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c 123 Dog Licensing and Live Stock and Poultry Protection Act

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CHAPTER 123

Dog Licensing and Live Stock and Poultry Protection Act

1. In this Act,

(a) "dog" means a male or female dog;

(b) "Minister" means the Minister of Agriculture and Food;

(c) "owner" of a dog includes a person who possesses or harbours a dog, and "owns" and "owned" have a corresponding meaning;

(d) "pure-bred" means,
   (i) registered or eligible for registration in the register of The Canadian Kennel Club, Incorporated, or
   (ii) of a class designated as pure-bred in the regulations;

(e) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 133, s. 1.

PART I

DOG LICENSING

2.—(1) By-laws may be passed by the councils of local municipalities for licensing and requiring the registration of dogs and for imposing a licence fee on the owners of them with the right to impose a larger fee in the case of female dogs or for each additional dog or female dog where more than one is owned by any one person or in any one household. R.S.O. 1970, c. 133, s. 5 (1).

(2) On payment of the licence fee for a dog, the owner shall be furnished with a dog tag and shall keep the tag securely fixed on the dog at all times until the tag is renewed or
replaced, but the tag may be removed while the dog is being lawfully used for hunting deer in the bush.

(3) A fee not exceeding 25 cents may be charged for each tag.

(4) A tag shall bear a serial number and the year in which it was issued and a record shall be kept by the clerk or other officer designated for that purpose showing the name and address of the owner and the serial number of the tag.

(5) Every owner who fails to comply with subsection (2) or who uses a tag upon a dog other than that for which it was issued is guilty of an offence and on conviction is liable to a fine of not more than $50. 1972, c. 10, s. 4.

3. Where a by-law is passed by the council of a local municipality under subsection 2 (1), the owner of a kennel of dogs that are pure-bred shall pay an annual licence fee of $25 to the treasurer of the municipality as a licence fee for the kennel, and he is not liable to pay in respect of such pure-bred dogs any licence fee under the by-law. 1972, c. 10, s. 5.

4. — (1) By-laws may be passed by the council of a local municipality for prohibiting or regulating the running at large of dogs in the municipality or in any defined area thereof, for seizing and impounding and for killing, whether before or after impounding, dogs running at large contrary to the by-law, and for selling dogs so impounded at such time and in such manner as is provided by the by-law. 1972, c. 10, s. 6 (1).

(2) For the purpose of this section, a dog shall be deemed to be running at large when found in any place other than the premises of the owner of the dog and not under the control of any person. 1974, c. 94, s. 1 (1).

(3) Every owner of a dog who allows it to run at large contrary to a by-law made under this section is guilty of an offence and on conviction is liable to a fine of not more than $50. 1972, c. 10, s. 6 (2).

(4) Nothing in subsection (2) confers on any person a right to enter any premises.

(5) A by-law under this section may provide for the voluntary payment of penalties out of court in cases where it is alleged that any of the provisions of the by-law respecting dogs running at large have been contravened and,
if payment is not made in accordance with the procedure, the fine is recoverable under the Provincial Offences Act. 1974, R.S.O. 1980, c. 94, s. 1 (2).

5. A by-law passed under this Part may impose a fine of not more than $50, exclusive of costs, upon every person who contravenes the by-law, and every such fine is recoverable under the Provincial Offences Act. R.S.O. 1970, c. 133, s. 8.

6.—(1) The Lieutenant Governor in Council may make regulations for prohibiting or regulating the running at large of dogs in territory without municipal organization or in any defined area thereof, for seizing and impounding, and for killing, whether before or after impounding, dogs running at large contrary to the regulations, and for selling dogs so impounded at such time and in such manner as may be provided in the regulations.

(2) For the purpose of this section, a dog shall be deemed to be running at large when found on public lands or in a public place and not under the control of any person.

(3) Every owner of a dog who allows it to run at large contrary to the regulations made under this section is guilty of an offence and on conviction is liable to a fine of not more than $50. R.S.O. 1970, c. 133, s. 9.

7. The Lieutenant Governor in Council may make regulations designating as pure-bred any class or classes of dogs. R.S.O. 1970, c. 133, s. 10.

