

Fielding the Truth: Iowa's Ag-Gag Laws and the Sowing of Silence

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*ABSTRACT: This Note discusses Iowa Code sections 717A.3B and 727.8A, which limit false statements made to obtain videos of, employment at, and access to animal agriculture facilities. These laws, often called “ag-gag” laws, provide civil and criminal penalties for obtaining pictures, videos, and other media inside of animal agriculture facilities and have caused a federal circuit split when assessing their constitutionality under the First Amendment. The Fourth, Ninth, and Tenth Circuits have held similar ag-gag laws violate the First Amendment, but the Eighth Circuit recently held that Iowa’s provisions are constitutional in two 2024 cases titled Animal Legal Defense Fund v. Reynolds. This Note will provide a background on the animal rights movement, starting with Upton Sinclair’s *The Jungle*. Although the movement began with public health concerns because of poor conditions at animal agriculture facilities in the early twentieth century, the movement has grown into concerns over the ethical treatment of animals. Undercover tactics used by prominent animal rights groups, like People for the Ethical Treatment of Animals and the Animal Legal Defense Fund, have led to several states adopting ag-gag laws, with a wave in the 1990s and another wave within the last decade. This Note then discusses how the Eighth Circuit differed from other circuits in their analysis of Iowa’s laws and provides several solutions and potential workarounds for animal rights groups and attorneys representing them, both in Iowa and across the country. For advocates of animal rights groups, ensuring an adequate pleading of the facts regarding the group’s activities is essential. The circuit split and question of constitutionality will likely only be resolved through a Supreme Court decision on these laws. Although a decision is unlikely to happen in the near future, animal rights groups should focus on working with employees of animal agriculture*

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facilities to protect against abuse as well as ensure proper measures are taken for the health and safety of consumers.

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INTRODUCTION

This Note addresses Iowa’s laws limiting speech at animal agriculture facilities. These laws are often called “ag-gag” laws and exist in several U.S. states, mainly Midwestern and agriculture-heavy states, that attempt to “gag” or prevent video footage at animal agriculture facilities by enacting criminal and civil penalties against those who take and distribute videos.¹ This Note begins with a background on undercover investigations within the animal

1. See *Ag-Gag Laws*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/issue/ag-gag> [<https://perma.cc/NN5W-5C6L>]; *infra* Section I.C.

rights movement, starting with Upton Sinclair's *The Jungle*. Since then, animal rights groups, including People for the Ethical Treatment of Animals ("PETA") and the Animal Legal Defense Fund, have emerged as nationwide names. Now, the animal rights movement is at an all-time high in popularity, evidenced by a large percentage of Americans being vegetarian, vegan, or actively reducing their meat consumption.²

Next, this Note will detail how the movement has faced backlash from state governments in the form of ag-gag laws, starting in the 1990s. These animal rights groups have successfully challenged several ag-gag laws in federal courts within the last decade, arguing a violation of the First Amendment's Free Speech Clause.³ The Fourth, Ninth, and Tenth Circuits have held ag-gag laws as an unconstitutional violation of the First Amendment, but the Eighth Circuit released two decisions in early 2024 that upheld similar ag-gag laws in Iowa as constitutional.⁴ This Note argues that despite the Eighth Circuit decisions to the contrary, Iowa's laws violate the First Amendment's Free Speech Clause. Finally, this Note will propose solutions and potential workarounds for animal rights groups and the attorneys representing them, including working closely with animal facility employees and advocating for whistleblower protections, as well as strategic pleadings and petitions for certiorari.

I. THE ANIMAL RIGHTS MOVEMENT AND THE EMERGENCE OF AG-GAG LAWS

To contextualize the two 2024 Eighth Circuit decisions that are the focus of this Note, both titled *Animal Legal Defense Fund v. Reynolds*, this Part provides a historical background of the animal rights movement to present day. Section I.A analyzes the origins of the movement and its tactics, namely, undercover investigations and whistleblowing. Section I.B describes the general history of ag-gag laws throughout the United States, and Section I.C addresses the current ag-gag laws in six U.S. states. Section I.D discusses Iowa's ag-gag laws, the prior proceedings of *Animal Legal Defense Fund v. Reynolds*, and the 2024 Eighth Circuit decisions.

2. See Daniel de Visé, *Vegetarianism Is on the Rise — Especially the Part-Time Kind*, HILL (Nov. 23, 2022), <https://thehill.com/changing-america/sustainability/3747206-vegetarianism-is-on-the-rise-especially-the-part-time-kind> [<https://perma.cc/L6MM-R8GV>].

3. See, e.g., *People for the Ethical Treatment of Animals, Inc. v. N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th 815, 841 (4th Cir. 2023); *Animal Legal Def. Fund v. Wasden*, 878 F.3d 1184, 1205 (9th Cir. 2018); *Animal Legal Def. Fund v. Kelly*, 9 F.4th 1219, 1245-46 (10th Cir. 2021).

4. See *N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th at 841; *Wasden*, 878 F.3d at 1205; *Kelly*, 9 F.4th at 1246. But see *Animal Legal Def. Fund v. Reynolds*, 89 F.4th 1065, 1069-71 (8th Cir. 2024) [hereinafter *ALDF I*]; *Animal Legal Def. Fund v. Reynolds*, 89 F.4th 1071, 1082 (8th Cir. 2024) [hereinafter *ALDF II*].

A. THE HISTORY OF UNDERCOVER INVESTIGATIONS IN THE
ANIMAL RIGHTS MOVEMENT

In February 1906, Upton Sinclair released his breakthrough novel *The Jungle*.⁵ The novel tells a fictional story of a Lithuanian immigrant working at a meat-processing facility.⁶ Sinclair worked undercover for seven weeks at a meat-processing plant in Chicago and hoped to shine a light on his experience.⁷ Although Sinclair sought to focus attention on the overworked, underpaid immigrant, seeking to inspire socialist views, American readers were more focused on the unsanitary conditions in which meat-processing plants operated.⁸ After selling more than 150,000 copies within its first year, *The Jungle*, in part, inspired Congress to pass the Federal Meat Inspection Act and led to President Theodore Roosevelt's creation of the U.S. Food and Drug Administration ("FDA")—the administrative agency tasked with regulating food safety and slaughterhouse inspections.⁹

Congress passed the Federal Meat Inspection Act of 1906 "[f]or the purpose of preventing the inhumane slaughtering of livestock" and to prevent diseases spreading within meat-processing plants.¹⁰ This Act and the Pure Food and Drug Act of 1906 allowed the Secretary of Agriculture to inspect animal feeding operations as well as meat-processing plants.¹¹

These acts and the creation of the FDA satisfied the American public's concern over meat processing for a time. However, in the 1970s, Richard Ryder and his peers started a movement around compassion for animals by

5. See generally UPTON SINCLAIR, *THE JUNGLE* (Christopher Phelps ed., Bedford/St. Martin's 2005) (1906). The title of the novel, *The Jungle*, was a metaphor for capitalism. See Christopher Klein, *How Upton Sinclair's 'The Jungle' Led to US Food Safety Reforms*, HISTORY (May 27, 2025), <https://www.history.com/news/upton-sinclair-the-jungle-us-food-safety-reforms> [<https://perma.cc/KFL7-HEDW>]. *The Jungle* was originally published in a socialist newspaper, *Appeal to Reason*, in 1905, and then was published as a novel the following year. *Id.*

6. See generally SINCLAIR, *supra* note 5.

7. See Klein, *supra* note 5. Sinclair was paid a \$500 advance by the co-editors of a socialist newspaper, *Appeal to Reason*, to partake in the undercover operation and write of his findings. See *id.*; Kate Lohnes, *The Jungle*, BRITANNICA (Nov. 6, 2025), <https://www.britannica.com/topic/The-Jungle-novel-by-Sinclair> [<https://perma.cc/DSK7-TTLN>].

8. See Klein, *supra* note 5 ("Much as *Uncle Tom's Cabin* had influenced the national conversation about slavery, Sinclair hoped his epic would spark outrage about 'wage slavery' and promote socialism as a solution. *The Jungle* did shock the American public and prompt legislative change—but not in the way he wanted."). Sinclair once wrote about the novel's impact, "I aimed at the public's heart, and by accident I hit it in the stomach." *Id.*

9. See *id.*; David Greenberg, *How Teddy Roosevelt Invented Spin*, ATLANTIC (Jan. 24, 2016), <https://www.theatlantic.com/politics/archive/2016/01/how-teddy-roosevelt-invented-spin/426699> (on file with the *Iowa Law Review*) (describing President Roosevelt's "historic 1906 quest to clean up the shoddy and predatory practices in the stockyards and meatpacking houses where Americans got their daily diet of beef").

10. 21 U.S.C. § 603(b) (2018); Federal Meat Inspection Act of 1906, Pub. L. No. 59-382, 34 Stat. 669 (codified as amended at 21 U.S.C. §§ 601-694).

