1970

C 133 Dog Tax and Live Stock and Poultry Protection Act

Ontario
CHAPTER 133
The Dog Tax 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. 1960, c. 111, s. 1; 1968-69, c. 31, s. 1.

PART I
DOG TAX

2.—(1) Subject to section 5, an annual dog tax shall be levied in every local municipality upon every person who is assessed as owner or tenant of any land and who is in occupation thereof in respect of every dog that he owns in the municipality or that is habitually kept upon the premises for which he is assessed although the dog may be owned by some other person.

(2) Where no by-law increasing the tax has been passed by the municipality under subsection 3, the amount of the tax shall be as follows:

   1. For a male dog, if only one is kept. . . . . . . . . $2
   2. For each additional male dog. . . . . . . . . . . . . 4
   3. For a female dog, if only one is kept. . . . . . . . . 4
   4. For each additional female dog. . . . . . . . . . . 6

(3) Any city, town, village or township may pass a by-law increasing the tax.
(4) Where a certificate of a veterinary surgeon is produced showing that a female dog has been spayed, such female dog shall be taxed at the same rate as a male dog.  R.S.O. 1960, c. 111, s. 2 (1-4).

3.—(1) The assessor shall enter upon the assessment roll opposite the name of every person assessed the number of male dogs, female dogs and spayed female dogs, respectively, for which the person is liable to be taxed.

(2) A person when so required by the assessor shall forthwith deliver to him a statement in writing of the number of such dogs owned by him or that are habitually kept upon the premises for which he is assessed by whomsoever owned.

(3) Every assessor who fails to make all inquiry and to assess all dogs reported to him and every person who neglects or refuses to furnish the statement required by subsection 2 or who makes a false statement is guilty of an offence and on summary conviction is liable to a fine of not more than $10.

(4) The amount payable for dog tax shall be entered upon the collector's roll and the collector shall proceed to collect it in the same manner as other municipal taxes.

(5) When the tax is demanded and is not paid, the person assessed may be summoned before a provincial judge who may order the dog to be destroyed unless the tax and costs are paid before a time named in the order.

(6) For the purpose of carrying out such order, a constable may enter upon the premises of the owner and destroy the dog.

(7) Every collector who neglects to collect the tax or take the proceedings provided by this section before the time fixed for the return of his roll to the treasurer is guilty of an offence and on summary conviction is liable to a fine of not more than $10.  R.S.O. 1960, c. 111, s. 3, amended.

4.—(1) In a municipality in which the dog tax is levied every person in each year on or before the 15th day of February or on or before such earlier or later date as is fixed by by-law of the council shall procure from the clerk or the assessor a tag for each dog in respect of which he is liable for the dog tax and shall keep the tag securely fixed on the dog at all times during the year and until he procures a tag for the following year, except that the tag may be removed while the dog is being lawfully used for hunting deer in the bush.

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

(4) Every person who fails to comply with subsection 1 or who uses a tag upon a dog other than that for which it was issued is guilty of an offence and on summary conviction is liable to a fine of not more than $10.

(5) Where an owner of a dog applies to the clerk for a tag after the assessment roll has been returned and before the collector's roll has been delivered to the collector and the clerk finds that such owner has not been assessed for the dog, the owner shall forthwith make and deliver to the clerk the statement mentioned in subsection 2 of section 3 and the clerk shall make the necessary entries in the assessment roll and in the collector's roll, but, where the owner acquired the dog after the expiration of six months of the year, he shall be charged with only one-half of the dog tax. R.S.O. 1960, c. 111, s. 4.

5. — (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.

(2) Where the licence fee is equal to or exceeds the dog tax required to be levied by this Part, sections 2 and 3 do not apply while the by-law remains in force.

(3) On payment of the licence fee, the owner shall be furnished with a dog tag and the provisions of subsections 1 and 4 of section 4 as to keeping the tag securely fixed on the dog, and subsections 2 and 3 of section 4 apply. R.S.O. 1960, c. 111, s. 5.

6. The owner of a kennel of dogs that are pure-bred shall pay an annual tax of $25 to the treasurer of the municipality as a tax upon the kennel, and he is not liable to pay in respect of such pure-bred dogs any tax under section 2 or any licence fee under a by-law passed pursuant to section 5. 1968-69, c. 31, s. 3, part.

7. — (1) By-laws may be passed by councils of towns, townships and villages and of cities having a population of less than 100,000, and by boards of commissioners of police in cities having a population of not less than 100,000, 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. 1965, c. 33, s. 2.

(2) For the purpose of this section, a dog shall be deemed to be running at large when found in a highway or other public place and not under the control of any person. R.S.O. 1970, c. 450

3. 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 Summary Convictions Act. R.S.O. 1960, c. 111, s. 7.