PART II
PROTECTION OF LIVE STOCK AND POULTRY

8. In this Part,

(a) "Board" means the Wolf Damage Assessment Board established under section 18;

(b) "Commissioner" means the Live Stock Commissioner;

(c) "fur-bearing animal" means an animal designated by name as a fur-bearing animal in the Fur Farms Act or declared to be a fur-bearing animal in the regulations made thereunder;

(d) "injured" in respect of live stock or poultry means injured by wounding, worrying or pursuing, and "injury" has a corresponding meaning;
(e) "live stock" means cattle, fur-bearing animals, goats, horses, rabbits, sheep or swine;

(f) "poultry" includes game birds where the game birds are kept pursuant to a licence under the
  Game and Fish Act;

(g) "wolf" means any of the species Canis lupus L. or Canis latrans Say or any cross breed of either.

1974, c. 94, s. 2; 1975, c. 86, s. 1.

9. Any person may kill a dog,

(a) that is found killing or injuring live stock or poultry;

(b) that in a township or village is found between sunset and sunrise straying from the premises where the dog is habitually kept;

(c) that is found straying at any time, and not under proper control, upon premises where live stock or poultry are habitually kept. R.S.O.1970, c.133,s.12.

10.—(1) Where a dog or a wolf kills or injures live stock or poultry and, in the case of killing or injuring by a dog, whether the owner of the dog is known or not, the local municipality in which the killing or injuring occurred is liable to the owner of the live stock or poultry for the amount of damage determined under section 11, and shall pay over such amount to the owner within thirty days after the amount has been so determined. 1974, c. 94, s. 3 (1).

(2) Subsection (1) does not apply,

(a) to live stock or poultry killed or injured while running at large upon a highway or unenclosed land; or

(b) in the case of poultry, where the weight of the poultry killed or injured is less than twenty-five kilograms. R.S.O. 1970, c. 133, s. 13 (2); 1974, c. 94, s. 3 (2, 3); 1978, c. 87, s. 5.

(3) The council of a local municipality may pass a by-law providing that where live stock or poultry are killed or injured by wild animals, other than wolves, in the municipality, subsection (1) applies in the same manner as where live stock or poultry are killed or injured by a dog or wolf, but the council in the by-law may fix the maximum amount
payable for any head of live stock so killed or injured in any year and may fix the proportion of the damages ascertained under section 11 that is payable. 1974, c. 94, s. 3 (4).

11.—(1) The council of every local municipality shall appoint one or more persons as valuers of live stock and poultry for the purposes of this Act. R.S.O. 1970, c. 133, s. 14 (1).

(2) Where the owner of live stock or poultry discovers that any of his live stock or poultry has been killed or injured and to the best of his knowledge and belief such killing or injuring was done by a wolf or by a dog other than a dog owned by him or habitually kept upon his premises, he shall immediately notify a valuer for the local municipality in which the live stock or poultry were killed or injured or the clerk of such municipality who shall forthwith notify a valuer, and such valuer shall immediately make full investigation and shall make his report in writing within ten days thereafter to the clerk of the municipality giving in detail the extent and amount of the damage and his award therefor, and he shall at the same time forward a copy of such report to the owner of the live stock or poultry.

(3) Where the owner of live stock or poultry notifies a valuer or a clerk of a municipality under subsection (2), he shall, within ten days, file with the clerk an affidavit that to the best of his knowledge and belief the live stock or poultry were killed or injured by a wolf or by a dog other than a dog owned by him or habitually kept upon his premises. 1974, c. 94, s. 4 (1).

(4) Where the valuer finds evidence that to the best of his knowledge and belief shows,

(a) that any of the live stock or poultry was not killed or injured by a dog or a wolf; or

(b) that the killing or injuring was caused by a dog owned by or habitually kept on the premises of the owner of the live stock or poultry; or

(c) that the owner had not taken reasonable care to prevent the killing or injuring of his live stock or poultry by dogs or wolves,

the valuer shall include in his report to the clerk of the local municipality and to the owner of the live stock or poultry a
statement of his belief and shall make forthwith a further report to the clerk of the municipality giving particulars of the evidence found, and the council of the municipality may thereupon deny liability in whole or in part by written notice given by the clerk of the municipality to the owner of the live stock or poultry within thirty days after the filing of his affidavit with the clerk. R.S.O. 1970, c. 133, s. 14 (4); 1974, c. 94, s. 4 (2).

(5) The valuer shall include in his report a finding as to whether the live stock or poultry were killed or injured by dogs or by wolves. 1974, c. 94, s. 4 (3).

(6) The amount of damage for which the local municipality is liable shall not include damage incurred under the circumstances set out in clause (4) (a), (b) or (c) and for which the municipality has denied liability in accordance with subsection (4).