11. See 21 U.S.C. § 603; Pure Food and Drug Act of 1906, Pub. L. No. 59-384, 34 Stat. 768 (codified as amended at 21 U.S.C. §§ 301-391).

passing around a leaflet called *Speciesism* at the University of Oxford.¹² Then, Ryder's colleagues, Stanley Godlovitch, Roslind Godlovitch, and John Harris—known as the Oxford Group—published a collection of essays titled *Animals, Men, and Morals* in 1971.¹³ In the original leaflet, Ryder and others connected speciesism to racism and sexism through Darwin's assertion that "there is no 'magical' essential difference between human and other animals, biologically-speaking."¹⁴ These authors argued that because animals have a nervous system like humans and can therefore feel suffering like humans, we must not force pain on animals through experiments, fur production, or especially through meat production.¹⁵ The essay collection did not receive widespread recognition or praise, but it did inspire the author Peter Singer to write *Animal Liberation: A New Ethics for Our Treatment of Animals* in 1975—the most recognized animal rights novel of the twentieth century.¹⁶ Singer argues that animal rights need not be the same as human rights, yet humans should still work toward ending the suffering of animals, and he promoted a vegetarian or vegan diet to accomplish this.¹⁷

Ingrid Newkirk and Alex Pacheco, after reading Singer's work, formed the organization PETA in 1980.¹⁸ PETA became more well-known in 1991, when the *Washington Post* published *The Great Silver Spring Monkey Debate*.¹⁹ Detailed in this article is the story of Alex Pacheco working at the Institute for Behavioral Research in the lab of Edward Taub, who conducted experiments on macaque monkeys at the federally funded facility in Silver Spring, Maryland.²⁰ Taub intentionally crippled the primates "to monitor the

12. See Richard D Ryder, *Speciesism Again: The Original Leaflet*, CRITICAL SOC'Y, Spring 2010, at 1, 1. Ryder reflected on his leaflet nearly 40 years later. See *id.* After distributing the leaflet around Oxford with no response, he reprinted it with an illustration of a chimpanzee who had developed syphilis from experiments and then started to receive replies. See *id.*

13. See generally ANIMALS, MEN, AND MORALS: AN ENQUIRY INTO THE MALTREATMENT OF NON-HUMANS (Stanley Godlovitch, Roslind Godlovitch & John Harris eds., 1972).

14. See Ryder, *supra* note 12, at 1.

15. See *id.* at 1–2.

16. See Zoë Corbyn, *Philosopher Peter Singer: 'There's No Reason to Say Humans Have More Worth or Moral Status than Animals'*, GUARDIAN (May 21, 2023, 10:00 AM), <https://www.theguardian.com/world/2023/may/21/philosopher-peter-singer-theres-no-reason-to-say-humans-have-more-worth-or-moral-status-than-animals> [<https://perma.cc/QNY7-45PM>].

17. See generally PETER SINGER, *ANIMAL LIBERATION: A NEW ETHICS FOR OUR TREATMENT OF ANIMALS* (1975). Singer released a revised edition in 2023, renaming the novel "Animal Liberation Now." See Corbyn, *supra* note 16.

18. See E.D. Kort, *People for the Ethical Treatment of Animals*, BRITANNICA (Oct. 23, 2025), <https://www.britannica.com/topic/People-for-the-Ethical-Treatment-of-Animals> [<https://perma.cc/7J3C-77TG>].

19. See Peter Carlson, *The Great Silver Spring Monkey Debate*, WASH. POST (Feb. 23, 1991), <http://www.washingtonpost.com/archive/lifestyle/magazine/1991/02/24/the-great-silver-spring-monkey-debate/25d3cc06-49ab-4a3c-afd9-d9eb35a862c3> (on file with the *Iowa Law Review*).

20. See *id.* Pacheco reflects on his radicalization against animal abuse, not originally emerging from this event, but from his previous work in a slaughterhouse. Alex Pacheco & Anna Francione, *The Silver Spring Monkeys*, in *IN DEFENSE OF ANIMALS* 135, 135 (Peter Singer ed., 1985). When

rehabilitation of impaired limbs.”²¹ Pacheco, almost immediately after being hired, sought to collect evidence against Taub and approached the police with it.²² Police raided the research facility, removed the monkeys, and charged Taub with seventeen counts of animal cruelty.²³

Although Pacheco and the Silver Spring Monkeys brought positive attention to the animal rights movement, public opinion shifted away in the wake of Stop Huntingdon Animal Cruelty’s (“SHAC”) tactics in the later 1990s and early 2000s.²⁴ SHAC, an organization originating in England formed to combat Huntingdon Life Science’s drug testing on animals, employed tactics like harassing employees of Huntingdon and issuing bomb threats against Huntingdon facilities.²⁵ The Animal Liberation Front, also emerging around this time, was described by the Southern Poverty Law Center (“SPLC”) and Department of Justice as using the same terrorist-like tactics.²⁶ However, SPLC noted that neither organization had caused any deaths.²⁷ Due to these radical groups and their tactics, Congress passed the Animal Enterprise Terrorism Act, which criminally punishes interstate travel to cause damage to or threaten an animal enterprise.²⁸ The Animal Enterprise Terrorism Act led to several convictions of SHAC members and the eventual dissolution of the organization.²⁹

Today, PETA continues to advocate against animal testing, the use of animal skins and fur in clothing, and the use of animals for entertainment or

Pacheco met Ingrid Newkirk, the co-founder of PETA, Newkirk had been working as an animal law-enforcement officer for eleven years in Washington, D.C. *Id.* at 135.

21. Pacheco & Francione, *supra* note 20, at 136.

22. *See id.* at 141 (“On 8 September I took my affidavit and those of the five expert witnesses, as well as my notes and photographs, to the Silver Spring, Maryland, police.”).

23. *See* Carlson, *supra* note 19.

24. *See Stop Huntingdon Animal Cruelty Threatens Terrorist-Style Attack*, S. POVERTYL. CTR. (Sept. 20, 2002), <https://www.splcenter.org/fighting-hate/intelligence-report/2002/stop-huntingdon-animal-cruelty-threatens-terrorist-style-attack> [<https://perma.cc/RE4H-U7QB>].

25. *See id.*

26. *See Eco-Violence: The Record*, S. POVERTYL. CTR. (Jan. 29, 2010), <https://www.splcenter.org/fighting-hate/intelligence-report/2015/eco-violence-record> [<https://perma.cc/9MYT-QDgB>].

27. *Id.*

28. Animal Enterprise Terrorism Act, 18 U.S.C. § 43(a) (“Whoever travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility of interstate or foreign commerce . . . for the purpose of damaging or interfering with the operations of an animal enterprise; and . . . intentionally damages or causes the loss of any real or personal property . . . shall be punished . . .”). This federal Act is not equivalent to ag-gag laws passed by several states discussed later in this Note. The Animal Enterprise Terrorism Act does not carry the same concerns of infringing upon the Free Speech Clause because it instead targets non-expressive conduct.

29. *See* Natasha Lennard, *How the Prosecution of Animal Rights Activists as Terrorists Foretold Today’s Criminalization of Dissent*, INTERCEPT (Dec. 12, 2019, 9:00 AM), <https://theintercept.com/2019/12/12/animal-people-documentary-shac-protest-terrorism> (on file with the *Iowa Law Review*).

consumption.³⁰ PETA, along with the Animal Legal Defense Fund, sends undercover members to animal feeding facilities and meat-processing plants, like Sinclair and Pacheco, to observe any abuse or animal-cruelty violations.³¹ These members will often take videos and send them to media outlets and law enforcement.³²

Partially due to these efforts, the animal rights movement remains strong today. At least six percent of Americans, but likely higher, identify as vegan or vegetarian, and ten states and forty-three countries have fully banned cosmetic testing on animals.³³ Many polls credit this increase to the internet, documentaries, and more alternatives at the grocery store.³⁴

Upton Sinclair unintentionally started a widespread movement that began the nationwide conversation around meat production. At first, this movement began with concern over Americans' health. However, the movement later expanded to ethical arguments against meat production, from speciesism to animal liberation. Later, many animal rights groups turned to terrorism in the United States and the United Kingdom. But, through the work of nonviolent advocates like PETA and the Animal Legal Defense Fund, the animal rights movement in the United States remains stronger than ever.

B. THE ORIGINS OF AG-GAG LAWS

Mark Bittman first coined the term “ag-gag” in a 2011 *New York Times* op-ed.³⁵ Ag-gag laws are described by the American Society for the Prevention of Cruelty to Animals (“ASPCA”) as state criminal statutes that “penaliz[e] whistleblowers who investigate the day-to-day activities of industrial farms, including the recording, possession or distribution of photos, video and/or audio at a farm.”³⁶

30. See *What PETA REALLY Stands For*, PETA, <https://www.peta.org/features/what-peta-really-stands-for> [<https://perma.cc/6GXS-B2PQ>] (“Animals are not ours to experiment on, eat, wear, use for entertainment, or abuse in any other way.”).

31. See *ALDF II*, 89 F.4th 1071, 1075 (8th Cir. 2024).

32. See *id.*

33. See de Visé, *supra* note 2; Tavleen Tarrant, *10 States Have Now Banned the Sale of Cosmetics Tested on Animals*, CNN (Dec. 18, 2022, 12:31 AM), <https://www.cnn.com/2022/12/18/us/new-york-state-bans-cosmetics-animal-testing/index.html> [<https://perma.cc/KB47-TCS4>] (listing California, Hawaii, Illinois, Louisiana, Maine, Maryland, Nevada, New Jersey, New York, and Virginia). De Visé’s findings come from the Vegetarian Resource Group, who began this poll in 1994, when less than one percent of Americans identified as vegetarian or vegan. De Visé, *supra* note 2.

34. See de Visé, *supra* note 2.

35. See Mark Bittman, *Who Protects the Animals?*, N.Y. TIMES (Apr. 26, 2011, 9:29 PM), <https://archive.nytimes.com/opinionator.blogs.nytimes.com/2011/04/26/who-protects-the-animals> (on file with the *Iowa Law Review*) (“Minnesota’s ‘ag-gag’ law — isn’t that a great name? — would seek to punish not only photographers and videographers but those who distribute their work . . .”).

36. *What Is Ag-Gag Legislation?*, ASPCA, <https://www.aspc.org/improving-laws-animals/public-policy/what-ag-gag-legislation> [<https://perma.cc/KD8G-25YY>].

