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AGRICULTURAL
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Rural Crime Public Engagement

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Keystone Agricultural Producers (KAP) is Manitoba's general farm policy organization, representing and promoting the interests of agricultural producers in the province. KAP's membership consists of approximately 4,500 farm families and 21 commodity associations.

KAP is grateful for this opportunity to provide input into possible amendments and new legislation on rural crime and biosecurity. Statistics Canada reports that in the prairie provinces in 2017, crime rates in rural areas were 36% to 42% higher than in urban areas.

Increased rural criminal activity parallels an increased interest from KAP members to work with government and stakeholders towards a rural crime solution. Since 2018, 5% of resolutions passed by members through KAP's grassroots democracy relate to rural trespassing and biosecurity. KAP policy, developed through input from all members, is clear in acknowledging that rural crime and trespassing is an issue for farm families and the solution requires legislative action.

The following is KAP's response to the Manitoba government's consultation survey available at EngageMB.ca. KAP members have been encouraged to participate as individuals and commodity associations.

Section A: Possible Amendments to Manitoba's Petty Trespasses Act

Question: To what extent do you support possible amendments to The Petty Trespasses Act to provide more clarity about when permission to enter onto land is needed, and to avoid putting the onus on rural land owners to entirely fence off large tracts of land or partially fence and personally confront apparent trespassers.

Answer: Strongly Favour

Comment: KAP defends and supports landowners' rights to legal protection from unauthorized trespassing, including off-road vehicles and hunters and trappers who have not obtained written permission for access. Furthermore, KAP members believe that trespassing on farmland should be considered a chargeable offence. Trespassing on private land is a safety and biosecurity issue for Manitoba farmers and KAP welcomes changes that will clarify requirements for landowners and deter potential trespassers.

KAP heard from members that any legislative changes brought forward must accomplish three things; updated trespassing legislation must:

- Work practically for farmers;
- Include penalties that will act as a deterrent; and
- Provide a level of comfort to farmers and their families.

Question: To what extent do you agree or disagree that Manitoba should adopt Saskatchewan and Alberta's approach to trespass offences?

Answer: Definitely agree

Comment: KAP supports the Saskatchewan and Alberta approach to trespass offences that shifts responsibility to the trespasser from the landowner. KAP members have stated that trespassing legislation in its current form is not workable. Landowners should not be required both to enclose their land and to confront alleged trespassers before law enforcement can act. KAP policy states that the provincial government needs to evaluate and improve legislation to better protect landowners. KAP members recognize the challenges that exist for law enforcement in rural areas and significant changes to protect rural property owners need to also be accompanied by investments in rural crime prevention.

The new legislation in Saskatchewan and Alberta significantly increases fines for trespassers. In Alberta the fine can now be as high as \$25,000 for an individual's second trespassing offence. KAP members support potential legislation in Manitoba that will increase fines for trespassing similar to Saskatchewan and Alberta.

Alberta is also increasing their Crown prosecutor positions to help government prosecute trespass offences. Manitoba farmers support increased enforcement in rural areas to provide faster response times, more investigative powers, and an increased presence to deter would be trespassers. Enforcement officers should also receive specialized rural or on-farm training relating to biosecurity and farm practices.

Question: The following properties or property uses are listed in Saskatchewan and Alberta's trespass law. What types of property or property uses should be listed in Manitoba's trespass law? Select all that apply.

Answer:

Yard sites (used for agricultural purposes where a residence, structure, grain bin, stockade or corral is located, regardless of whether occupied by persons or livestock)

Land under cultivation

Grazing land

Raising animals

Raising birds

Raising fish

Beekeeping

Comment: Yard sites, cultivated land, grazing land, land used for raising animals, raising birds, and beekeeping should be protected. KAP members stress that biosecurity is a significant concern, both in barns and on fields. Adherence to biosecurity practices are a key factor to protect private property, and to protect the integrity of the Canadian food supply.

Question: Manitoba's existing trespass legislation provides a defence for persons who enter land under an honest and reasonable belief that they have a right to do so. To what extent do you agree or disagree there should also be specific exemptions for lawful entrants such as peace officers, first responders and emergency personnel, authorized public utility meter readers and service personnel, or authorized gas or electrical inspectors?

Answer: Somewhat disagree

Comment: Legislation should be enacted that will require all government agencies and private individuals to obtain pre-authorization from a manager (including biosecurity protocol acceptance) to gain access to private or leased property, including Crown land. This will help prevent the spread of diseases, weeds, or pests and enhance human and livestock safety.

Individuals like emergency personnel, peace officers, and first responders should be able to work unabated as their work is of a high-priority and often focused on a life or death situation. KAP policy calls for timely access to emergency services for all rural Manitobans and members have not raised concerns around trespassing and biosecurity relating to emergency responders.

KAP members have stated that there needs to be better communication, for example, between Manitoba Hydro, their subcontractors, and farm operators when it comes to meter readings and inspections. Accurate meter readings and inspections are a necessity but there needs to be a balance between that necessity and timely communication with the landowner.

KAP policy on trespassing states:

- The Government of Manitoba should introduce legislation to make trespassing on private property a chargeable offence,
- Mandatory annual written permission for hunting on private land should be included in the Manitoba Hunter's Guide, and
- The Government of Manitoba should enhance and fully enforce laws around intimidation, trespass, break & enter, and mischief towards farmers and lay charges to the fullest extent against those that break the law.

