



October 15, 2020

Ministry of Agriculture, Food and Rural Affairs  
1 Stone Road West  
Guelph, Ontario  
N1G 4Y2

To whom it may concern,

*Re: BFO Submission to the Proposed Approaches For Regulatory Provisions To Implement The Security From Trespass And Protecting Food Safety Act, 2020 - 20-OMAFRA028*

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Beef Farmers of Ontario (BFO) appreciates the opportunity to comment on the proposed approaches for regulatory provisions to implement *The Security From Trespass And Protecting Food Safety Act, 2020*. BFO represents 19,000 beef farmers in Ontario by advocating in the areas of sustainability, animal health and care, environment, food safety, and domestic and export market development.

Prior to making comments on the proposed regulatory approach, BFO would like reiterate its support for every citizen's right to protest peacefully on public property. BFO believes that anyone with reasonable grounds to believe that farm animals are being abused, can and should immediately report that suspicion to the appropriate enforcement body.

BFO would also like to reinforce that animal welfare is of the utmost importance to BFO and its members. When concerns involving animal care are identified in Ontario's beef industry, BFO acknowledges its responsibility to consider and offer its perspective to its members, the broader agriculture industry and the general public. BFO is respectful of the leadership roles of the government agencies and law enforcement bodies charged with monitoring and investigating animal care in Ontario.

BFO expects all members to take responsibility in their role as beef farmers for the welfare of their animals and for the reputation and positioning of the Ontario beef industry as proactive and principled when it comes to animal care. BFO does not tolerate farmers who do not fulfill this responsibility to their animals and the public.

The remainder of this document contains BFO's formal comments in response to regulatory proposal 20-OMAFRA028.

## **PROCLAIMED SECTIONS**

BFO was extremely pleased to see sections 6 (1), 7, 14 (1) (3) and 15 (1) of the *Act* proclaimed in advance of the underlying regulations within this *Act*. The proclaimed sections making it an offence to stop,

130 Malcolm Road, Guelph, ON N1K 1B1  
P/ 519.824.0334 TF/1.866.370.2333 F/ 519.824.9101

[www.ontariobeef.com](http://www.ontariobeef.com)



hinder, obstruct or otherwise interfere with a motor vehicle transporting farm animals was an important step to address the concerning situations taking place that put the public, workers, and transport drivers at risk.

Despite the proclamation of these sections there has continued to be situations targeting vehicles transporting farm animals and what appears to be inconsistent enforcement of the proclaimed sections. BFO believes improvements in outcomes could be achieved by immediate proclamation of Section 6 (2), which states *that 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*. A legal basis will be created if and when this section is proclaimed to help prevent the unsafe practice of protestors having contact with livestock transport vehicles and animals.

- ❖ BFO recommends that the province immediately proclaim Section 6 (2) of the *Act* to give law enforcement officers the tools to ensure both the safety of protestors and the animals, while protecting the right to freedom of speech and freedom of assembly in public spaces.

## GENERAL DEFINITIONS

- ❖ BFO supports the proposed wording of the definitions for:
  - biosecurity measures;
  - harm;
  - human harm; and
  - farm.

### “Farm Animal Harm”

While BFO recognizes that trespasser activity on farms causes stress to animals, that stress may not meet the threshold for “undue stress”. Any stress resulting from trespassing on livestock farms should be considered “Farm Animal Harm”.

- ❖ BFO recommends that the word “undue” be removed from the definition of “Farm Animal Harm”.

The definition of “Farm Animal Harm” also seems to imply, whether intentionally or unintentionally, that “Farm Animal Harm” is something that results in the requirement for veterinary care. Animals that have been spooked or stressed as a result of unwanted visitors may not require veterinary care as an example, but should nonetheless be considered under “Farm Animal Harm”.

- ❖ BFO recommends that the definition of “Farm Animal Harm” be amended so that veterinary care is not interpreted as a prerequisite to establish “Farm Animal Harm”.

### “Hazard”

The definition for “Hazard” should also include language around hazards introduced to feed and water.

- ❖ BFO recommends that the definition of “Hazard” be expanded to include hazards introduced to:
  - livestock feed stored on a farm or other animal protection zone
  - water sources used by livestock on a farm or other animal protection zone.



“Financial Injury”

Additional clarity around the scope of the definition for “Financial Injury” is needed. For example, animals that must be euthanized due to trespass activity, or suffer other lingering negative impacts from interactions with trespassers, such as reduced conception rates, should be considered a financial injury.

- ❖ BFO recommends that the definition of “Financial Injury” be expanded to include lost opportunity costs which could arise from a trespasser’s actions.

“Animal Processing Facility”

While BFO does not oppose the proposed definition for “Animal Processing Facility”, we are concerned that some facilities may not fit the current definition for either an “Animal Processing Facility” or a “Farm”.

- ❖ BFO recommends that the definition of “Animal Processing Facility” be expanded to include facilities such as auction markets, assembly yards, community pastures and livestock rest stations, in addition to meat processing facilities where animals are slaughtered and/or carcasses are fabricated or otherwise further processed.