The first ag-gag law was passed by the Kansas Legislature in 1990.³⁷ The Kansas Farm Animal and Field Crop and Research Facilities Protection Act stated that “[n]o person shall, without the effective consent of the owner and with the intent to damage the enterprise conducted at the animal facility . . . enter an animal facility to take pictures by photograph, video camera or by any other means.”³⁸ North Dakota and Montana quickly followed in 1991, criminalizing entering animal facilities to use or attempt to use a camera or video recorder.³⁹ However, only these three states provided these penalties in the 1990s.

In 2004, the American Legislative Exchange Council released a model policy entitled the Animal and Ecological Terrorism Act (“AETA”).⁴⁰ This model law has since been adopted with nearly identical language in several states.⁴¹

C. CURRENT AG-GAG LAWS THROUGHOUT THE UNITED STATES

Today, six U.S. states have existing ag-gag laws—Alabama, Arkansas, Iowa, Missouri, Montana, and North Dakota. A brief analysis of these laws is relevant in understanding the difference in state laws, the different conclusions on constitutionality throughout the federal circuits, and the clear constitutional issues of Iowa’s laws.

Alabama criminalizes “[o]btain[ing] access to an animal or crop facility by false pretenses for the purpose of performing acts not authorized by that facility.”⁴² This section also criminalizes “[b]reak[ing] and enter[ing] into any animal or crop facility with the intent to destroy, alter, duplicate, or obtain unauthorized possession of records, data, materials, equipment, animals, or crops” as well as “knowingly obtain[ing] control . . . [over] unauthorized . . . records” and possession, use, or reproduction of records if obtained through theft or deception.⁴³ Finally under this section, Alabama criminalizes “[e]nter[ing] or remain[ing] on an animal or crop facility with the intent to

37. 1990 Kan. Sess. Laws 1239.

38. KAN. STAT. ANN. § 47-1827(c) (1993). However, this statute was partially held as unconstitutional by *Animal Legal Defense Fund v. Kelly*, 9 F.4th 1219, 1245-46 (10th Cir. 2021).

39. See 1991 Mont. Laws 472; 1991 N.D. Laws 369.

40. See *The Animal and Ecological Terrorism Act (AETA)*, AM. LEGIS. EXCH. COUNCIL, <https://alec.org/model-policy/the-animal-and-ecological-terrorism-act-aeta> [<https://perma.cc/86P8-EX7U>] (“This act creates penalties for persons encouraging, financing, assisting or engaged in [optional language insert ‘politically motivated’] acts of animal and ecological terrorism.”). The Animal Enterprise Terrorism Act, signed into federal law in 2006, prohibits threats against animal facilities, and the American Legislative Exchange Council has added further provisions, such as entering an animal facility at a time closed to the public and taking photographs or videos of an animal facility. See *id.*; *supra* note 28 and accompanying text. These latter provisions are nearly identical to several ag-gag laws discussed in this Note.

41. See *infra* notes 42-59 and accompanying text.

42. ALA. CODE § 13A-11-153(3) (LexisNexis 2015).

43. *Id.* § 13A-11-153(4)-(6).

commit an act prohibited under this section.”⁴⁴ Penalties range from \$250 as a class A misdemeanor to a class C felony with restitution.⁴⁵

Arkansas provides a civil cause of action for destruction of property in agriculture or research facilities.⁴⁶ In Arkansas, if a person enters a nonpublic commercial property, the person may be civilly liable to the commercial property owner or operator.⁴⁷ This code extends to “employee[s] who knowingly enter[] a . . . commercial property for a reason other than . . . seeking and holding employment,” such as capturing or removing records, recording images or sounds, or placing a camera on the property.⁴⁸ Arkansas allows for remedies of equitable relief, compensatory damages, costs and fees, and/or additional damages up to five thousand dollars per day of violation.⁴⁹

Missouri’s criminal statutes provide that:

Whenever any farm animal professional videotapes or otherwise makes a digital recording of what he or she believes to depict a farm animal subjected to abuse or neglect . . . such farm animal professional shall have a duty to submit such videotape or digital recording to a law enforcement agency within twenty-four hours of the recording.⁵⁰

If this section is violated, the recorder will be subject to a class A misdemeanor.⁵¹ The Missouri statute is unique because, on its face, it encourages whistleblowing for animal abuse and neglect. However, its purpose is to diminish reporter’s ability to uncover *patterns* of abuse.⁵²

Montana criminalizes entering an animal facility otherwise closed to the public, remaining concealed in an animal facility, and taking pictures by photograph or video camera with the intent to exercise control over, deprive the owner control of, or damage the animal facility.⁵³ A person who commits any one of the above actions may be civilly and criminally liable based on the damage to the property.⁵⁴ The maximum criminal penalty includes a fine of \$50,000 and/or a maximum of ten years in prison.⁵⁵

North Dakota provides that:

44. *Id.* § 13A-11-153(7).

45. *See id.* §§ 13A-11-154, 13A-11-155.

46. *See* ARK. CODE ANN. § 16-118-113 (West 2013 & Supp. 2024).

47. *See id.*

48. *Id.*

49. *See id.*

50. MO. ANN. STAT. § 578.013 (West 2018).

51. *Id.*

52. Maggie Strong, Comment, *The Show-Me State’s Hidden Cruelty: How Missouri’s Ag-Gag Laws Unconstitutionally Silence Animal-Welfare Whistleblowers*, 63 ST. LOUIS U. L.J. 611, 612 (2019).

53. MONT. CODE ANN. § 81-30-103 (West 2009).

54. *Id.* §§ 81-30-104, 81-30-105.

55. *Id.* § 81-30-105.

No person may without the effective consent of the owner, and with the intent to damage the enterprise conducted at the animal facility, enter or remain on an animal facility, if the person had notice that the entry was forbidden or received notice to depart but failed to do so.⁵⁶

This violation is in addition to acquiring or exercising control over records of the animal facility or use or attempted use of a camera or video recorder.⁵⁷ Penalties range from class B or C felonies to class A misdemeanors depending on the monetary value of the damage.⁵⁸ A person violating the code may also be civilly liable for “an amount equal to three times all actual and consequential damages and court costs and reasonable attorney fees.”⁵⁹

These six states with ag-gag laws—Alabama, Arkansas, Iowa, Missouri, Montana, and North Dakota—are among the largest producers of meat in the country.⁶⁰ Most ag-gag laws contain similar language, like criminalizing false statements used to enter an animal facility for recording or to obtain employment. However, Arkansas only provides a civil right of action. Criminal penalties in the other five states are as high as class B felonies, or up to ten years of imprisonment and a fine of \$10,000. Iowa’s ag-gag laws are discussed in more detail in the next Section.

D. IOWA’S AG-GAG LAWS AND THEIR CONSTITUTIONALITY ACCORDING TO THE EIGHTH CIRCUIT

Iowa has one of the harshest criminal penalties related to whistleblowing of animal agriculture facilities.⁶¹ In 2012, the Iowa General Assembly passed its first ag-gag law—the Agricultural Production Facility Fraud Act—codified in section 717A.3A of the Iowa Code.⁶² The Eighth Circuit determined this Act was unconstitutional in a 2021 decision, *Animal Legal Defense Fund v. Reynolds*.⁶³ After the Eighth Circuit released this decision, the Iowa Legislature revised Iowa Code section 717A.3A and passed an additional provision, Iowa

56. N.D. CENT. CODE § 12.1-21.1-03 (2021).

57. *See id.* § 12.1-21.1-02(2), (6).

58. *Id.* § 12.1-21.1-04.

59. *Id.* § 12.1-21.1-05.

60. *Cattle & Beef—Sector at a Glance*, U.S. DEP’T AGRIC. (May 22, 2025), <https://www.ers.usda.gov/topics/animal-products/cattle-beef/sector-at-a-glance> [<https://perma.cc/LH6T-UMHS>]; U.S. DEP’T OF AGRIC., 2022 CENSUS OF AGRICULTURE: CATTLE PRODUCTION (2024), https://www.nass.usda.gov/Publications/Highlights/2024/Census22_HL_Cattle%20and%20Cattle%20on%20Feed_final.pdf [<https://perma.cc/V2KL-AU66>].

61. *See* IOWA CODE §§ 717A.3B, 727.8A (2025).

62. 2012 Iowa Acts 5.

63. *See* *Animal Legal Def. Fund v. Reynolds*, 8 F.4th 781, 783, 788 (8th Cir. 2021) (finding the Act unconstitutional in part).

Code section 727.8A, leading to two 2024 Eighth Circuit cases, which declared the updated laws were constitutional.⁶⁴

1. The 2012 Statute and the First Eighth Circuit Decision

The Agricultural Production Facility Fraud Act, passed in 2012 by the Iowa Legislature, stated that:

A person is guilty of agricultural production facility fraud if the person willfully does any of the following:

- a. Obtains access to an agricultural production facility by false pretenses.
- b. Makes a false statement or representation as part of an application or agreement to be employed at an agricultural production facility, if the person knows the statement to be false, and makes the statement with an intent to commit an act not authorized by the owner of the agricultural production facility, knowing that the act is not authorized.⁶⁵

This was added to the statute as Iowa Code section 717A.3A.⁶⁶ In 2017, plaintiffs Animal Legal Defense Fund, Iowa Citizens for Community Improvement, Bailing Out Benji, PETA, and Center for Food Safety, all represented by the American Civil Liberties Union (“ACLU”), brought suit in the Southern District of Iowa and alleged that this Act violated the First Amendment.⁶⁷ The district court agreed with the plaintiffs’ constitutionality concerns, dividing the Act into two provisions: the “Access Provision” encompassing Section 717A.3A(1)(a), and the “Employment Provision” encompassing Section 717A.3A(1)(b). The district court found that both violated the First Amendment.⁶⁸

In 2021, the Eighth Circuit decided *Animal Legal Defense Fund v. Reynolds*, affirming in part and reversing in part the district court decision.⁶⁹ In regard to the Access Provision, obtaining access to a facility based on false statements, the Eighth Circuit agreed with the State that this provision was constitutional.⁷⁰ Based on the U.S. Supreme Court’s ruling in *United States v. Alvarez*, the Eighth Circuit held that this provision prohibits false statements—speech not protected by the First Amendment—when it causes a legally cognizable harm: in this case, trespass.⁷¹

64. See generally *ALDF I*, 89 F.4th 1065; *ALDF II*, 89 F.4th 1071.

65. 2012 Iowa Acts 5.

