


US appeals court revives law banning unauthorized recording on industrial farms

By Clark Mindock

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[1/2] Holstein cows are seen after being milked at Alfred Brandt's dairy farm, which has been in his family since 1840 and has been affected by the industry's supply chain disruptions created by the... [Purchase Licensing Rights](#)  Read more



Summary

Law raises penalties for recording while trespassing

Animal rights groups say the law aims to chill their speech

Jan 8 (Reuters) - A U.S. appeals court on Monday revived an Iowa law that substantially increases the financial penalties and jail time for individuals who surreptitiously record videos and photos on private property, but animal welfare groups have vowed to continue arguing the law should not apply when they record instances of cruelty on industrial farms.

A three-judge panel of the 8th U.S. Circuit Court of Appeals in St. Louis, Missouri, said Iowa's law "has a plainly legitimate sweep" that is narrowly tailored to protect property rights in the state, so is not so broad as to generally violate free speech rights under the 1st Amendment of the U.S.

Constitution.

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Animal welfare groups, including the Animal Legal Defense Fund and Food and Water Watch, had claimed in their 2021 lawsuit that the law would deter protesters from filming animal cruelty at industrial animal farms in the agriculture-heavy state, chilling their speech.

The law was passed in 2021 by the state's Republican-dominated legislature, with supporters saying then it was needed to protect U.S. food security, the state's agriculture industry and private property rights from trespassers, including animal rights activists.

Circuit Judge L. Steven Gras, writing for the court, said the law fulfills a legitimate state interest in protecting things like individual privacy rights and preventing theft of trade secrets, among other things.

The panel reversed a lower court's 2022 decision striking down the law, but stopped short of saying whether the law would be unconstitutional when applied to the groups challenging it that say they record videos of the conditions at animal farms to raise public awareness.

David Muraskin, an attorney representing the animal rights groups, said they will continue to fight, arguing "the law might be applicable to some, but it is unconstitutional as applied to these plaintiffs."

The Iowa attorney general's office didn't immediately respond to a request for comment.

The law treats a first offense of trespass surveillance as an aggravated misdemeanor with fines as high as \$8,540 and up to two years in prison, compared to the 30 days and \$855 cap for simple misdemeanor trespassing. Second offenses are treated as felonies.

The state had argued the law is primarily aimed at protecting property that is already being trespassed upon, and thus does not chill free speech.

But the district court's 2022 decision agreed with the animal rights groups that the law was written too broadly, and would impose a burden on speech when there are other effective laws that already exist to protect property rights.

The 8th Circuit on Monday in a separate decision also revived a law prohibiting applicants from including material lies on employment applications when their intent is to get a job in order to cause harm to the employer's interests, reversing a lower court ruling in favor of a similar group of animal rights organizations that challenged the law. The law aims to discourage applicants from knowingly making false statements on applications in order to gain special access to specific jobs, like when animal rights activists might make false statements to get a job at a farm to surreptitiously investigate conditions there.

The case is *People for the Ethical Treatment of Animals Inc v. Reynolds*, 8th U.S. Circuit Court of Appeals, No. 22-3464.

For the state: Leif Olson and Jacob Larson of the Iowa Attorney General's Office

For the animal rights groups: David Muraskin of Farmstand; and Christine Ball-Blakely of the Animal Legal Defense Fund

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