ACLU, PETA Join Suit Against Idaho over 'Ag Gag' Law

REBECCA BOONE, Associated Press

BOISE, Idaho (AP) — A coalition of animal activists, civil rights groups and media organizations sued Idaho on Monday over a new law that makes it illegal to secretly film animal abuse at agricultural facilities.

The groups filed the lawsuit in Boise's U.S. District Court, asking a federal judge to strike down what they call an "ag gag" law [1]. The coalition contends that the law curtails freedom of speech and makes gathering proof of animal abuse harsher than the penalty for animal cruelty itself.

Idaho Gov. C.L. "Butch" Otter signed the law last month after Idaho's $2.5 billion dairy industry complained that videos showing cows being abused at a southern Idaho dairy unfairly hurt business.

The Los Angeles-based animal rights group Mercy For Animals released the videos, which showed workers at Bettencourt Dairy beating, stomping and otherwise abusing cows in 2012.

Proponents of the law say it prevents animal rights groups from unfairly targeting agricultural businesses. Bob Naerebout, who heads the Idaho Dairymen's Association that promoted the measure, said Mercy For Animals unfairly tried to persuade Bettencourt Dairy's customers to stop buying its milk products even after the company fired the five workers who were filmed mistreating cows and cooperated with the prosecution against the employees.

The law says people caught surreptitiously filming agricultural operations face up to a year in jail and a $5,000 fine. The law prohibits making audio or video recordings of such operations without first getting permission and criminalizes obtaining records from agricultural operations by force or misrepresentation.

For comparison, a first animal cruelty offense is punishable by up to six months in jail and a fine of up to $5,000. A second offense within 10 years of the first conviction carries a penalty of up to nine months in jail and a fine up to $7,000.

The plaintiffs say the law was designed to criminalize whistle-blowers and violates the First and Fourteenth Amendments and the Supremacy Clause of the U.S. Constitution.

"The law makes it criminal to document animal welfare, worker safety, and food safety violations at an 'agricultural production facility,' thus 'gagging' speech that is critical of industrial agriculture, including speech that advances significant public interests in protecting Idahoans' safety," the coalition wrote in the lawsuit.

The plaintiffs are the Animal Legal Defense Fund, People for the Ethical Treatment of Animals [2], the American Civil Liberties Union of Idaho [3], the Center for Food Safety, Farm Sanctuary, River's Wish Animal Sanctuary, Western Watersheds Project, Sandpoint Vegetarians, Idaho Concerned Area Residents for the Environment, Idaho Hispanic Caucus Institute for Research and Education, CounterPunch, Farm Forward, Will Potter, James McWilliams, Monte Hickman, Blair Koch and Daniel Hauff. They name both the governor and state Attorney General Lawrence Wasden as defendants.

Wasden's spokesman, Todd Dvorak, said the state's attorneys were still reviewing the lawsuit and couldn't immediately comment.

Monica Hopkins, executive director of the ACLU of Idaho, said the purpose of the law was to punish animal rights groups and curtail speech.

"When the government tells us what we can observe and document, we lose not only our freedom of speech but also our freedom of thought," Hopkins said Monday morning during a press conference announcing the lawsuit.

Mercy For Animals released a prepared statement Monday declaring the organization's support for the lawsuit.

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