66. See IOWA CODE § 717A.3A.

67. See *Animal Legal Def. Fund v. Reynolds*, 353 F. Supp. 3d 812, 816 (S.D. Iowa 2019).

68. See *id.* at 827.

69. *Animal Legal Def. Fund v. Reynolds*, 8 F.4th 781, 788 (8th Cir. 2021).

70. *Id.* at 786.

71. See *id.*; *United States v. Alvarez*, 567 U.S. 709, 719 (2012) (plurality opinion); *infra* Section II.B.

However, the Eighth Circuit found that the Employment Provision was unconstitutional.⁷² This provision, criminalizing untruthful behavior to obtain employment at an animal facility, was not narrowly tailored to the State's interest because it could criminalize potential employees who "falsely profess[] to maintain a wardrobe like the interviewer's, exaggerates her exercise routine, or inflates his past attendance at the hometown football stadium."⁷³ Therefore, it did not satisfy strict scrutiny.⁷⁴

2. Iowa Code Section 717A.3B, Revised

The Iowa General Assembly revised Iowa Code section 717A.3B in 2019.⁷⁵ The updated Code states that a person commits trespass to an agriculture production facility when that person:

- a. Uses deception . . . on a matter that would reasonably result in a denial of access to an agricultural production facility that is not open to the public, and, through such deception, gains access to the agricultural production facility, with the intent to cause physical or economic harm or other injury to the agricultural production facility's operations, agricultural animals, crop, owner, personnel, equipment, building, premises, business interest, or customer [or]
- b. Uses deception . . . on a matter that would reasonably result in a denial of an opportunity to be employed at an agricultural production facility that is not open to the public, and, through such deception, is so employed, with the intent to cause physical or economic harm or other injury to the agricultural production facility's operations, agricultural animals, crop, owner, personnel, equipment, building, premises, business interest, or customer.⁷⁶

For a first offense, this violation will be a serious misdemeanor, and for a subsequent offense, this violation will be an aggravated misdemeanor.⁷⁷ Conspiracy to commit the above carries the same penalties.⁷⁸

This statute was challenged by the Animal Legal Defense Fund, PETA, Bailing Out Benji, Center for Food Safety, and Iowa Citizens for Community Improvement in the U.S. District Court for the Southern District of Iowa.⁷⁹ The plaintiffs moved for summary judgment, arguing this section violates the First Amendment's Free Speech Clause "because it discriminates based on content and viewpoint and cannot survive strict scrutiny," and has a

72. See *Reynolds*, 8 F.4th at 788.

73. *Id.* at 787.

74. *Id.*

75. 2019 Iowa Acts 4.

76. IOWA CODE § 717A.3B (2025).

77. *Id.*

78. *Id.*

79. See *Animal Legal Def. Fund v. Reynolds*, 591 F. Supp. 3d 397, 402 (S.D. Iowa 2022).

chilling effect on the organizations' activities.⁸⁰ The district court agreed with the plaintiffs' reasoning because "content-based laws are 'presumptively unconstitutional and may be justified only if the government proves that [the law is] narrowly tailored to serve compelling state interests.'"⁸¹ The district court found the defendant had compelling state interests—private property rights—but lacked narrow tailoring.⁸² As a result, the district court deemed the revised Iowa Code section 717A.3B unconstitutional and granted summary judgment to the plaintiffs.⁸³

3. Iowa Code Section 727.8A

Iowa Code section 727.8A, an additional ag-gag law passed in 2021, enhances trespass penalties for "[a] person committing a trespass . . . who knowingly places or uses a camera or electronic surveillance device that transmits or records images or data while the device is on the trespassed property."⁸⁴ For a first offense, this carries a penalty of an aggravated misdemeanor and a class D felony for subsequent offenses.⁸⁵

Falling in line with the decision regarding Iowa Code section 717A.3B, the U.S. District Court for the Southern District of Iowa also deemed Iowa Code section 727.8A unconstitutional.⁸⁶ The district court emphasized the distinction between "the 'ability to exclude from [their] property someone who wishes to speak'" and "the government's ability to jail the person for that speech."⁸⁷ The court found the provision was "insufficiently tailored compared to its burden on speech."⁸⁸

80. *Id.* at 402–03.

81. *Id.* at 404 (alteration in original) (quoting *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015)).

82. *See id.* at 415–17. In the 2022 case, the district court frequently referenced their reasoning in the 2019 decision. *See id.* The district court also assesses the government's newly named compelling interest in this case—protecting proprietary information—but, like the interests assessed in the 2019 decision, this interest is "purely speculative." *Id.* (quoting *Animal Legal Def. Fund v. Reynolds*, 353 F. Supp. 3d 812, 825 (S.D. Iowa 2019)).

83. *See id.* at 417–18.

84. IOWA CODE § 727.8A (2025); 2021 Iowa Acts 224.

85. *Id.*

86. *See* *Animal Legal Def. Fund v. Reynolds*, 630 F. Supp. 3d 1105, 1121 (S.D. Iowa 2022).

87. *Id.* at 1118 (quoting *Animal Legal Def. Fund v. Kelly*, 9 F.4th 1219, 1238 (10th Cir. 2021)).

88. *Id.* at 1120. The court stated that to be narrowly tailored, a statute cannot be replaced with another regulation that would advance the same interest but with less of a burden on protected speech. *Id.* at 1119. Although the State argued that the law was narrowly tailored because it focused "solely on situations where an individual has already committed a trespass" while attempting to obtain photographs or videos, the court agreed with the plaintiffs that "property and privacy interests can be protected by prohibiting entry, invasion, theft, and other non-expressive activities without reaching speech." *Id.* The court also agreed with the plaintiffs that "there are other laws currently in effect which cover many of the instances where use of a video camera or electronic surveillance would raise issues relating to privacy concerns." *Id.* at 1120.

4. The 2024 Eighth Circuit Decisions

The Iowa Attorney General appealed both above decisions to the U.S. Court of Appeals for the Eighth Circuit.⁸⁹ The Eighth Circuit released two decisions regarding these statutes on January 8, 2024, both titled *Animal Legal Defense Fund v. Reynolds*.⁹⁰

The Eighth Circuit reversed and remanded the district court's decision regarding Iowa Code section 717A.3B ("*ALDF I*").⁹¹ The court addressed both the Access Provision, part (a) of the statute, and the Employment Provision, part (b) of the statute.⁹² Although the district court recognized the speech within the statute as viewpoint-based and protected, the Eighth Circuit denoted this type of speech as false or deceptive speech, which is not necessarily unprotected by the First Amendment but may be regulated when used "to accomplish a legally cognizable harm."⁹³ The intent requirement of the statute, that a person must gain access or employment "with the intent to cause physical or economic harm," further implies this legally cognizable harm.⁹⁴

The Eighth Circuit affirmed in part, reversed in part, and remanded the district court's decision regarding Iowa Code section 727.8A ("*ALDF II*").⁹⁵ The Eighth Circuit also divided and analyzed this statute within two separate provisions: the "Place Provision," regarding placing a camera, and the "Use Provision," meaning use of the camera.⁹⁶ The Eighth Circuit first analyzed the plaintiffs' standing for both provisions and held that the plaintiffs had standing to challenge the Use Provision but not the Place Provision.⁹⁷ This is because the plaintiffs did "not ple[a]d any facts suggesting they have historically placed cameras or plan to place cameras on trespassed property."⁹⁸

This statute relating to trespassed property also contains a legally cognizable harm similar to that of Section 717A.3B—speech on trespassed

89. See *ALDF I*, 89 F.4th 1065, 1066 (8th Cir. 2024); *ALDF II*, 89 F.4th 1071, 1074 (8th Cir. 2024).

90. See generally *ALDF I*, 89 F.4th 1065 (holding that the statute criminalizing agricultural production facility trespass via deception did not violate the Free Speech Clause of the First Amendment); *ALDF II*, 89 F.4th 1071 (holding that the statute's prohibition on using or placing electronic surveillance device on trespassed property did not violate the First Amendment).

91. *ALDF I*, 89 F.4th at 1071.

92. *Id.* at 1068.

93. *Id.* (quoting *Animal Legal Def. Fund v. Reynolds*, 8 F.4th 781, 786 (8th Cir. 2021)).

94. *Id.* (quoting IOWA CODE § 717A.3B).

95. *ALDF II*, 89 F.4th at 1082.

96. *Id.* at 1076. The reversal in part and affirmation in part were due to a severance of the statute, into the "Place Provision" and "Use Provision." See *id.* "Iowa law encourages us to sever any offending portions of a statute from any non-offending portions, leaving the non-offending portions intact if they can be given effect without the offending portions." See *id.* (citing IOWA CODE § 4.12).

