

Anti-whistleblower (“Ag-Gag”) Legislation

4:30 Estimated 945 Words EN Language



Undercover investigations by animal advocates are a critical tool in exposing the cruel realities of factory farming. However, instead of passing laws to ensure farm animals are protected from abuse and neglect on factory farms, industrial agriculture continues to introduce anti-whistleblower legislation (often referred to as “ag-gag” bills) to prevent the investigation and exposure of cruel conditions endured by animals at these facilities.

Ten states have passed 14 anti-whistleblower laws:

State	Year	Citation	Status	Details
Alabama	2002	<u>Ala. Code 1975 § 13A-11-150 - 158</u>	Active	Illegal to “obtain access” to a facility “by false pretenses.” Illegal to obtain or possess records or data by deception or theft.
Arkansas	2017	<u>Ark. Code § 16-118-113</u>	Current challenge in court; 2021 remand by the Eighth Circuit to the lower court.	Illegal to access non-public/commercial property and record images or sound that damage the owner.
Idaho	2014	<u>Idaho §18-7042</u>	Unconstitutional; struck down in 2015.	Illegal to enter a facility or obtain employment there under misrepresentation. Illegal to obtain

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				records or record audio or video without express consent.
Iowa	2012	<u>Iowa Code § 71 7A.3A</u>	Partially Unconstitutional; 2021 ruling by the Eighth Circuit found that § 717A.3A(1)(a) (access provision) is constitutional but § 717A.3A(1)(b) (employment provision) is unconstitutional.	Illegal to “obtain access” to a facility “by false pretenses.” Illegal to obtain employment based on false representations while intending to commit an act not authorized by the employer.
Iowa	2019	<u>Iowa Code § 71 7A.3B</u>	Unconstitutional; struck down in 2019; on appeal.	Illegal to enter a facility or gain employment under “false pretenses” while intending to harm the owner or its operations. Establishes “agricultural production facility trespass.”
Iowa	2020	<u>Iowa Code § 71 6.7A</u>	Active	Illegal to enter or remain on the property of a food operation without consent. Establishes “food operation trespass.”
Iowa	2021	<u>Iowa Code § 72 7.8A</u>	Unconstitutional; struck down by the District Court for Southern District of Iowa in 2022.	Illegal to knowingly place or use a camera or other electronic surveillance device that records images or data. Establishes trespass.
Kansas	1990	<u>K.S.A. 47-1825 – 1830</u>	Unconstitutional; struck down in 2021 by the Tenth Circuit.	Illegal to enter a facility without consent of owner and with intent to damage the enterprise of the facility “to take pictures by photograph, video camera or by any other means.”
Missouri	2012	<u>Missouri § 578.0 13</u>	Active	Requires videos or other records of animal abuse or neglect to be turned over to authorities within 24 hours of the recording.
Missouri	2017	<u>Missouri § 578.4 05</u>	Active	Criminalizes obtaining access to an animal facility by false pretenses for the purposes of performing acts not authorized by the facility.
Missouri	2021	<u>Missouri § 261.0 99</u>	Active	Illegal to “inspect” animal facilities; prohibits testimony on conditions or events on the grounds in criminal prosecutions.
Montana	1991	<u>MCA § 81-30-1 01- 105</u>	Active	Illegal to enter a facility without consent of owner and with intent to damage the enterprise of the facility “to take pictures by photograph, video camera, or any other

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				means with the intent to commit criminal defamation.”
North Carolina	2015	<u>SL 2015-50</u>	Unconstitutional; struck down in 2020; on appeal.	Illegal to access non-public property and exceed one’s authority, including an employee knowingly placing a camera or recording device on the property.
North Dakota	1991	<u>ND §12.1-21.1-01 - 05</u>	Active	Illegal to enter an animal facility and “use or attempt to use a camera, video recorder, or other video or audio recording equipment.”
Utah	2012	<u>Utah Code § 76-6-112</u>	Unconstitutional; struck down in 2017.	Illegal to record images or sounds of an “agricultural operation” without the owner’s consent; illegal to gain employment with intent to do so.
Wyoming	2015	<u>Wyo. Code § 6-3-414 (criminal);</u> <u>Wyo. Code § 40-27-101 (civil)</u>	Unconstitutional; struck down in 2018.	Illegal to cross private lands and collect data (e.g. photographs or samples) to give to federal or state regulators.

There have been attempts in many other states to pass this type of legislation (Arizona, California, Florida, Illinois, Indiana, Kentucky, Minnesota, Nebraska, New Hampshire, New Mexico, New York, Pennsylvania, Tennessee, Vermont, and Wyoming). But these attempts have failed—likely because the majority of legislators have come to understand how harmful these bills are, not only to farm animals, but also to the environment, workers, surrounding communities, and free speech.

Animal and consumer advocates have challenged some ag-gag laws in court. In 2015, a federal district court found Idaho’s ag-gag law to be unconstitutional. After the state appealed, the Ninth Circuit Court of Appeals affirmed the decision in part, upholding the lower court’s ruling that it is unconstitutional to ban recording at factory farms. Utah’s ag-gag law was found to be unconstitutional in 2017. The Utah Attorney General’s office decided not to appeal the case. In 2018, a federal district court struck down Wyoming’s ag-gag law as facially unconstitutional and enjoined the state from enforcing it. Iowa’s original ag-gag law was challenged as unconstitutional in 2017 and struck down in January 2019. However, three additional ag-gag laws have passed in Iowa in 2019, 2020, and 2021, with both the 2019 and 2021 laws being challenged in court currently. In June 2019, animal advocates filed suit to challenge Arkansas’ ag-gag law, and while the lower court dismissed the case, the Eighth Circuit in August of 2021 revived the suit and remanded it to the lower court. In 2020, a federal district court in North Carolina partially overruled the state’s ag-gag law. In 2021, two challenges were at least partially successful. The Tenth Circuit Court of Appeals affirmed the lower court ruling that struck down the Kansas ag-gag law, the oldest in the country and the Eighth Circuit Court of Appeals affirmed the unconstitutionality of part of the 2012 Iowa law, but reversed the lower court decision and found another provision of the law to be constitutional.

Please visit our [Action Center](#) to see if we need your help to stop an anti-whistleblower bill from becoming law in your state.