Section B: Possible Amendments to The Occupiers' Liability Act

Question: To what extent do you support possible amendments to The Occupiers' Liability Act to provide landowners/occupiers with greater protection from civil liability for death, injuries or property damage suffered by persons who are on their property without their knowledge or consent (i.e., trespassers)?

Answer: Strongly favour

Comment: KAP supports possible amendments to the Occupiers' Liability Act that would provide greater protection to landowners from civil liability through enhancements to duty of care provisions.

Landowners would like the capacity to protect their property, including their homes and their barns, legally, safely, and without fear of civil litigation. Following potential legislative changes to the Occupiers' Liability Act, the Manitoba government should provide education and awareness for rural

landowners clarifying the level of responsibility required and allowable actions in terms of preventing trespassers and ensuring the safety of those who may enter a private property.

Legislative changes in Alberta increase fines for trespassing and restrict the legal action trespassers can take in certain circumstances. Individuals engaged in the criminal activity of trespassing should not be afforded the legal recourse to profit from their illegal activities through civil litigation.

Question: For each of the following classes of trespassers, what is your preferred solution to protect both the person who entered the property without lawful excuse or permission, and the owner/occupier who had no idea that the person would be on the property and no opportunity to intervene, to warn or stop them before they were injured?

Comment: KAP policy states that landowners have the right to know who enters their property. Individuals that wish to enter private property should obtain written permission from the landowner beforehand. Increased vigilance in terms of authorizing entry on farmland will limit challenges regarding landowner liability by limiting the number of unknown entrants.

As government considers duty of care requirements, they should be cognizant that farm properties and practices vary in terms of potential safety risks. A cattle producer may be required to fence off an area for a bull, for example, and if someone enters that area, they may be at risk even though the farmer took reasonable steps (an appropriately strong fence) to ensure safety.

A minimum duty of care differs from the general duty of care in that it means a landowner must not create a danger with the deliberate intent of doing harm or damage and will not act with reckless disregard for safety. Legislation that shifts the duty of care from general to minimum for all those who enter private property is acceptable as it is reasonable to expect landowners to not intentionally create situations on-farms that would cause harm.

Section C: Possible Amendments to the Animal Diseases Act

Question: To what extent do you support possible amendments to The Animal Diseases Act to designate any livestock facility or vehicle that contains livestock as 'biosecurity areas' or 'animal protection areas' that can only be entered with the consent of the owner/operator and to prohibit interfering with animals in transport.

Answer: Strongly favour

Comment: KAP is committed to protecting the interests of agriculture from the spread of animal diseases. This is done through encouraging the strict adherence to biosecurity protocols, information sharing, and supporting KAP commodity group members as they educate producers, industry, utility providers, and government officials on biosecurity.

Biosecurity measures are intended to stop the spread or introduction of harmful organisms to humans, animals, and plant life. The aim of a biosecurity protocol is to protect agricultural operations through the prevention, control and management of biological risk factors. Manitoba's farmers already have many of the necessary tools to deal with the spread of animal diseases.

KAP supports the concept of biosecurity areas or animal protection areas to protect livestock facilities, and KAP advocates for consent requirements regarding entrance to private property. Requiring consent

prior to entry will increase adherence to biosecurity protocols as it provides landowners the opportunity to clarify entry requirements (for example, shoe coverings, shower in and out).

KAP policy on biosecurity includes the following:

- All government personnel should be trained in biosecurity protocols and have obtained permission before entering any restricted areas at any livestock farm;
- All government employees and contracted workers who need access to farmland or farm buildings should have approved biosecurity protocols in place;
- Landowners and producers have a right to create or adopt an enforceable biosecurity protocol to meet their own needs, including verification of the implementation of their protocol.

Question: To what extent do you agree or disagree with the following statements?

- 1) Any location containing livestock should be designated a biosecurity area that can only be entered with the consent of the owner/operator of the livestock facility.
- 2) Trucks and trailers transporting livestock should be designated a biosecurity area and interfering with animals in transport should be prohibited.
- 3) A location containing livestock should contain signs identifying the location as a biosecurity area where access is restricted.

Answer: KAP supports all three statements.

Comment: Designating areas with livestock as biosecurity areas and including a consent requirement is a positive step to assist livestock producers in maintaining their animals' health. Trucks and trailers that transport livestock should also be considered designated biosecurity areas as the health of animals during transport is of paramount importance.

The requirements to keep animals safe and healthy during transport are stringent and animals in transit are cared for in accordance with federal legislation. If farmers cannot limit (or are not aware) of interaction with their animals while they are in transit, the entire shipment is vulnerable and at risk.

Biosecurity signage may be necessary for areas designated as biosecurity or animal protection areas. If possible, signage should also be clear about what it means for an area to be a biosecurity area and how to proceed. There is also a role for government in the development of biosecurity signage in reassuring the non-farming public that biosecurity is about health and safety of animals and minimizing disease risks. Farmers are open to discussing their practices including how they adhere to recognized animal welfare standards, and biosecurity signs are not meant as a scare tactic, but rather as a measure to protect livestock.

Stringent national biosecurity requirements from the Canadian Food Inspection Agency include requirements, depending on species, such as employees showering when entering and exiting a barn, mandatory gowns, face masks, and boot covers, and other standards aimed at keeping both the animals and the food supply safe. These standards and accompanying programs from the livestock industry are mandatory, enforceable and include third-party independent auditing and verification. As government moves forward with legislative changes, they should acknowledge the high standards achieved by Manitoba livestock producers and plan to elevate public trust components of animal agriculture.