97. *Id.* at 1077–79.

98. *Id.* at 1079.

property.⁹⁹ Therefore, Section 727.8A does not limit protected speech and need not be narrowly tailored to the State's interest.¹⁰⁰ Instead, regarding the Use Provision, the Eighth Circuit stated “[b]ecause the Act has a plainly legitimate sweep, it survives intermediate scrutiny against Plaintiffs’ facial challenge. And because the Act does not prohibit a substantial amount of protected speech relative to its plainly legitimate sweep, we hold that it is not unconstitutionally overbroad.”¹⁰¹

The Animal Legal Defense Fund declined to file a petition for certiorari in both cases despite a federal circuit court split on whether these kinds of laws violate the First Amendment.¹⁰²

In the 2024 decisions *ALDF I* and *ALDF II*, the Eighth Circuit addressed four Iowa ag-gag provisions—the Access Provision, the Employment Provision, the Use Provision, and the Place Provision. The Eighth Circuit stated the plaintiffs lacked standing for the Place Provision in *ALDF II* and therefore could not bring a constitutional challenge. The court upheld the constitutionality of the Use Provision, the Access Provision, and the Employment Provision under the First Amendment.

II. IOWA'S UNCONSTITUTIONAL AG-GAG LAWS

In rendering its decisions in *ALDF I* and *ALDF II*, the Eighth Circuit became the only federal court of appeals to uphold these types of ag-gag laws as constitutional.¹⁰³ The Fourth, Ninth, and Tenth Circuits, ruling on ag-gag laws from North Carolina, Idaho, and Kansas, have all declared laws similar to Iowa's as unconstitutional.¹⁰⁴ Disagreement exists between the Eighth Circuit and other circuits on: (1) whether animal rights groups possess a cognizable injury to satisfy constitutional standing; and (2) the analysis under the First Amendment, where disagreement is generally propelled by confusion regarding the Supreme Court's plurality decision of *United States v. Alvarez*. This Part analyzes how the Eighth Circuit incorrectly decided these issues.

A. CONSTITUTIONAL STANDING

Standing is a doctrine required by Article III of the U.S. Constitution, which extends judicial power to “all Cases, in Law and Equity . . . [and]

99. *Id.* at 1082.

100. *See id.*

101. *Id.*

102. *See generally ALDF I*, 89 F.4th 1065 (8th Cir. 2024); *ALDF II*, 89 F.4th 1071. *But see* *People for the Ethical Treatment of Animals, Inc. v. N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th 815 (4th Cir. 2023) (holding that the statute violated the First Amendment); *Animal Legal Def. Fund v. Wasden*, 878 F.3d 1184 (9th Cir. 2018) (same); *Animal Legal Def. Fund v. Kelly*, 9 F.4th 1219 (10th Cir. 2021) (same).

103. *See supra* note 102.

104. *See N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th at 841; *Wasden*, 878 F.3d at 1205; *Kelly*, 9 F.4th at 1246.

Controversies.”¹⁰⁵ For a federal court to hear a case, the plaintiff must establish standing—*injury, causation, and redressability*.¹⁰⁶ A plaintiff must show that they have “sustained or [are] immediately in danger of sustaining some direct injury” that is “both ‘real and immediate.’”¹⁰⁷ When presented with a First Amendment challenge, the standard of an injury is lower, and “a credible threat of present or future prosecution itself works [as] an injury.”¹⁰⁸ When multiple plaintiffs are parties to a suit and their positions are nearly identical, only one plaintiff must prove injury.¹⁰⁹

The Eighth Circuit addressed a potential standing issue related to the Place Provision of Section 727.8A in *ALDF II*.¹¹⁰ The district court believed that the State conceded the jurisdictional issue based on a concession in the defendant’s brief, but the Eighth Circuit stated that a court cannot accept a concession of standing and instead must analyze this issue itself.¹¹¹ The circuit court severed the statute into the Place Provision and Use Provision.¹¹² Under the Use Provision, the Iowa Citizens for Community Improvement alleged that their actions were chilled, including their practice of protests in public spaces to block construction sites as well as entering bank lobbies and public officials’ offices.¹¹³ The Eighth Circuit agreed and held that the plaintiffs had standing regarding the Use Provision.¹¹⁴

However, the Eighth Circuit found that the plaintiffs lacked standing for the Place Provision.¹¹⁵ The plaintiffs stated that this provision did chill their First Amendment rights because of their desire to place cameras.¹¹⁶ However,

105. U.S. CONST. art. III, § 2.

106. See *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992) (“Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an injury in fact—an invasion of a legally protected interest which is (a) concrete and particularized . . . and (b) actual or imminent, not conjectural or hypothetical.” (internal quotation marks and citations omitted)).

107. *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983) (first citing *Golden v. Zwickler*, 394 U.S. 103, 109–10 (1969); and then citing *Massachusetts v. Mellon*, 262 U.S. 447, 488 (1923)).

108. *Minn. Citizens Concerned for Life v. Fed. Elections Comm’n*, 113 F.3d 129, 131 (8th Cir. 1997) (quoting *N.H. Right to Life Pol. Action Comm. v. Gardner*, 99 F.3d 8, 13 (1st Cir. 1996)).

109. *Elder v. Gillespie*, 54 F.4th 1055, 1063 (8th Cir. 2022); *ALDF II*, 89 F.4th 1071, 1078 (8th Cir. 2024) (“In cases like this one—when a group of plaintiffs share a consolidated complaint and hold ‘nearly identical’ positions on an issue—only one plaintiff needs to satisfy Article III’s case-or-controversy requirement in its pleading.”).

110. *ALDF II*, 89 F.4th at 1079. Regarding the three other provisions in Iowa law that were being challenged, the Eighth Circuit found that the plaintiffs had standing to challenge these because they pled sufficient facts showing this behavior in the past and their wishes to continue these practices. *Id.* at 1077–78.

111. See *id.* at 1076; *Animal Legal Def. Fund v. Reynolds*, 630 F. Supp. 3d 1105, 1114 (S.D. Iowa 2022).

112. *ALDF II*, 89 F.4th at 1076.

113. *Id.* at 1078.

114. *Id.*

115. *Id.* at 1079.

116. *Id.*

the court found for the State, holding that plaintiffs did not plead “any facts suggesting they have historically placed cameras or plan to place cameras on trespassed property.”¹¹⁷

Federal courts have previously acknowledged the jurisdictional issue of standing related to animal rights plaintiffs, but they generally have quickly afforded standing to animal rights plaintiffs if they previously engaged in *some kind* of undercover operations.¹¹⁸ The Eighth Circuit in *Animal Legal Defense Fund v. Vaught*, a 2021 case evaluating an Arkansas statute, has covered the standing of animal rights plaintiffs in the most depth of any other circuit, also allowing standing if future plans to engage in this activity are pled.¹¹⁹ The plaintiffs in *Vaught*, the Animal Legal Defense Fund and Animal Equity, had not been to a specific location to investigate, but planned to in the future.¹²⁰ The Eighth Circuit held that these plaintiffs had standing based on their future plans¹²¹ and referenced a 2014 Supreme Court decision, *Susan B. Anthony List v. Driehaus*, stating that injury is established if “an intention to engage in a course of conduct arguably affected with a constitutional interest, but proscribed by a statute, and there exists a credible threat of prosecution thereunder.”¹²²

The Eighth Circuit, in *ALDF II*, strays from other circuits and, most notably, its own precedent in incorrectly determining that the plaintiff animal rights groups do not have standing under the Place Provision.

B. THE FREE SPEECH CLAUSE

The federal circuit split regarding the type of First Amendment analysis to use when evaluating ag-gag laws was mainly caused by a plurality decision by the Supreme Court, *United States v. Alvarez*.¹²³ In *Alvarez*, the Supreme Court examined whether the Stolen Valor Act of 2005 was constitutional.¹²⁴ The Stolen Valor Act provided criminal penalties for lying about receiving a Congressional Medal of Honor.¹²⁵ Xavier Alvarez, attending a 2007 public meeting of the Three Valley Water District Board, made false statements that he was awarded the Congressional Medal of Honor.¹²⁶ The Court noted that

117. *Id.* The Eighth Circuit’s discussion of standing under the Place Provision is short, only stating the above and that “Plaintiffs cannot say the Place Provision chills them from engaging in their desired conduct because they have shown no desire to place cameras.” *Id.*

118. *See, e.g.*, *Animal Legal Def. Fund v. Herbert*, 263 F. Supp. 3d 1193, 1199–1200 (D. Utah 2017).

119. *See* *Animal Legal Def. Fund v. Vaught*, 8 F.4th 714, 718 (8th Cir. 2021).

120. *Id.* at 717–18.

121. *Id.* at 718.

122. *Id.* (quoting *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014)).

123. *See generally* *United States v. Alvarez*, 567 U.S. 709 (2012) (plurality opinion).

124. *Id.* at 715.

125. *Id.* at 715–16. The Stolen Valor Act criminalized false claims about any military decorations or honors, providing a penalty of imprisonment of not more than one year. *Id.* at 716.

126. *Id.* at 713–14.

“[t]he statements do not seem to have been made to secure employment or financial benefits or admission to privileges reserved for those who had earned the Medal.”¹²⁷ Alvarez was indicted for this statement, and he was granted certiorari by the U.S. Supreme Court.¹²⁸ In a plurality opinion written by Justice Kennedy and joined by Chief Justice Roberts, Justice Ginsburg, and Justice Sotomayor, the Supreme Court held that the Stolen Valor Act infringes on the First Amendment.¹²⁹ Justice Breyer wrote in concurrence, joined by Justice Kagan.¹³⁰ Justices Alito, Scalia, and Thomas dissented.¹³¹

The Eighth Circuit incorrectly interpreted the *Alvarez* decision in its application to Iowa’s ag-gag laws regarding: (1) what speech is being regulated; (2) whether the speech being regulated is content-based; and (3) whether to apply strict or intermediate scrutiny. This Section argues that the Eighth Circuit failed to strike down a clear content-based regulation in Iowa’s ag-gag law that violates the First Amendment’s Free Speech Clause.

