

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 352

Representative Patton

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A B I L L

To amend sections 901.41, 901.70, 903.01, 943.01, and 1
947.01 of the Revised Code to include alpacas in 2
certain statutory definitions of "agricultural 3
animal" and "livestock." 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 901.41, 901.70, 903.01, 943.01, and 5
947.01 of the Revised Code be amended to read as follows: 6

Sec. 901.41. As used in this section and in section 901.42 of 7
the Revised Code: 8

(A) "Director" means the director of agriculture or the 9
designee of the director of agriculture. 10

(B) "Exhibition" means a display of animals that is open to 11
the public. 12

(C) "National exhibition" means an exhibition where species 13
from fifteen or more states or nations are exhibited. 14

(D) "Nonprofit association" means any corporation, society, 15
partnership, or other organization formed under the laws of this 16
state or another state or nation providing for the establishment 17
and governance of nonprofit entities. 18

(E) "Ohio expositions center" means the property that is held 19

by this state for the purpose of conducting fairs, expositions, 20
and exhibits and that is maintained and managed by the Ohio 21
expositions commission under section 991.03 of the Revised Code. 22

(F) "Premium awards" means money, ribbons, banners, medals, 23
achievement pins, trophies, or merchandise presented for animals 24
of superior quality. 25

(G) "Rental costs" means the costs associated with the rental 26
of the facilities, or a portion thereof, at the Ohio expositions 27
center, including, without limitation, grounds, buildings, pens, 28
animal feeding or watering equipment, and tieouts. "Rental costs" 29
also includes labor costs associated with set-up, tear-down, and 30
security. 31

(H) "Species" means dairy cattle, beef cattle, swine, 32
rabbits, poultry, alpacas, and sheep. 33

Sec. 901.70. As used in sections 901.70 to 901.76 of the 34
Revised Code: 35

(A) "Exhibition" means any of the following: 36

(1) A show or sale of livestock at a fair or elsewhere that 37
is sponsored by or under the control of a county or independent 38
agricultural society organized under section 1711.01 or 1711.02 of 39
the Revised Code; 40

(2) A show or sale of livestock at the Ohio state fair; 41

(3) A livestock show at a fair or elsewhere or a livestock 42
sale at or associated with a fair or livestock show that is 43
assembled for any length of time; 44

(4) A livestock show at a fair or elsewhere or a livestock 45
sale at or associated with a fair or livestock show that includes 46
livestock with origins outside ~~Ohio~~ this state; 47

(5) Any show or sale of livestock at a fair or elsewhere that 48

is specified by rule of the director of agriculture adopted under 49
section 901.72 of the Revised Code. 50

(B) "Livestock" means any animal generally used for food or 51
in the production of food, including cattle, sheep, goats, 52
rabbits, poultry, swine, and any other animal included by the 53
director by rules adopted under section 901.72 of the Revised 54
Code, and alpacas. 55

(C) "Sponsor" means any of the following: 56

(1) A county or independent agricultural society organized 57
under section 1711.01 or 1711.02 of the Revised Code; 58

(2) The Ohio state fair; 59

(3) Any other public or private entity sponsoring an 60
exhibition. 61

Sec. 903.01. As used in this chapter: 62

(A) "Agricultural animal" means any animal generally used for 63
food or in the production of food, including cattle, sheep, goats, 64
rabbits, poultry, and swine; horses; alpacas; and any other animal 65
included by the director of agriculture by rule. "Agricultural 66
animal" does not include fish or other aquatic animals regardless 67
of whether they are raised at fish hatcheries, fish farms, or 68
other facilities that raise aquatic animals. 69

(B) "Animal feeding facility" means a lot, building, or 70
structure where both of the following conditions are met: 71

(1) Agricultural animals have been, are, or will be stabled 72
or confined and fed or maintained there for a total of forty-five 73
days or more in any twelve-month period. 74

(2) Crops, vegetative forage growth, or post-harvest residues 75
are not sustained in the normal growing season over any portion of 76
the lot, building, or structure. 77

"Animal feeding facility" also includes land that is owned or 78
leased by or otherwise is under the control of the owner or 79
operator of the lot, building, or structure and on which manure 80
originating from agricultural animals in the lot, building, or 81
structure or a production area is or may be applied. 82

Two or more animal feeding facilities under common ownership 83
shall be considered to be a single animal feeding facility for the 84
purposes of this chapter if they adjoin each other or if they use 85
a common area or system for the disposal of manure. 86

(C) "Best management practices" means best management 87
practices established in rules. 88