If these facilities are intended to be covered under the definition of a “Farm” then we would withdraw this recommendation.

Additional Definition – “Off-Farm”

With farm animals regularly moved off-farm for various purposes, it is important to clearly define what “Off-Farm” activities include for the purposes of designating other animal protection zones. “Off-Farm” activities could include locations where animals are temporarily housed for the purpose of a fair or exhibition, 4H events, rest stops for vehicles transporting animals, and agri-tourism.

- ❖ BFO recommends that a definition for “Off-Farm” be included as part of the general definitions within the *Act*.

**ANIMAL PROTECTION ZONES ON FARMS**

The single largest area of concern for BFO, with respect to the proposed regulatory approach, surrounds the definition and interpretation of an “animal protection zone”, and the establishment of “additional animal protection zones”. The section is unnecessarily complicated, and confusing, both with respect to what constitutes an animal protection zone, and if/when signage is required. Part 5 of the discussion papers seems narrowly focused on protection zones being limited to farms, and more specifically barns or building where animals are housed. We question why a broader definition that encompasses all areas of a farm or other premise where animals are housed on either a temporary or more long-term basis is not applied in order to give blanket protection.

The discussion paper overlooks places where livestock are routinely kept but are not included as on-farm “animal protection zones”. One example would include the portion of a farm where livestock are pastured/grazed, but not adjacent to the barn. Harassment of and interference with livestock in an enclosed pasture deserves the same degree of protection as animals housed in a barn. The consequences of interference are no different.



The definition of an animal protection zone must include pasture areas, not only on the “home farm” but also on additional farm properties that are part of the overall farming operation, in addition to “community pastures” that are enclosed by a fence intended to keep animals in or people out, when farm animals are present. Facilities such as fairs and exhibitions, assembly yards, sales barns, rest stops, etc. with enclosures for farm animals, should also be considered as an “animal protection zone” when farm animals are present.

Ultimately, the regulations must do a much better job reflecting the primary intent of the *Act*, referenced under Section 1, which states “*the purposes of this Act are to prohibit trespassing on farms and other properties on which farm animals are located and to prohibit other interferences with farm animals...*”. Protection of farm animals on farms is important, but regulatory silence in relation to “*other places on which farm animals are found*” opens the door to trespasser harassment and interference with farm animals at fairs, exhibitions, assembly yards, auction markets, rest stops, etc.

- ❖ BFO recommends that a simpler approach to defined animal protection zones be adopted, by encompassing four uniquely defined “zones”:
  - farms, including pasture and grazing land
  - livestock transport vehicles
  - animal processing facilities
  - other animal facilities

The “other animal facilities” would include agricultural fairs and exhibitions, auction markets, commercial vehicle inspection stations (i.e. weigh scales), community pastures, livestock transport rest stops, and assembly yards, and any other facility or space where livestock animals are present for a temporary or more long-term basis.

## SIGNAGE

Part 5 of the discussion paper seems to waver between those animal protection zones that do not require signage and those additional animal protection zones that do require signage. Any animal protection zone on a farm, pasture/grazing land, or animal processing facility is clearly on private property and therefore provides no right to an individual to be on that premise unless they have been invited or permitted.

- ❖ BFO strongly opposes any signage requirement for farms (including buildings and pasture/grazing land where animals are kept), animal processing facilities or livestock transport vehicles.

Outside of public facilities where animals may be housed, such as agricultural fairs or exhibitions, we do not support nor see value in requiring businesses or facilities to demonstrate to would-be trespassers that the area is an approved animal protection zone that can’t be entered without consent. An individual would not interfere with someone else’s vehicle in the same way an individual should not interfere with a livestock transport vehicle, whether stopped or not. An individual that crosses a pasture fence should rightly assume, in the same way that an individual who hops a suburban yard fence should assume, that doing so likely constitutes trespassing on private property. The *Act* should not reward ignorance as an excuse for trespassing.



Under the *Trespass to Property Act*, signage is not required for “a garden, field or other land that is under cultivation, including a lawn, orchard, vineyard and premises on which trees have been planted and have not attained an average height of more than two metres and woodlots on land used primarily for agricultural purposes; or that is enclosed in a manner that indicates the occupier’s intention to keep persons off the premises or to keep animals on the premises”. We question why a different standard is being proposed under *The Security From Trespass And Protecting Food Safety Act, 2020*. It must also be noted that the majority of animal protection zones will fall on private property.

BFO does see some merit in requiring signage to be displayed on premises where livestock are present, but not routinely housed, such as at public fairs and exhibitions. However, BFO believes that the requirement that “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.” to be far too small in diameter.

## **INTERFERING AND INTERACTING WITH FARM ANIMALS**

BFO is pleased with the proposed regulations for this section, but would also like to see the inclusion of some other factors. It is important that vehicles that are transporting animals be explicitly designated as an animal protection zone in the regulations and that a perimeter around the vehicles be set.

- ❖ BFO recommends that a minimum 2 metres (6.5 feet) distance be required between livestock transport vehicles, and livestock at fairs and exhibitions open to the public.

