need equal protection under the law when their homes, property and workplaces are threatened.

We firmly believe that Bill 156 respects peaceful protest, while restoring balance between the high standards of animal care inherent to pork farming, and protection for farmers, transporters and others involved in food production.

Ontario Pork appreciates the opportunity to provide input on the Proposed Regulatory Provisions and again, commends the government for this important legislation and the protection of the pork sector, as well as the entire agri-food industry.

Sincerely,



Eric Schwindt  
Board Chair