(7) The owner of live stock or poultry shall not destroy or permit to be destroyed the carcass of any live stock or poultry reported killed under subsection (2) until the carcass has been seen by the valuer.

(8) Where the owner of live stock or poultry or the council is dissatisfied with the report of the valuer made under subsection (2), the owner or the council may appeal to the Commissioner who shall name a valuer, and the valuer so named shall make a further investigation and report.

(9) Such appeal shall be made within thirty days after the making of the report to the clerk of the local municipality by its valuer, and $25 shall be deposited with the Commissioner at the time of making the appeal to be forfeited to the Crown if the report of the valuer for the local municipality is sustained on an appeal under this section. R.S.O. 1970, c. 133, s. 14 (5-8).

(10) Where there is no valuer of the local municipality or the clerk or the valuer does not discharge the duties imposed on him by this Act, the Commissioner, on the application of the owner of any live stock or poultry killed or injured by a wolf or by a dog other than a dog owned by him or habitually kept upon his premises, shall name a valuer, and the valuer so named shall make an investigation and report, and the municipality shall pay to the Commissioner the cost of such investigation and report as fixed by him. 1974, c. 94, s. 4 (4).
(11) A copy of the report of a valuer named by the Commissioner under subsection (8) or (10) shall be forwarded by the Commissioner as soon as practicable to the clerk of the local municipality and to the owner of the live stock or poultry.

(12) A valuer named by the Commissioner under subsection (8) or (10) shall, where applicable, include in his report a statement of his belief that the amount of damage to live stock or poultry includes damage incurred under the circumstances set out in clause (4) (a), (b) or (c), and the council of the municipality may thereupon deny liability in whole or in part by written notice given by the clerk of the municipality to the owner of the live stock or poultry within thirty days after receipt of the report of the valuer.

(13) Where the owner of live stock or poultry or the council is dissatisfied with the report of the valuer made under subsection (8) or (10), the owner or the council may, within thirty days after receipt of the report, appeal to a judge of the county or district court of the county or district in which the municipality is situate, and the judge may determine the liability of the municipality and, subject to subsection (14), the amount payable to the owner. R.S.O. 1970, c. 133, s. 14 (10-12).

(14) No municipality shall be liable to an owner for an amount in respect of live stock or poultry in excess of the maximum amount prescribed therefor in the regulations. 1979, c. 55, s. 1.

12. A local municipality having paid to the owner of live stock or poultry the amount of the damage ascertained under section 11 is entitled to recover the amount so paid from the owner of the dog that did the damage in any court of competent jurisdiction without proving that it was vicious or accustomed to worry live stock or poultry. R.S.O. 1970, c. 133, s. 15.

13. — (1) The council of a municipality may conduct an inquiry in order to ascertain the owner of a dog that has killed or injured live stock or poultry within the municipality.

(2) The council of a municipality for the purposes of an inquiry under subsection (1) has the powers of a commission under Part II of the Public Inquiries Act, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1980, c. 411.

14. Where it appears that the damage was caused by more dogs than one, the council may apportion the damage in such
manner as is considered just having regard to the strength, ferocity and character of such dogs. R.S.O. 1970, c. 133, s. 17.

15.—(1) Where the owner of a dog has knowledge that the dog has killed or injured live stock or poultry, he shall destroy the dog or cause the dog to be destroyed within forty-eight hours after acquiring such knowledge.

(2) Where the owner of a dog refuses or neglects to destroy it when required so to do by subsection (1), he may be summoned before a provincial judge who may order the dog to be destroyed, and for the purpose of carrying out the order a constable may enter upon the premises of the owner and destroy the dog, and the provincial judge may, in addition to any other penalty provided by this Act, direct the owner of the dog to, pay the cost of the proceedings and of the destruction of the dog. R.S.O. 1970, c. 133, s. 18.

16.—(1) Where in territory without municipal organization live stock or poultry are killed or injured by a dog, the owner of the dog is liable to the owner of the live stock or poultry for the amount of the damage, and it is not necessary in an action to recover the amount of such damage to prove that the dog was vicious or accustomed to worry live stock or poultry. R.S.O. 1970, c. 133, s. 19.

(2) Where in territory without municipal organization live stock or poultry are killed or injured by a wolf, the Commissioner may pay compensation to the owner of the live stock or poultry for the amount of the damage determined under subsection (3).

(3) For the purpose of determining the amount of compensation that may be paid under subsection (2), the Commissioner may exercise any of the powers of a council of a municipality under section 11, and the procedures prescribed under subsections 11 (1) to (7) and (13) and (14) apply with necessary modifications. 1974, c. 94, s. 5.