(D) "Cattle" includes, but is not limited to, heifers, 89
steers, bulls, and cow and calf pairs. 90

(E) "Concentrated animal feeding facility" means an animal 91
feeding facility with a total design capacity equal to or more 92
than the number of animals specified in any of the categories in 93
division (M) of this section. 94

(F) "Concentrated animal feeding operation" means an animal 95
feeding facility that complies with one of the following: 96

(1) Has a total design capacity equal to or more than the 97
number of animals specified in any of the categories in division 98
(M) of this section; 99

(2) Satisfies the criteria in division (M), (Q), or (EE) of 100
this section; 101

(3) Is designated by the director of agriculture as a medium 102
or small concentrated animal feeding operation pursuant to rules. 103

(G) "Discharge" means to add from a point source to waters of 104
the state. 105

(H) "Federal Water Pollution Control Act" means the "Federal 106
Water Pollution Control Act Amendments of 1972," 86 Stat. 816, 33 107

U.S.C. 1251 et. seq., as amended, and regulations adopted under 108
it. 109

(I) "Finalized," with respect to the programs required under 110
division (A)(1) of section 903.02 and division (A)(1) of section 111
903.03 of the Revised Code, means that all rules that are 112
necessary for the administration of this chapter have been adopted 113
and all employees of the department of agriculture that are 114
necessary for the administration of this chapter have been 115
employed. 116

(J) "General permit" has the meaning that is established in 117
rules. 118

(K) "Individual permit" has the meaning that is established 119
in rules. 120

(L) "Installation permit" means a permit for the installation 121
or modification of a disposal system or any part of a disposal 122
system issued by the director of environmental protection under 123
division (J)(1) of section 6111.03 of the Revised Code. 124

(M) "Large concentrated animal feeding operation" means an 125
animal feeding facility that stables or confines at least the 126
number of animals specified in any of the following categories: 127

(1) Seven hundred mature dairy cattle whether milked or dry; 128

(2) One thousand veal calves; 129

(3) One thousand cattle other than mature dairy cattle or 130
veal calves; 131

(4) Two thousand five hundred swine that each weigh 132
fifty-five pounds or more; 133

(5) Ten thousand swine that each weigh less than fifty-five 134
pounds; 135

(6) Five hundred horses; 136

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| (7) Ten thousand sheep or lambs; | 137 |
| (8) Fifty-five thousand turkeys; | 138 |
| (9) Thirty thousand laying hens or broilers if the animal feeding facility uses a liquid manure handling system; | 139 140 |
| (10) One hundred twenty-five thousand chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system; | 141 142 143 |
| (11) Eighty-two thousand laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system; | 144 145 146 |
| (12) Thirty thousand ducks if the animal feeding facility uses a manure handling system that is not a liquid manure handling system; | 147 148 149 |
| (13) Five thousand ducks if the animal feeding facility uses a liquid manure handling system. | 150 151 |
| (N) "Major concentrated animal feeding facility" means a concentrated animal feeding facility with a total design capacity of more than ten times the number of animals specified in any of the categories in division (M) of this section. | 152 153 154 155 |
| (O) "Manure" means any of the following wastes used in or resulting from the production of agricultural animals or direct agricultural products such as milk or eggs: animal excreta, discarded products, bedding, process waste water, process generated waste water, waste feed, silage drainage, and compost products resulting from mortality composting or the composting of animal excreta. | 156 157 158 159 160 161 162 |
| (P) "Manure storage or treatment facility" means any excavated, diked, or walled structure or combination of structures designed for the biological stabilization, holding, or storage of manure. | 163 164 165 166 |

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| (Q) "Medium concentrated animal feeding operation" means an animal feeding facility that satisfies both of the following: | 167 168 |
| (1) The facility stables or confines the number of animals specified in any of the following categories: | 169 170 |
| (a) Two hundred to six hundred ninety-nine mature dairy cattle whether milked or dry; | 171 172 |
| (b) Three hundred to nine hundred ninety-nine veal calves; | 173 |
| (c) Three hundred to nine hundred ninety-nine cattle other than mature dairy cattle or veal calves; | 174 175 |
| (d) Seven hundred fifty to two thousand four hundred ninety-nine swine that each weigh fifty-five pounds or more; | 176 177 |
| (e) Three thousand to nine thousand nine hundred ninety-nine swine that each weigh less than fifty-five pounds; | 178 179 |
| (f) One hundred fifty to four hundred ninety-nine horses; | 180 |
| (g) Three thousand to nine thousand nine hundred ninety-nine sheep or lambs; | 181 182 |
| (h) Sixteen thousand five hundred to fifty-four thousand nine hundred ninety-nine turkeys; | 183 184 |
| (i) Nine thousand to twenty-nine thousand nine hundred ninety-nine laying hens or broilers if the animal feeding facility uses a liquid manure handling system; | 185 186 187 |
| (j) Thirty-seven thousand five hundred to one hundred twenty-four thousand nine hundred ninety-nine chickens, other than laying hens, if the animal feeding facility uses a manure handling system that is not a liquid manure handling system; | 188 189 190 191 |
| (k) Twenty-five thousand to eighty-one thousand nine hundred ninety-nine laying hens if the animal feeding facility uses a manure handling system that is not a liquid manure handling system; | 192 193 194 195 |

