

April 8, 2021

Honourable Blaine Pedersen
Minister of Agriculture and Resource Development
Room 165, Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

Honourable Cameron Friesen
Minister of Justice and Attorney General
Room 104, Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

Via email

Dear Ministers,

Re: Bill 62, *The Animal Diseases Amendment Act*

We the undersigned Canadian law professors and legal experts write to express our concerns with Bill 62, *The Animal Diseases Amendment Act* (“**Bill 62**”). Aspects of the Bill would infringe individuals’ rights to freedom of expression and peaceful assembly, and therefore violate the *Canadian Charter of Rights and Freedoms* (“**Charter**”). When viewed in the context of other bills recently introduced in Manitoba, including in particular Bill 57, *The Protection of Critical Infrastructure Act* (“**Bill 57**”), Bill 62 appears to be part of a broader move to make it easier for the government and private companies to restrict peaceful protest activities in the province.

Bill 62 makes it an offence for persons to enter a “biosecurity zone” at a farm or slaughterhouse without consent. The Bill also restricts individuals’ ability to peacefully gather on public property near trucks transporting animals to slaughter. In this respect, Manitoba appears to be following the lead of Ontario, which recently enacted the controversial *Security from Trespass and Protecting Food Safety Act, 2020* – a law widely characterized as an agricultural gag, or “ag gag” law, due to its restrictions on the gathering of information and footage documenting the treatment of farmed animals in facilities and transport trucks across the province.

Bill 62 also makes it an offence to give food or water to a farmed animal in a biosecurity zone or transport truck without consent. We note that it is already a criminal offence to give a poisonous or injurious substance to an animal.¹ The prohibition on giving food or water to farmed animals would apply even where an animal is displaying clear signs of thirst, malnourishment, or heat exhaustion, and would be punishable by a fine of up to \$10,000 and imprisonment for up to one

¹ *Criminal Code*, RSC 1985, c C-46 ss 445.1(1)(c).

year – a longer prison term than is available for a first-time offender convicted of animal abuse under the *Animal Care Act*.²

As in Ontario, Bill 62 would make it an offence to “interfere” or “interact” with farmed animals in transport. Bill 62 appears even broader than section 6(2) of Ontario’s law, in that it would prohibit any and all interaction unless the government chooses to exempt certain classes of persons by regulation.³ This overly broad prohibition is even more problematic in the context of the government’s introduction of Bill 57, which would make it easier to restrict or prohibit peaceful protest activities near farms and slaughterhouses, as well as a host of other private facilities throughout Manitoba.

Section 2(b) of the *Charter* promotes and safeguards the open debate and discussion essential to a free and democratic society.⁴ Section 2(c) of the *Charter* guarantees access to and use of public spaces in which collective peaceful protest activities can be carried out.⁵ Section 13.2(2) of Bill 62 would unreasonably curtail rights to protest on public property. In an open and democratic society, streets and other public places are an important place for public discussion and political expression.⁶ Protecting rights to protest on public property is critically important to safeguard freedom of expression, and its corollary, the right to listen.

The right to freedom of expression includes expression that gives the public, including consumers, access to information that would enable them to make informed purchasing choices.⁷ Indeed, in striking down ag gag laws as unconstitutional violations of the First Amendment right to free speech, U.S. courts have recognized the public interest in allowing people and organizations to gather and publicly disseminate information and footage to educate the public about animal welfare and food safety issues.⁸

The public release of information and images showing the conditions in which farmed animals are transported can play an important role in shaping public opinion and policies around agricultural practices, including transport practices in particular. Such footage has also been used on numerous occasions to support complaints to the Canadian Food Inspection Agency and provincial animal welfare law enforcement authorities where it appears that applicable legal standards have been violated.

If Bill 62 is passed in its current form, it would effectively cut off this source of public information and restrict a broad range of protest activities on public property in the vicinity of

² *The Animal Diseases Act*, CCSM c A85 ss 17(1); *The Animal Care Act*, CCSM c A84 ss 34(1).

³ Note that several signatories to this letter were among a group of 43 law professors and legal experts who wrote to Ontario when it was considering Bill 156 to warn that a prohibition on “interference and interaction” with farmed animals in transport could violate individuals’ section 2(b) and (c) Charter rights. The same analysis applies to Manitoba’s proposal.

⁴ *Irwin Toy Ltd. v Québec (Attorney General)*, [1989] 1 SCR 927 at 976.

⁵ *Hussain v Toronto (City)*, 2016 ONSC 3504, at para 38.

⁶ *Greater Vancouver Transportation Authority v Canadian Federation of Students*, [2009] 2 SCR 295 at paras 42-47, 77; *Montréal (City) v 2952-1366 Québec Inc.*, [2005] 3 SCR 141 at paras 61, 67; *Committee for the Commonwealth of Canada v Canada*, [1991] 1 SCR 139 at 150.

⁷ *RJR-MacDonald Inc. v Canada (Attorney General)*, [1995] 3 SCR 199.

⁸ See, e.g. *Animal Legal Defense Fund et al. v Kimberly Reynolds et al.* (Case 4:19-cv-00124-JEG-HCA).

trucks transporting animals, thus violating individuals' *Charter* rights to freedom of expression and peaceful assembly. We urge the Government of Manitoba to amend Bill 62 and respect the basic constitutional rights of its citizens.

Yours truly,

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