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The Dog Licensing and Live Stock and Poultry Protection Amendment Act, 1974

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CHAPTER 94

An Act to amend
The Dog Licensing and Live Stock
and Poultry Protection Act

Assented to December 10th, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 2 of section 7 of The Dog Licensing and Live Stock and Poultry Protection Act, being chapter 133 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

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

(3) The said section 7, as amended by the Statutes of Ontario, 1972, chapter 10, section 6, is further amended by adding thereto the following subsections:

(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 Summary Convictions Act.

2. Section 11 of the said Act is repealed and the following substituted therefor:

11. In this Part,

(a) “Board” means the Wolf Damage Assessment Board established under section 19b;
(b) "Commissioner" means the Live Stock Commissioner;

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

(d) "live stock" means cattle, goats, horses, sheep or swine;

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

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

3.—(1) Subsection 1 of section 13 of the said Act is repealed and the following substituted therefor:

(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 14, and shall pay over such amount to the owner within thirty days after the amount has been so determined.

(2) Clause b of subsection 2 of the said section 13 is amended by striking out "or" where it occurs the second time in the second line.

(3) Clause c of subsection 2 of the said section 13 is repealed.

(4) Subsection 3 of the said section 13 is repealed and the following substituted therefor:

(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 14 that is payable.

4.—(1) Subsections 2 and 3 of section 14 of the said Act are repealed and the following substituted therefor:
(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.

(2) Clauses a and c of subsection 4 of the said section 14 are repealed and the following substituted therefor:

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

(3) The said section 14 is amended by adding thereto the following subsection:

(4a) 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.

(4) Subsection 9 of the said section 14 is repealed and the following substituted therefor:

(9) 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.

5. Section 19 of the said Act is amended by adding thereto the following subsections:

(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 14, and the procedures prescribed under subsections 1 to 6 and subsections 12 and 13 of section 14 apply mutatis mutandis.

6. The said Act is amended by adding thereto the following sections:

19a. Every municipality that has paid any damage ascertained under section 14 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.

19b.—(1) There is hereby established 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 a quorum.
The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council determines.

19c. 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 14 and paid by the municipality to an owner where the damage was caused by wolves, and, subject to section 19d, no hearing is required in considering whether or not a grant shall be paid.

19d.—(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 19c 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, 1971.
(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, 1971* applies with respect to a hearing by the Board under this section.

22. The Lieutenant Governor in Council may make regulations,

(a) prescribing the form and manner in which reports required under section 19a 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 19c;

(c) prescribing forms and providing for their use.

7. The said Act is further amended by adding thereto the following Part:

**PART III**

**DAMAGE TO HONEY BEE COLONIES BY BEARS**

23.—(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.

(3) No payment in respect of a colony of honey bees shall exceed,

(a) $50 for the hive equipment; and

(b) $25 for the honey bees.
8. —(1) The moneys required for the purposes of this Act shall, until the 31st day of March, 1975, be paid out of the Consolidated Revenue Fund, and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

(2) From and after the date on which this Act comes into force, The Dog Licensing and Live Stock and Poultry Protection Act, as amended by this Act, applies to all cases of damage to live stock or poultry by wolves where compensation has not been paid or has not been refused under The Wolf Damage to Live Stock Compensation Act, 1972, notwithstanding that the damage occurred prior to the coming into force of this Act.

9. The Wolf Damage to Live Stock Compensation Act, 1972, being chapter 145, is repealed.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

11. This Act may be cited as The Dog Licensing and Live Stock and Poultry Protection Amendment Act, 1974.