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| (1) Ten thousand to twenty-nine thousand nine hundred | 196 |
| ninety-nine ducks if the animal feeding facility uses a manure | 197 |
| handling system that is not a liquid manure handling system; | 198 |
| (m) One thousand five hundred to four thousand nine hundred | 199 |
| ninety-nine ducks if the animal feeding facility uses a liquid | 200 |
| manure handling system. | 201 |
| (2) The facility does one of the following: | 202 |
| (a) Discharges pollutants into waters of the United States | 203 |
| through a ditch constructed by humans, a flushing system | 204 |
| constructed by humans, or another similar device constructed by | 205 |
| humans; | 206 |
| (b) Discharges pollutants directly into waters of the United | 207 |
| States that originate outside of and that pass over, across, or | 208 |
| through the facility or otherwise come into direct contact with | 209 |
| the animals at the facility. | 210 |
| "Medium concentrated animal feeding operation" includes an | 211 |
| animal feeding facility that is designated by the director as a | 212 |
| medium concentrated animal feeding operation pursuant to rules. | 213 |
| (R) "Mortality composting" means the controlled decomposition | 214 |
| of organic solid material consisting of dead animals that | 215 |
| stabilizes the organic fraction of the material. | 216 |
| (S) "NPDES permit" means a permit issued under the national | 217 |
| pollutant discharge elimination system established in section 402 | 218 |
| of the Federal Water Pollution Control Act and includes the | 219 |
| renewal of such a permit. "NPDES permit" includes the federally | 220 |
| enforceable provisions of a permit to operate into which NPDES | 221 |
| permit provisions have been incorporated. | 222 |
| (T) "Permit" includes an initial, renewed, or modified permit | 223 |
| to install, permit to operate, NPDES permit, and installation | 224 |
| permit unless expressly stated otherwise. | 225 |

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| (U) "Permit to install" means a permit issued under section 903.02 of the Revised Code. | 226 227 |
| (V) "Permit to operate" means a permit issued or renewed under section 903.03 of the Revised Code and includes incorporated NPDES permit provisions, if applicable. | 228 229 230 |
| (W) "Person" means any legal entity defined as a person under section 1.59 of the Revised Code, the state, any political subdivision of the state, any interstate body created by compact, the United States, or any department, agency, or instrumentality of any of those entities. | 231 232 233 234 235 |
| (X) "Point source" has the same meaning as in the Federal Water Pollution Control Act. | 236 237 |
| (Y) "Process generated waste water" means water that is directly or indirectly used in the operation of an animal feeding facility for any of the following: | 238 239 240 |
| (1) Spillage or overflow from animal watering systems; | 241 |
| (2) Washing, cleaning, or flushing pens, barns, manure pits, or other areas of an animal feeding facility; | 242 243 |
| (3) Direct contact swimming, washing, or spray cooling of animals; | 244 245 |
| (4) Dust control. | 246 |
| (Z) "Process waste water" means any process generated waste water and any precipitation, including rain or snow, that comes into contact with manure, litter, bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or direct products such as milk or eggs. | 247 248 249 250 251 252 |
| (AA) "Production area" means any of the following components of an animal feeding facility: | 253 254 |
| (1) Animal confinement areas, including, but not limited to, | 255 |