1. The Regulated Speech—The Lie or the Recording?

In *United States v. Alvarez*, the regulated speech is clear—it is Alvarez’s lie about the Congressional Medal of Honor.¹³² However, in *ALDF I* and *ALDF II*, there are two layers of speech being prohibited: The lie to enter the premises or to obtain employment is restricted, and the video recording itself is restricted.¹³³ The Eighth Circuit only contemplates the former.¹³⁴

The other circuits that have contemplated the issue have all acknowledged the other speech affected by these laws—the video recording.¹³⁵ Videos are protected like speech under the First Amendment.¹³⁶ The Ninth Circuit acknowledged the proposition that videos of animal agriculture facilities are a type of speech in determining whether an Idaho ag-gag law violated the First Amendment.¹³⁷

127. *Id.* at 714.

128. *Id.*

129. *Id.* at 730.

130. *Id.* (Breyer, J., concurring). In Justice Breyer’s concurrence, he agreed that the Stolen Valor Act was unconstitutional. *Id.* Here, the Stolen Valor Act did not pass intermediate scrutiny because it applied to unharmed situations, like Alvarez’s. *See id.* at 736–37, 739.

131. *Id.* at 739 (Alito, J., dissenting). Justice Alito believed that the Act was constitutional because it could not have been drafted more narrowly, and because all false statements about military honors cause harm. *See id.* at 739–43, 754.

132. *See id.* at 724–26 (plurality opinion).

133. *See ALDF I*, 89 F.4th 1065, 1069–71 (8th Cir. 2024); *ALDF II*, 89 F.4th 1071, 1079–82 (8th Cir. 2024).

134. *See supra* note 133.

135. *See People for the Ethical Treatment of Animals, Inc. v. N.C. Farm Bureau Fed’n, Inc.*, 60 F.4th 815, 829 (4th Cir. 2023); *Animal Legal Def. Fund v. Wasden*, 878 F.3d 1184, 1203–04 (9th Cir. 2018); *Animal Legal Def. Fund v. Kelly*, 9 F.4th 1219, 1235–36 (10th Cir. 2021).

136. *See Joseph Burstyn, Inc. v. Wilson*, 343 U.S. 495, 501–02 (1952). In 1952, the Supreme Court extended the First Amendment to the protection of movies. *See id.*

137. *Wasden*, 878 F.3d at 1203–04.

These video recordings—speech under the First Amendment—should also be considered and protected as means of newsgathering and data collection. The Fourth Circuit considered North Carolina's Property Protection Act, which punished a person who "intentionally gains access to the nonpublic areas of another's premises and engages in an act that exceeds the person's authority to enter."¹³⁸ The court debated whether PETA's newsgathering activities under this Act fall into the category of protected speech.¹³⁹ The government argued that all undercover investigations in nonpublic areas were unprotected speech, but the Fourth Circuit considered this argument as dangerous.¹⁴⁰ According to the Supreme Court, quoted in this decision, "[i]f the First Amendment has any force, such 'creation' of information demands as much protection as its 'dissemination.'"¹⁴¹ The Fourth Circuit looked to other circuits, including the Seventh, to assert that the right to publish a recording would not matter if making the recording is considered unprotected speech.¹⁴² The North Carolina ag-gag law at issue was deemed unconstitutional in part because of this reasoning.¹⁴³

Generally, when analyzing whether speech or conduct may be regulated, a court must first determine what the government is trying to target in the regulation or law. In these ag-gag cases, the government is typically trying to target video recordings of the facilities but does so by first regulating the lie used to enter the premises or obtain employment. Although other circuits have addressed both layers of speech that are restricted under those states' similar ag-gag laws—the lie used to enter the premises or obtain employment *and* the recording itself—the Eighth Circuit failed to acknowledge the video recording as speech, and instead, focused solely on the false statements.¹⁴⁴ This failure is problematic in the next step of the analysis—whether the speech being restricted is content-based.

2. The Content-Based Restrictions

The federal circuit split in First Amendment analysis for ag-gag laws is magnified by the question of whether the speech regulated in ag-gag laws is content-based. However, even if conceding that *United States v. Alvarez* makes a lie to cause harm proscribable speech, the Supreme Court's holding in *R.A.V. v. City of St. Paul* is clear: Content-based restrictions on proscribable speech still constitute a violation of the First Amendment.¹⁴⁵

138. *N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th at 820.

139. *Id.* at 821, 828–30.

140. *Id.* at 822.

141. *Id.* at 829 (quoting *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570 (2011)).

142. *Id.* (referencing *Am. C.L. Union of Ill. v. Alvarez*, 679 F.3d 583, 595 (7th Cir. 2012)).

143. *Id.* at 833, 841.

144. *See supra* notes 133, 135.

145. *See R.A.V. v. City of St. Paul*, 505 U.S. 377, 383–84 (1992); *United States v. Alvarez*, 567 U.S. 709, 721–22 (2012).

In *R.A.V.*, the Supreme Court affirmed that content-based regulations on speech or expressive conduct are presumptively invalid with a few exceptions,¹⁴⁶ like obscenity, defamation, and threats.¹⁴⁷ However, all other content-based restrictions, like language in opposition to a governmental or private entity, are still presumptively invalid.¹⁴⁸ In *R.A.V.*, a plaintiff burned a cross in a Black family's yard, and was convicted under a city ordinance that criminalized placing an object on property that arouses anger in others "on the basis of race, color, creed, religion or gender."¹⁴⁹ The Court held that this expressive conduct, burning a cross on a lawn, was a proscribable threat that the government can penalize a speaker for.¹⁵⁰ However, the additional content-based restriction, criminalizing *only* speech arousing anger on the basis of race, color, creed, religion, or gender, violated the First Amendment.¹⁵¹

The Supreme Court has not broadly assigned false statements to the protected or unprotected category of speech, and further confused where false statements should fall in the plurality opinion of *United States v. Alvarez*.¹⁵² False statements are not explicitly in the exception category because of the "common understanding that some false statements are inevitable if there is to be an open and vigorous expression of views in public and private conversation, expression the First Amendment seeks to guarantee."¹⁵³ The Supreme Court determined that Alvarez's false statements were protected, "reject[ing] the notion that false speech should be in a general category that is presumptively unprotected."¹⁵⁴ The Supreme Court, in dicta, alluded to some permissible situations limiting false speech, including "defamation, fraud, or some other legally cognizable harm."¹⁵⁵

The Iowa ag-gag laws, under the Use, Place, Access, and Employment Provisions, are clearly trying to regulate, at least in part, false statements. However, other circuits have found that these false statements may still be protected under the First Amendment.¹⁵⁶ The Eighth Circuit has grasped onto this language, "some other legally cognizable harm," in *ALDFI*, yet other circuits have not found this language as binding on the false statements by

146. *R.A.V.*, 505 U.S. at 382–84.

147. *Id.*

148. *See id.*

149. *Id.* at 377.

150. *See id.* at 384–86.

151. *Id.* at 391–92.

152. *See generally* *United States v. Alvarez*, 567 U.S. 709 (2012).

153. *Id.* at 718.

154. *Id.* at 722.

155. *Id.* at 719.

156. *See* *People for the Ethical Treatment of Animals, Inc. v. N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th 815, 836 & n.8 (4th Cir. 2023); *Animal Legal Def. Fund v. Wasden*, 878 F.3d 1184, 1194–1203 (9th Cir. 2018); *Animal Legal Def. Fund v. Kelly*, 9 F.4th 1219, 1228–32 (10th Cir. 2021).

animal rights activists,¹⁵⁷ and the Fourth, Ninth, and Tenth Circuits have all found this conclusion through different reasoning.¹⁵⁸

Even if states are allowed to restrict false speech that results in a legally cognizable harm, ag-gag laws further restrict based on content. These laws add another layer of speech being regulated—the video recordings—as a content-based regulation. The content-based restriction is whether the video portrays animals at an animal agriculture facility. This further restriction, even if attempting to prevent a legally cognizable harm, is unconstitutional according to *R.A.V.*

It is also worth noting that false speech was discussed in *United States v. Alvarez*, yet the false speech regulated by ag-gag statutes is more inherently political than the defendant's statements in *Alvarez*. This type of political speech, speech against meat production, should also bolster the argument that this speech is content-based.¹⁵⁹

157. Animal Legal Def. Fund v. Reynolds, 8 F.4th 781, 785 (8th Cir. 2021) (quoting *Alvarez*, 567 U.S. at 719); see *ALDF I*, 89 F.4th 1065, 1067, 1070–71 (8th Cir. 2024); *N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th at 836 & n.8; *Wasden*, 878 F.3d at 1203; *Kelly*, 9 F.4th at 1228–32.

158. When analyzing Idaho legislation that targeted undercover animal rights investigators, the Ninth Circuit held that the “Recordings Clause regulates speech protected by the First Amendment and is a classic example of a content-based restriction” because it prohibits the speech about animal operations and nothing else. *Wasden*, 878 F.3d at 1203–05.

