

SB 59-FN – AS INTRODUCED

2013 SESSION

13-0885
08/05

SENATE BILL **59-FN**

AN ACT prohibiting the cruel confinement of certain farm animals.

SPONSORS: Sen. Carson, Dist 14; Sen. Reagan, Dist 17; Sen. Gilmour, Dist 12; Rep. Davis,
Merr 20; Rep. Hubbard, Straf 12

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill prohibits the cruel confinement of certain farm animals.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT prohibiting the cruel confinement of certain farm animals.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Section; Unlawful Confinement of Certain Farm Animals. Amend RSA 644 by inserting
2 after section 8-f the following new section:

3 644:8-g Unlawful Confinement of Certain Farm Animals.

4 I. In this section:

5 (a) "Calf raised for veal" means a calf of the bovine species kept for the primary purpose
6 of producing the food product referred to as veal.

7 (b) "Enclosure" means a cage, crate, or other structure used for confinement, including
8 what is commonly described as a "gestation crate" for gestating sows or a "veal crate" for calves
9 raised for veal.

10 (c) "Farm" means the land, buildings, support facilities, and other equipment that are
11 wholly or partially used for the commercial production of animals or animal products used for food or
12 fiber, and does not include live animal markets.

13 (d) "Farm owner or operator" means any person who owns or controls the operations of a
14 farm; and does not include any non-management employee, contractor, or consultant.

15 (e) "Fully extending its limbs" means fully extending all limbs without touching the side
16 of an enclosure.

17 (f) "Gestating sow" means a pregnant pig of the porcine species kept for the primary
18 purpose of breeding.

19 (g) "Turning around freely" means turning in a complete circle without any impediment,
20 including a tether, and without touching the side of the enclosure.

21 II. Notwithstanding any other provision of law, a person commits cruel confinement of a calf
22 raised for veal or gestating sow if the person:

23 (a) Is a farm owner or operator; and

24 (b) Knowingly tethers or confines any calf raised for veal or gestating sow in an
25 enclosure in a manner that prevents such animal from lying down, standing up, fully extending its
26 limbs, and turning around freely.

27 III. This section shall not apply during:

28 (a) Medical research.

29 (b) Examination, testing, or individual treatment of or operation, only if performed by or
30 under the direct supervision of a licensed veterinarian.

31 (c) Transportation.

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1 (d) State or county fair exhibitions, 4-H programs, and similar exhibitions.

2 (e) The temporary confinement of an animal for animal husbandry purposes for no more
3 than 6 hours in any 24-hour period.

4 (f) Humane slaughter in accordance with applicable laws and regulations.

5 (g) The 7-day period prior to a gestating sow's expected date of giving birth.

6 IV. Whoever shall violate any part of this section shall be guilty of a class A misdemeanor
7 and may be subject to a fine of no more than \$1,000.

8 V. The provisions of this section are in addition to and not in lieu of any other laws
9 protecting animal welfare. This section may not be construed to limit any state law or rules
10 protecting the welfare of animals or to prevent a local governing body from adopting and enforcing
11 its own animal welfare laws and regulations.

12 VI. If any provision of this section, or the application thereof to any person or circumstances,
13 is held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other
14 provisions or applications of this section that can be given effect without the invalid or
15 unconstitutional provision or application, and to this end the provisions of this section are severable.

16 2 Effective Date. This act shall take effect one year after its passage.

SB 59-FN - FISCAL NOTE

AN ACT prohibiting the cruel confinement of certain farm animals.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, and New Hampshire Municipal Association state this bill, **as introduced**, may increase state and county expenditures by an indeterminable amount in FY 2015 and each year thereafter. There will be no fiscal impact on local expenditures, or state, county, and local revenue.

METHODOLOGY:

The Department of Agriculture, Markets and Food states this bill prohibits the cruel confinement of certain farm animals. The Department assumes this bill would not take effect until FY 2015 due to an effective date that is one year after the law is passed. The Department states this bill will result in approximately 23 complaints per year. The Department does not anticipate increasing state expenditures by adding personnel to address complaints but rather a staff person (labor grade 16) would need to redirect approximately 23 hours of time per year to address the complaints. There is no impact on the Department.

The Judicial Branch states this bill would add RSA 644:8-g regarding cruel confinement of certain farm animals. Violations of this prohibition are a class A misdemeanor. The Branch has no information to estimate how many cases would be impacted by this bill to determine the fiscal impact on expenditures but does have information on the cost for processing class A misdemeanors. All costs are estimated based on case weight information from the last needs assessment completed in 2005. The Branch states a class A misdemeanor will cost \$64.40 per case in FY 2015 and each year thereafter. However, if a single case were to be appealed to the New Hampshire Supreme Court, the fiscal impact would be in excess of \$10,000.

The Judicial Council states this bill may result in an indeterminable increase in general fund expenditures. The Council states if an individual is found to be indigent, the flat fee of \$275 per misdemeanor is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a misdemeanor. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee

cap are seldom granted. Finally, expenditures would increase if services other than counsel are requested and approved by the court during the defense of a case or during an appeal.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties will have increased expenditures. The Association is unable to determine the number of individuals who may be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Justice states this bill will not have a fiscal impact on the Department because such offenses are typically prosecuted by local and county prosecutors not the Department.