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| open lots, housed lots, feedlots, confinement houses, stall barns, | 256 |
| free stall barns, milkrooms, milking centers, cowyards, barnyards, | 257 |
| medication pens, animal walkways, and stables; | 258 |
| (2) Manure storage areas, including, but not limited to, | 259 |
| manure storage or treatment facilities; | 260 |
| (3) Raw material storage areas, including, but not limited | 261 |
| to, feed silos, silage bunkers, commodity buildings, and bedding | 262 |
| materials; | 263 |
| (4) Waste containment areas, including, but not limited to, | 264 |
| any of the following: | 265 |
| (a) An egg washing or egg processing facility; | 266 |
| (b) An area used in the storage, handling, treatment, or | 267 |
| disposal of mortalities; | 268 |
| (c) Settling basins, runoff ponds, liquid impoundments, and | 269 |
| areas within berms and diversions that are designed and maintained | 270 |
| to separate uncontaminated storm water runoff from contaminated | 271 |
| water and to contain and treat contaminated storm water runoff. | 272 |
| (BB) "Public meeting" means a nonadversarial public hearing | 273 |
| at which a person may present written or oral statements for the | 274 |
| director of agriculture's consideration and includes public | 275 |
| hearings held under section 6111.12 of the Revised Code. | 276 |
| (CC) "Review compliance certificate" means a certificate | 277 |
| issued under section 903.04 of the Revised Code. | 278 |
| (DD) "Rule" means a rule adopted under section 903.10 of the | 279 |
| Revised Code. | 280 |
| (EE) "Small concentrated animal feeding operation" means an | 281 |
| animal feeding facility that is not a large or medium concentrated | 282 |
| animal feeding operation and that is designated by the director as | 283 |
| a small concentrated animal feeding operation pursuant to rules. | 284 |
| (FF) "Waters of the state" has the same meaning as in section | 285 |

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| 6111.01 of the Revised Code. | 286 |
| Sec. 943.01. As used in sections 943.01 to 943.18 of the Revised Code: | 287 288 |
| (A) "Animals" or "livestock" means horses, mules, and other equidae, cattle, sheep, and goats and other bovidae, swine and other suidae, <u>and alpacas</u> . | 289 290 291 |
| (B) "Dealer" or "broker" means any person found by the department of agriculture buying, receiving, selling, slaughtering, with the exception of those persons designated by division (B)(1) of section 918.10 of the Revised Code, exchanging, negotiating, or soliciting the sale, resale, exchange, or transfer of any animals in an amount of more than two hundred fifty head of cattle, horses, or other equidae or five hundred head of sheep, goats, or other bovidae or swine and other suidae <u>or alpacas</u> during any one year. "Dealer" or "broker" does not mean any of the following: | 292 293 294 295 296 297 298 299 300 301 |
| (1) Any railroad or other carrier transporting animals either interstate or intrastate; | 302 303 |
| (2) Any person who by dispersal sale is permanently discontinuing the business of farming, dairying, breeding, raising, or feeding animals; | 304 305 306 |
| (3) Any person who sells livestock that has been raised from birth on the premises of such <u>the</u> person; | 307 308 |
| (4) Any person who buys or receives animals for grazing or feeding purposes at a premises owned or controlled by such <u>the</u> person and sells or disposes of the animals after the minimum grazing or feeding period of thirty days; | 309 310 311 312 |
| (5) Any person who places livestock in facilities other than his <u>the person's</u> own pursuant to a written agreement for feeding or finishing, provided <u>that</u> the person retains legal and equitable | 313 314 315 |

title to the livestock during the term of the agreement. 316

The exemptions set forth in divisions (B)(1) ~~through~~ to (5) 317
of this section are exclusive of those activities requiring 318
licensure under this chapter, so that a person shall be deemed to 319
be a dealer or broker or subject to divisions (B)(1) ~~through~~ to 320
(5) of this section, but shall not be, or be subject to, both. No 321
person who is a licensed dealer or broker and whose license is 322
suspended, shall have livestock or animals exempted pursuant to 323
divisions (B)(1) to (5) of this section. 324

(C) "Employee" means any person employed by a dealer or 325
broker to act in ~~his~~ the dealer's or broker's behalf to buy, sell, 326
exchange, negotiate, or solicit sale or resale of animals in the 327
dealer's or broker's name. 328

Sec. 947.01. As used in this chapter: 329

(A) "Brand" means a distinctive design, mark of 330
identification, or number that is applied to the hide of livestock 331
by a hot iron or other humane method approved by the director of 332
agriculture and is currently registered under section 947.02 of 333
the Revised Code. 334

(B) "Livestock" means cattle, sheep, goats, and other animals 335
of the family bovidae, swine and other animals of the family 336
suidae, ~~and~~ horses, mules, burros, asses, and other animals of the 337
family equidae, and alpacas. 338

(C) "Person" includes an individual, firm, association, 339
partnership, corporation, or other legal entity, and the state and 340
any of its agencies, institutions, instrumentalities, or political 341
subdivisions. 342

Section 2. That existing sections 901.41, 901.70, 903.01, 343
943.01, and 947.01 of the Revised Code are hereby repealed. 344