The Tenth Circuit, as discussed above, also declared Kansas's ag-gag laws as unconstitutional, but within their reasoning was the distinction of the speech being regulated. *Kelly*, 9 F.4th at 1245. They looked to the false statements and referenced some permissible regulations of false speech in *Alvarez*, like those that lead to a legally cognizable harm. *Id.* at 1234. The court stated “[a]lthough the information from which the harm flows would not be obtainable without the false statement used to gain entry to the facility, the false statement itself does not directly cause the harm.” *Id.* at 1235.

Some may argue that the video tapes and distribution of the videos may cause the animal facility harm, but this is a step removed from the false statements. The video tapes are not false statements, so they do not have to be weighed against a legally cognizable harm.

Similarly, the Fourth Circuit found that the North Carolina Property Protection Act regulated speech that was content-based on the Supreme Court's holding that content-based regulations regulate speech based on “its function or purpose.” *N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th at 830 (quoting *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015)). There, the videotaping of animal facilities was clearly for the purpose of newsgathering, protected by the First Amendment. *Id.* at 841.

159. In *Buckley v. American Constitutional Law Foundation, Inc.*, the Supreme Court emphasized its obligation “to be vigilant” and “guard against undue hindrances to political conversations and the exchange of ideas.” *Buckley v. Am. Const. L. Found., Inc.*, 525 U.S. 182, 192 (1999) (emphasis added). The Court has recognized that the purpose of the First Amendment was to protect the free discussion of government. See *id.* at 186–87; *Mills v. Alabama*, 384 U.S. 214, 218 (1966); cf. *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 245 (2002) (“It is also well established that speech may not be prohibited because it concerns subjects offending our sensibilities.”). In *Alvarez*, the defendant lied for personal gain, yet animal rights whistleblowers are often speaking on systematic animal abuse, promoted by state laws protecting the facilities. *Alvarez*, 567 U.S. at 713.

3. The Application of Intermediate Scrutiny

If a state enacts a law that restricts content-based speech, and it does not fall into one of the categories that the Court has deemed an exception (e.g., defamation, obscenity, and threats), then the statute must be analyzed under strict scrutiny.¹⁶⁰ Under strict scrutiny, the burden is on the government to show the statute at issue is “necessary to serve a compelling state interest and is narrowly drawn to achieve that end.”¹⁶¹

Instead, the Eighth Circuit applied intermediate scrutiny to both Iowa ag-gag statutes.¹⁶² Intermediate scrutiny asks whether the statute burdens *substantially more speech* than is necessary to further the state’s legitimate interests.¹⁶³ The Eighth Circuit should have applied strict scrutiny because the regulations on speech, both the false statements and the video recordings, are content-based. Under strict scrutiny, the Iowa statutes are unconstitutional. Although privacy may be a legitimate state interest, these laws are overly broad by not referencing whether an agriculture facility has a reasonable expectation of privacy. Because the burden is on the State to prove this expectation, and the State has not, the laws would not pass strict scrutiny.

However, the Fourth Circuit, when examining North Carolina’s ag-gag statutes, said that these statutes could not be upheld even under intermediate scrutiny.¹⁶⁴ This was because the provisions would chill an alarming amount of speech when lesser restrictions were available, and the provisions regarding employment did not further any permissible interests in safeguarding employer privacy or property.¹⁶⁵ So, even if the Eighth Circuit’s choice of intermediate scrutiny is correct, Iowa’s ag-gag statutes would likely still not overcome that lower bar to prove constitutionality.

The Eighth Circuit’s decision is incorrect and strays from all other circuit decisions regarding ag-gag laws. Iowa’s ag-gag laws clearly create a content-based restriction—content of animal agriculture facilities—which does not pass strict or intermediate scrutiny. Therefore, the Iowa statutes violate the Free Speech Clause.

III. OVERCOMING IOWA’S UNCONSTITUTIONAL AG-GAG LAWS

There is likely no single solution to the circuit split regarding the constitutionality of ag-gag laws that would be more effective than a Supreme Court decision rendering these provisions a violation of the Free Speech

160. See *Alvarez*, 567 U.S. at 717–18.

161. *Simon & Schuster, Inc. v. Members of N.Y. State Crime Victims Bd.*, 502 U.S. 105, 118 (1991) (quoting *Ark. Writers’ Project, Inc. v. Ragland*, 481 U.S. 221, 231 (1987)).

162. See *ALDF I*, 89 F.4th at 1069; *ALDF II*, 89 F.4th 1071, 1082 (8th Cir. 2024).

163. *ALDF II*, 89 F.4th at 1080.

164. *People for the Ethical Treatment of Animals, Inc. v. N.C. Farm Bureau Fed’n, Inc.*, 60 F.4th 815, 832 (4th Cir. 2023).

165. *Id.* at 831.

Clause under the First Amendment. However, this is unlikely to happen. In 2022, the Supreme Court denied a petition for certiorari by Kansas, and in 2023, the Supreme Court denied a petition for certiorari from North Carolina regarding these laws.¹⁶⁶ Because of this unlikelihood, this Note provides several suggestions below for: (1) animal rights groups and their future conduct; and (2) advocates for animal rights groups to promote further activism.

A. SUGGESTIONS FOR ANIMAL RIGHTS GROUPS

In many states, before ag-gag laws were passed, animal rights groups including PETA and the Animal Legal Defense Fund would have members try to obtain employment at animal facilities and capture videos of animal abuse.¹⁶⁷ PETA and the Animal Legal Defense Fund would then distribute these videos. The Iowa provisions clearly try to combat this. So, instead, animal rights groups should turn their attention to improving protections for current employees of slaughterhouses or confined animal feeding operations (“CAFOs”) to improve the well-being of animals in these facilities and protect consumers from potential health violations. These protections could be achieved through many means, including increased safety protections, wages, and mental health services related to this work. Additionally, whistleblower protections and the utilization of updated technology may provide solutions.

Slaughterhouse work is inherently dangerous.¹⁶⁸ It often involves sharp tools, automated machinery, and crowded environments.¹⁶⁹ The U.S. Government Accountability Office (“GAO”) reported that the meat and poultry industry has one of the highest rates of illness and injury of any industry in the United States.¹⁷⁰ In 2023, when the COVID-19 pandemic was still raging in meat-packing plants, the GAO recommended that the Occupational Safety and Health Administration increase inspections and take further actions to protect workers.¹⁷¹ According to Human Rights Watch,

166. See generally *Animal Legal Def. Fund v. Kelly*, 9 F.4th 1219 (10th Cir. 2021), *cert. denied*, 142 S. Ct. 2647 (2022); *N.C. Farm Bureau Fed'n, Inc.*, 60 F.4th 815, *cert. denied*, 144 S. Ct. 325 (2023).

167. See Carlson, *supra* note 19; Pacheco & Francione, *supra* note 20, at 135–36.

168. See *Slaughterhouse Workers*, FOOD EMPOWERMENT PROJECT, <https://foodispower.org/human-labor-slavery/slaughterhouse-workers> [<https://perma.cc/2WDV-753V>].

169. See *id.*

170. See U.S. GOV'T ACCOUNTABILITY OFF., GAO-05-96, WORKPLACE SAFETY AND HEALTH: SAFETY IN THE MEAT AND POULTRY INDUSTRY, WHILE IMPROVING, COULD BE FURTHER STRENGTHENED 21 (2005), <https://www.gao.gov/assets/gao-05-96.pdf> [<https://perma.cc/DTU7-TC43>]; U.S. GOV'T ACCOUNTABILITY OFF., GAO-23-105104, MEAT AND POULTRY WORKER SAFETY: OSHA SHOULD DETERMINE HOW TO ADDRESS PERSISTENT HAZARDS EXACERBATED BY COVID-19, at 1–2 (2023) [hereinafter MEAT AND POULTRY WORKER SAFETY], <https://www.gao.gov/assets/gao-23-105104.pdf> [<https://perma.cc/B7ZX-KQNG>].

171. See MEAT AND POULTRY WORKER SAFETY, *supra* note 170, at 14–16, 23.

many slaughterhouse workers are in danger of becoming permanently injured in the workplace or losing a limb.¹⁷²

Animal facility workers are often underpaid.¹⁷³ In 2023, the Bureau of Labor Statistics found the industry has around 71,000 employees total, with a mean annual wage of \$38,710 and median of \$38,160.¹⁷⁴ Iowa, with the fourth-highest level of employment in slaughterhouses and meat-packing plants, employs nearly 5,000 people with a mean annual wage of \$41,000.¹⁷⁵ Although higher than the average in this field, this is far below the national average for wages, which in 2023 was \$72,360.¹⁷⁶

On top of this, animal facility employees, especially slaughterhouse workers, face extreme psychological impacts due to their work.¹⁷⁷ In a systematic review, it was found that these workers experience higher rates of depression and anxiety as well as violence-supportive attitudes.¹⁷⁸ Nearly half of all participants in these reviewed studies experienced heightened stress and depressive symptoms.¹⁷⁹ These attitudes, perpetuated by their work, may lead to increased instances of animal abuse.¹⁸⁰ PETA and animal rights organizations likely cannot change the nature of the work, but they can put resources toward aiding animal facility employees.

If PETA and similar organizations still want to obtain videos inside the premises of animal facilities, instead of sending in undercover members and potentially violating ag-gag laws, asking current employees to do so would act as a work-around of Iowa laws. The employees would not be lying to obtain

172. See LANCE COMPA, HUM. RTS. WATCH, BLOOD, SWEAT, AND FEAR: WORKERS' RIGHTS IN U.S. MEAT AND POULTRY PLANTS 1–3 (Jamie Fellner ed., 2004), <https://www.hrw.org/report/2005/01/24/blood-sweat-and-fear/workers-rights-us-meat-and-poultry-plants> [<https://perma.cc/S6BC-6AMX>]; MATT MCCONNELL, HUM. RTS. WATCH, “WHEN WE’RE DEAD AND BURIED, OUR BONES WILL KEEP HURTING”: WORKERS’ RIGHTS UNDER THREAT IN US MEAT AND POULTRY PLANTS 1–2 (Komala Ramachandra & Grace Meng eds., 2019), <https://www.hrw.org/report/2019/09/04/when-were-dead-and-buried-our-bones-will-keep-hurting/workers-rights-under-threat> [<https://perma.cc/2N4B-RX6E>].