9.—(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 summary conviction is liable to a fine of not more than $50. R.S.O. 1960, c. 111, s. 8.

10. The Lieutenant Governor in Council may make regulations designating as pure-bred any class or classes of dogs. 1968-69, c. 31, s. 3, part.

PART II

PROTECTION OF LIVE STOCK AND POULTRY

11. In this Part,

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

(b) "injured" in respect of live stock or poultry means injured by wounding, worrying or pursuing, and "injuring" has a corresponding meaning;

(c) "live stock" means cattle, goats, horses, sheep or swine. R.S.O. 1960, c. 111, s. 9; 1965, c. 33, s. 4; 1968, c. 32, s. 1.
12. 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. 1960, c. 111, s. 10; 1965, c. 33, s. 5.

13.—(1) Whether the owner of a dog that kills or injures live stock or poultry 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 14, and shall pay over such amount to the owner within thirty days after the amount has been so determined. 1968, c. 32, s. 2.

(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 fifty pounds; or
(c) in the case of a township in a territorial district, where the owner of the live stock or poultry killed or injured fails to satisfy the council of the township that the killing or injuring was by dogs and not by wild animals. R.S.O. 1960, c. 111, s. 11 (2); 1965, c. 33, s. 6 (2, 3).

(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 in the municipality, subsection 1 applies in the same manner as where live stock or poultry are killed or injured by a dog, but the council in the by-law may fix the maximum amount payable for any head of live stock so killed or injured, or for poultry of one owner killed or injured in any year, and may fix the proportion of the damages ascertained under section 15 that is payable. R.S.O. 1960, c. 111, s. 11 (3); 1965, c. 33, s. 6 (4).

14.—(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. 1960, c. 111, s. 12 (1); 1965, c. 33, s. 7 (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 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.  R.S.O. 1960, c. 111, s. 12 (2); 1965, c. 33, s. 7 (2).

(3) Where an owner of live stock or poultry notifies a valuer or a clerk of a local 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 dog other than a dog owned by him or habitually kept upon his premises. 1968, c. 32, s. 3 (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

(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.

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. 1965, c. 33, s. 7 (3).

(5) The amount of damage for which the local municipality is liable shall not include damage incurred under the circumstances set out in clause a, b or c of subsection 4 and for which the municipality has denied liability in accordance with subsection 4.  R.S.O. 1960, c. 111, s. 12 (4).

(6) 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.  R.S.O. 1960, c. 111, s. 12 (5); 1965, c. 33, s. 7 (4).
(7) 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.

(8) 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.

(9) Where there is no valuer of the local municipality or the
clerk or the valuer does not discharge the duties imposed upon

him by this Act, the Commissioner, on the application of the

owner of any live stock or poultry killed or injured 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.

(10) A copy of the report of a valuer named by the Commiss-

sioner under subsection 7 or 9 shall be forwarded by the Commiss-

sioner as soon as practicable to the clerk of the local municipality

and to the owner of the live stock or poultry.

(11) A valuer named by the Commissioner under subsection 7

or 9 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 a, b or c

of subsection 4, and the council of the municipality may there-

upon 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.

(12) Where the owner of live stock or poultry or the council is

dissatisfied with the report of the valuer made under subsection 7

or 9, 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 13, the amount payable to the owner.

(13) No municipality shall be liable to an owner for an amount

in respect of,

(a) a head of cattle in excess of $500;

(b) a goat in excess of $100;

(c) a horse in excess of $500;
15. A local municipality having paid to the owner of live stock or poultry the amount of the damage ascertained under section 14 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. 1960, c. 111, s. 13; 1965, c. 33, s. 8.

16. In order to ascertain the owner of the dog that killed or injured the live stock or poultry, the clerk on the instructions of the head of the municipality may issue a subpoena calling upon the persons named therein to attend before the council, and the member of the council presiding may administer an oath to any such person and any member of the council may examine any such person upon his knowledge of the matter. R.S.O. 1960, c. 111, s. 14; 1965, c. 33, s. 9.

17. 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. 1960, c. 111, s. 15.

18. — (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. R.S.O. 1960, c. 111, s. 16 (1); 1965, c. 33, s. 10.

(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. 1960, c. 111, s. 16 (2), amended.

19. 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. 1960, c. 111, s. 17; 1965, c. 33, s. 11.

20. 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. 1960, c. 111, s. 18.

21. Every person who contravenes any of the provisions of this Part is guilty of an offence and on summary conviction is liable to a fine of not more than $50. R.S.O. 1960, c. 111, s. 19.