17. Every municipality that has paid any damage ascertained under section 11 respecting damage by wolves to an owner shall submit reports thereon to the Commissioner at such times and in such form and manner as is prescribed in the regulations and such reports shall include a report on the number of claims paid, the amount of each such claim and the findings of the valuer as to whether the live stock or poultry were killed or injured by dogs or by wolves. 1974, c. 94, s. 6, pari.
18.—(1) There shall be a board to be known as the Wolf Damage Assessment Board that shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council, none of whom shall be members of the public service in the employ of the Ministry of Agriculture and Food and who shall hold office during pleasure.

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

(3) A majority of the members of the Board constitutes quorum a quorum.

(4) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. 1974, c. 94, s. 6, part.

19. Upon application therefor by a municipality in the manner prescribed in the regulations, the Commissioner may, out of the moneys appropriated therefor by the Legislature, authorize the payment of grants so as to reimburse the municipality for any damage ascertained under section 11 and paid by the municipality to an owner where the damage was caused by wolves, and, subject to section 20, no hearing is required in considering whether or not a grant shall be paid. 1974, c. 94, s. 6, part.

20.—(1) Where the Commissioner has reason to believe that any damage paid by a municipality for which application has been made for a grant under section 19 may not have been caused by wolves, he shall refer the application to the Board by notice in writing delivered to the municipality and filed with the Board.

(2) Where an application has been referred to the Board under subsection (1), the Board shall, after a hearing, determine whether or not the whole or any part of the damage referred to in the application was caused by wolves and the decision of the Board shall, as to whether or not any such damage was caused by wolves, be binding on the Commissioner.

(3) The Commissioner, the municipality and such other persons as the Board may specify, are parties to the proceedings before the Board under this Act.

(4) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or
indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(5) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the Statutory Powers Procedure Act.

(6) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

(7) Part I of the Statutory Powers Procedure Act applies with respect to a hearing by the Board under this section. 1974, c. 94, s. 6, part.

21. The times and procedures set out in this Part shall be regarded as directory, and a proceeding that is in substantial conformity with this Part is not open to objection on the ground that it is not in strict compliance therewith. R.S.O. 1970, c. 133, s. 20.

22. Every person who contravenes any of the provisions of this Part is guilty of an offence and on conviction is liable to a fine of not more than $50. R.S.O. 1970, c. 133, s. 21.

23. The Lieutenant Governor in Council may make regulations,

(a) prescribing the form and manner in which reports required under section 17 shall be made and the times at which such reports shall be submitted;

(b) prescribing the manner in which an application shall be made under section 19;

(c) prescribing forms and providing for their use;

(d) prescribing maximum amounts for,
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(i) live stock and poultry or any species or class thereof for the purposes of subsection 11 (14), and

(ii) honey bees and hive equipment for the purposes of subsection 24 (3). 1974, c. 94, s. 6, part; 1979, c. 55, s. 2.

PART III

DAMAGE TO HONEY BEE COLONIES BY BEARS

24.—(1) Where a colony of honey bees is damaged or destroyed by a bear, the Commissioner, on the application of the owner of the colony, may pay compensation to the owner in such amount as he considers reasonable.

(2) For the purpose of determining the amount of compensation that may be paid under subsection (1), the Commissioner may appoint a valuer to make an investigation and the valuer so appointed shall make an investigation and shall make his report in writing within ten days thereafter to the Commissioner together with his recommendations respecting compensation. 1974, c. 94, s. 7.

(3) No payment in respect of a colony of honey bees shall exceed the maximum amount prescribed for honey bees and hive equipment in the regulations. 1979, c. 55, s. 3.

PART IV

LIMITATION ON AMOUNT OF COMPENSATION

25. Subject to subsection 11 (14), subsection 24 (3) and section 26, where compensation is payable under this Act, the amount payable shall not exceed the market value of the live stock, poultry, honey bees or hive equipment at the time of the death, injury or damage in respect of which payment is made. 1979, c. 55, s. 4, part.

26. Where an owner receives an amount under a contract of insurance by reason of the death of or injury to live stock or poultry or damage to or the destruction of honey bees or hive equipment for which compensation is payable under this Act, for the purpose of calculating the amount of compensation, the market value of the live stock, poultry, honey bees or hive equipment shall be deemed to be reduced by that amount. 1979, c. 55, s. 4, part.