173. See 51-3023 *Slaughterers and Meat Packers*, U.S. BUREAU LAB. STAT. (Apr. 3, 2024), <https://www.bls.gov/oes/2023/may/oes513023.htm> [<https://perma.cc/9FHN-5C3W>].

174. See *id.*

175. See *id.*

176. See *Quarterly Census of Employment and Wages: Employment and Wages Data Viewer*, U.S. BUREAU LAB. STAT. (Sept. 7, 2022), https://data.bls.gov/cew/apps/table_maker/v4/table_maker.htm?type=0&year=2023&qtr=A&own=0&ind=10&supp=1 (on file with the *Iowa Law Review*).

177. See Jessica Slade & Emma Alleyne, *The Psychological Impact of Slaughterhouse Employment: A Systematic Literature Review*, 24 TRAUMA VIOLENCE & ABUSE 429, 429–30, 435–36 (2021).

178. See *id.* at 435–36.

179. See *id.* But the authors caveat the figures for depression, stating “significant differences were found in all comparative studies.” *Id.*

180. See *id.* However, animal cruelty protections in Iowa rank as some of the worst in the nation. See Adele J. Raymer, Note, *In Need of Paw-sitive Change: Improving Iowa’s Animal Cruelty Protections*, 110 IOWA L. REV. 1893, 1912–13 (2025); Alysha Z. Rameshk, Note, *Animal Cruelty—“Because You’re Worth It”: Advocating for the Passage of Cruelty-Free Cosmetics Laws*, 109 IOWA L. REV. 1835, 1857–58 (2024).

employment or access to the property; if they already have employment and access to the property and then take videos of alleged abuse when it occurs, they are not subject to the Iowa provisions.

However, if PETA and animal rights organizations aim to have workers obtain videos, they must ensure these workers are protected if they release these videos. In Iowa, workers at animal facilities are likely considered at-will.¹⁸¹ This means workers can be fired for any reason or even no reason.¹⁸² So, if an animal facility owner found out an employee was taking videos, they could fire that employee.¹⁸³ Animal rights groups should, therefore, also push for whistleblower protections in the workplace.¹⁸⁴ Whistleblower protections could strengthen the rights of employees who wish to speak to animal abuse and cruel conditions in the processing plants as well as health and safety hazards in the workplace. These whistleblower protections could prevent employers from firing employees that speak about these concerns.¹⁸⁵

Animal rights organizations should also take advantage of upcoming technologies to spot abuse. Although the Iowa Legislature outlawed the use of drones over animal agriculture facilities in its 2024 session,¹⁸⁶ there

181. Cf. *Feeback v. Swift Pork Co.*, 988 N.W.2d 340, 344 (Iowa 2023) (examining the case of an at-will employee who worked at a pork processing plant); *Huegerich v. IBP, Inc.*, 547 N.W.2d 216, 219–20 (Iowa 1996) (assuming an employee at a pork processing plant was at-will).

182. See *Huegerich*, 547 N.W.2d at 219 (“We begin with the firmly ingrained rule that an employer may discharge an at-will employee at any time, for any reason, or no reason at all.”). The only exceptions to this presumption are whether the discharge violated public policy, or if a contract was created, generally evidenced through an employee handbook. *Id.* at 220.

183. See *Slaughterhouse Workers*, *supra* note 168 (“The threat of termination discourages workers from reporting safety concerns, injuries, or other serious issues. Supervisors use a variety of intimidation tactics to suppress workers’ concerns and make it clear that other people are always available to replace them. As a result, workers are conditioned to accept a hazardous and demeaning work environment if they want to remain employed.”).

184. ALDF initiated a whistleblower campaign in July 2020, opening an online tip portal, ReportAnimalAg.com, for employees to report violations of animal abuse, worker safety, and more concerns while remaining anonymous. Several billboards were installed in Iowa near meat-packing plants. *Supporting Industrial Animal Agriculture Whistleblowers*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/project/supporting-industrial-animal-agriculture-whistleblowers> [<https://perma.cc/3N8F-KTSR>]. However, it is unclear if this whistleblower protection campaign for animal agriculture employees was successful and if it remains a priority for ALDF. Their main focus areas and issues on the ALDF website currently include no mention of employees. ANIMAL LEGAL DEF. FUND, <https://aldf.org> [<https://perma.cc/N754-T2Q9>].

185. The Government Accountability Project also considers whistleblowers as essential in reporting environmental violations within animal agriculture. *Whistleblowers Key in Publicizing Animal Agriculture’s Environmental Violations*, GOV’T ACCOUNTABILITY PROJECT (June 6, 2024), <https://whistleblower.org/blog/whistleblowers-key-in-publicizing-animal-agricultures-environmental-violations> [<https://perma.cc/ZP2B-3AM4>]. Their Food Integrity Campaign “continues to push for stronger whistleblower protections in the meat and poultry industry, where animal waste disrupts ecosystems, kills wildlife, ruins soil quality, and damages crops. Animal agriculture’s impact on the surrounding communities reinforces the need for more transparency and accountability that only brave truth-tellers can bring.” *Id.*

186. See 2024 Iowa Acts 305 (codified at IOWA CODE § 715E.4 (2025)). The law states that a person intrudes on property if they control the flight of a remotely piloted aircraft. See *id.* A

will likely be other emerging technologies that will be useful to the animal rights movement.¹⁸⁷

B. SUGGESTIONS FOR ANIMAL RIGHTS ADVOCATES

The decision in *ALDF II* was made in part because of the plaintiffs' failure to establish standing by not sufficiently and completely pleading all facts related to their activities, and a failure to establish their clear plans to place cameras in animal facilities. Whether or not the plaintiffs did have these plans, it should have been encouraged, and additional attention should have been paid to this issue to ensure that it was taken seriously. With *ALDF I* and *ALDF II* finding the Iowa laws constitutional, it is likely that the Iowa General Assembly will continue to place barriers on animal rights organizations. When challenging these provisions in the future, advocates must go above and beyond to establish standing, describing anything relatively similar to the challenged actions in the past by animal rights groups and detailed future plans of the actions. This should hopefully avoid the pitfalls the plaintiffs encountered in the 2024 decisions.

Regarding future decisions, advocates for animal rights groups should also petition for certiorari.¹⁸⁸ However, as discussed previously, this may not be the strongest option for advocates. Here, the Animal Legal Defense Fund did not appeal the Eighth Circuit's unfavorable decisions. The Animal Legal Defense Fund and other plaintiffs did not provide a press release explaining this decision even though a current circuit split exists. Even if this decision led to unfavorable Supreme Court precedent, at least animal rights activists would know to turn their resources away from pursuing these legal claims and to other forms of activism.

person who commits this intrusion may be charged with a serious misdemeanor or an aggravated misdemeanor if the person has committed this offense previously. *Id.*; see also Jared Strong, *Iowa Senate Revives Bill to Block Drone Surveillance of Livestock*, DES MOINES REG. (Feb. 7, 2024, 7:30 AM), <https://www.desmoinesregister.com/story/money/agriculture/2024/02/07/no-drones-permitted-near-livestock-under-proposed-iowa-senate-bill/72500212007> [<https://perma.cc/F32Q-LGZ7>] (describing Iowa bill that would prevent drone use above animal confinements, following the Eighth Circuit's overturning of injunctions in *ALDF I* and *ALDF II*).

187. See Laura Trethewey, *Eyes in the Sky: Why Drones Are 'Beyond Effective' for Animal Rights Campaigners Around the World*, GUARDIAN (Mar. 26, 2024, 10:11 AM), <https://www.theguardian.com/environment/2024/mar/26/drones-beyond-effective-for-animal-rights-campaigners-around-the-world> [<https://perma.cc/6VXG-P4X4>].

188. Without a petition for certiorari, "animal production facilities maintain a highly favored position in Iowa." Norman A. Dupont & Alec T. Goos, *Ag-Gag Laws Meet the First Amendment: Two Recent Eighth Circuit Cases*, TRENDS, May/June 2024, at 1, 4. This Author has emailed the Animal Legal Defense Fund twice to ascertain their reasoning for not filing a petition for certiorari. Email from Author to Animal Legal Def. Fund (July 29, 2025, 4:38 PM) (on file with the *Iowa Law Review*); Email from Author to Animal Legal Def. Fund (Aug. 25, 2025, 10:38 AM) (on file with the *Iowa Law Review*). ALDF has not commented. Email from Animal Legal Def. Fund to Author (July 29, 2025, 4:38 PM) (on file with the *Iowa Law Review*).

CONCLUSION

Although the animal rights movement is at its most popular, it still faces many challenges, especially from legislatures in animal-agriculture-heavy states. From Upton Sinclair's *The Jungle*, the movement has grown from concern of Americans' health to concern for the treatment of animals in these facilities. The solutions suggested expanding this concern to everyday workers at slaughterhouses and CAFOs. Animal rights organizations should look to expand their operations by recruiting workers but must also work toward whistleblower protections for slaughterhouse employees reporting abuse or poor conditions. These solutions are limited, but the long-standing animal rights movement has remained adaptable, even when their First Amendment rights are challenged.