The province is also contemplating including in the animal protection zone a perimeter around buildings containing animals. The discussion paper notes that “the perimeter could be a set distance, such as 5 feet surrounding each building”. The discussion paper mentions a 5-foot perimeter around buildings containing farm animals yet makes no mention of a perimeter at animal processing facilities or at “other properties on which farm animals are located” such as fairs, exhibitions, assembly yards, auction markets, rest stops, etc.

- ❖ BFO supports the concept of a minimum setback perimeter around animal protection zones and recommends a minimum of 15 metres (50 feet).

Regardless of the measure, thought must be given to the enforcement of the prescribed distance. If a prescriptive perimeter distance is set, enforcement officers must be able to readily measure and implement the specified distance.

Using a prescriptive perimeter around places where animals are or will be routinely kept as a measure of trespassing undermines the purpose of the *Act*. Individuals are either within an animal protection zone and are considered to be trespassing, or they are not. Caution must be used when prescribing a perimeter, and should only be used in situations such as “temporary” animal enclosures (i.e.- at fall fairs) or proximity to livestock transport vehicles moving or stopped on public roads, parking lots, etc.

## **OBTAINING CONSENT UNDER FALSE PRETENSES S.5(6) & S.6(4)**

BFO is pleased with the proposed regulations as part of this section.



- ❖ BFO supports the proposed regulatory approach outlined under Section 5 (6) and 6 (4) with respect to obtaining consent under false pretenses.

BFO does have concerns with the language in this section around “*unless the person is exempted as a journalist and there is no harm*”. These concerns will be addressed in the following section.

## EXEMPTIONS FOR JOURNALISTS AND WHISTLEBLOWERS

As currently proposed, journalists would be legally allowed to enter a property with a designated animal protection zone without the consent of the property owner if certain conditions are met. The purpose of the *Act* is to prohibit trespassing on farms and other properties where farm animals are located and to prohibit interfering with farm animals. Despite a journalist meeting the proposed conditions to be exempt from portions of Section 5, doing so will certainly not achieve another key purpose of the *Act* which is to ensure the safety of farmers, their families, and persons working on farms, processing facilities, or drivers transporting farm animals. Having unexpected and uninvited individuals on one’s property will not lead to farmers or their families feeling safe. This exemption would infringe on the rights of farmers and their families to privacy and security. How to define a *bona fide* journalist in today’s era of new media would also be a challenge. Whether the province sees fit to grant journalists impunity for trespassing or not still would not alleviate the very serious concerns with defining and enforcing who is and who is not a *bona fide* journalist.

- ❖ BFO strongly opposes the proposed exemptions for journalists from portions of section 5 of the *Act*.

BFO believes that *bona fide* journalists and the media have an important role to play in covering stories and disseminating information as it relates to animal welfare and food safety concerns, but that such efforts should be done in a manner that does not require trespassing on private property. The recent *Provincial Animal Welfare Services (PAWS) Act* has been lauded for its effectiveness in protecting animals from abuse and neglect and has strong reporting mechanisms for those to report suspected animal abuse. It is important that when there is suspected animal abuse that individuals report to the proper authorities who have the knowledge and experience to address cases of animal abuse.

Aside from the current exceptions in the *Act*, which does not prohibit law enforcement, animal care inspectors, emergency services, etc. from entering an animal protection zone when necessary or as prescribed by law, it is BFO’s strong belief that laws dealing with trespassing should apply to *all* citizens equally regardless of their profession.

As noted in the discussion paper, the *Act* does not prohibit a farm employee or service person from reporting issues to the proper enforcement authority. With that, BFO believes that the current whistleblowing limit of six months, as outlined in the *PAWS Act*, is too long. It should be the case that when an individual suspects or witness’s animal abuse, neglect or cruelty that they inform the proper authorities as soon as possible. If individuals hold on to such information for a long period of time it only prolongs cases of animal abuse, neglect or cruelty.

- ❖ BFO supports the proposed regulations for the exemption for whistleblowers from portions of section 5 and the further emphasis it provides that employees who witness animal abuse, neglect or cruelty are not limited in their ability to report such instances. However, BFO believes the



current whistleblowing limit of six months is far too long. Consideration should be given to reducing the whistleblowing window from six months to two weeks.

It should be noted that the *PAWS Act* provides the mechanisms to report and provides the authority to inspect farms and processing facilities when an individual has animal welfare concerns or complaints.

## CONCLUSION

BFO would like to thank the province for the opportunity to comment on the proposed approaches for regulatory provisions to implement *The Security From Trespass And Protecting Food Safety Act, 2020*. BFO looks forward to seeing the rest of the *Act* and its underlying regulations come into force to provide enhanced protection of animals and food safety, farmers, truckers, and other individuals employed in the livestock supply chain in Ontario.

For more information contact:

Rob Lipsett  
President  
lipsettrob@yahoo.ca  
519-375-2080

Darby Wheeler  
Policy Advisor  
darby@ontariobeef.com  
519-824-0334

