

ONTARIO FEDERATION OF ANGLERS & HUNTERS



Ontario Conservation Centre

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November 28, 2019

Mr. Christopher Tyrell
Committee Clerk
Standing Committee on Justice Policy
99 Wellesley Street West, Room 1405
Whitney Block, Queen's Park
Toronto, Ontario
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Dear Mr. Tyrell:

Subject: Bill 136 - *An Act to enact the Provincial Animal Welfare Services Act, 2019*

The Ontario Federation of Anglers and Hunters (OFAH) is Ontario's largest non-profit conservation-based organization, representing 100,000 members, supporters, and subscribers, and 740 member clubs. We appreciate the government's efforts to strengthen animal welfare legislation in Ontario through Bill 136 and hereby submit the following comments for consideration by the Standing Committee on Justice Policy. Despite many positive provisions contained in this bill, we will restrict our comments to those aspects related directly to our mandate; namely, activities conducted under the Fish and Wildlife Conservation Act (FWCA) and accountability and transparency.

The OFAH has been involved in every major discussion regarding animal cruelty and welfare legislation in Canada since the late 1990s, and have frequently appeared as expert witnesses before both federal and provincial committees tasked with reviewing legislation seeking to change the Criminal Code of Canada and/or the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) Act. The OFAH supports all reasonable laws that address animal cruelty and, in the past, has supported amendments to the OSPCA Act to address the issue of illegal puppy mills and helped to pass legislation in Parliament that increased fines and penalties for animal cruelty. However, along with our colleagues in the outdoor and agricultural communities across Canada, we have and will continue to oppose legislation under the guise of animal cruelty that, in fact, seeks to open up legal, lawful, and heavily-regulated animal uses like hunting, fishing, trapping, and farming to frivolous charges or to end these activities altogether.

Accountability and Transparency

In the past, we have raised concerns about the lack of accountability, the vagueness of definitions, and the level of training provided to inspectors who were responsible for enforcing the OSPCA Act. In particular, the lack of accountability was the most unnerving to those in the animal use community. It is deeply disturbing that an organization with such extensive "policing" powers was not subject to reasonable checks and balances to ensure the exercise of those powers was equitable, and was not accountable to the public through Freedom of Information legislation. I think you will agree that appropriate oversight, transparency, and accountability to the people of Ontario are the cornerstones of provincial legislation - animal welfare legislation is no exception. Public servants, funded with public dollars, should be accountable to the public.

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There is a real danger of recreating those same inadequacies in this Act. Both the OSPCA Act and this proposed Act grant significant power and authority to animal welfare inspectors, including powers of seizure and even warrantless searches, in some cases. This necessitates extensive training, accountability, and public transparency requirements. Without adequate checks and balances, we will end up in the same situation as we were under the OSPCA Act. As such, we expect animal welfare inspectors, including the chief inspector, to receive the necessary training. Additionally, we recommend amending Section 3 by imposing an annual reporting requirement on the competent minister (similar to other provincial Acts in which summary information is required to be posted on a public website). Like all government programs, the animal welfare program should be regularly evaluated to ensure it meets basic standards of oversight, accountability, and transparency.

Activities Permitted Under the FWCA

We are pleased to see that activities permitted under the FWCA in relation to fish and wildlife are exempt from Section 15 of the proposed Act (related to causing distress). The FWCA provides the legal basis for sustaining, managing, and using the fish and wildlife resources of Ontario and is solidly grounded on the principles of conservation. There are no compelling or logical grounds within the history, purpose, or specific provisions of the FWCA to reasonably conclude that animal welfare or animal rights should be a consideration with respect to regulating hunting and fishing. As such, we believe that the management of fish and wildlife species should remain the responsibility of the MNRF and MECP with little to no overlap between this proposed Act and the Acts for which those ministries are responsible.

We note that the proposed Act updates the definition of “distress” to include “psychological hardship.” How is psychological hardship defined for the purposes of this Act and how will it be evaluated? This term is unnecessarily nebulous, is subject to abuse, and exposes people to false and vexatious claims.

Presumably, the animal fighting prohibitions in Section 16 are intended to prohibit activities like dog fighting, cock fighting, etc. Whereas Section 15(4) lists explicit exemptions and the ability to prescribe additional activities that are exempt from the distress prohibition, Section 16 does not list similar exemptions. I would like to draw your attention to a couple of examples of common practice in the hunting community that could get caught up in these prohibitions.

Falconry is a traditional hunting practice and is recognized by UNESCO as an Intangible Cultural Heritage of Humanity. Falconry was first regulated under the FWCA in 1997, prior to which there were few restrictions on the species of raptor that could be used for hunting. In essence, raptors are trained to “fight” and kill small game and other birds. Raptors are also used for wildlife control at airports. How would falconry be exposed to legal action under Section 16?

Hunting with dogs is another time-honoured tradition that is strictly regulated under the FWCA. Since these two activities (falconry and hunting with dogs) are regulated under the FWCA, they would be exempt from Section 15 distress prohibitions. However, no such exemption exists under Section 16 and this is a gap that we wish to be addressed.

Finally, many OFAH members and hunters are also farmers, some of whom employ dogs to protect their livestock. In fact, research indicates that trained dogs are one of the most effective methods of deterring livestock predation (thereby reducing the need for compensation). Certain dog breeds are explicitly trained to “fight” wildlife in order to protect livestock. How would this situation, which I’m sure you will agree is an important part of normal livestock operations, be exempted from the Section 16 prohibitions?

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In our interpretation, these activities and the people who engage in them are now at risk of legal repercussions. Again, there is no exception under Section 16 for the use of livestock protection dogs, falconry, or hunting with dogs. Our concern is heightened by the recognition that contraventions of Sections 15 and 16 are classified as Major Offences, which carry with them a fine of up to \$130,000 and/or up to two years in prison. For this Act to receive full OFAH endorsement, we must be absolutely confident that these time-honoured, legal, and highly regulated activities will not be subject to the prohibitions previously mentioned. We seek to ensure that these important traditions enjoyed by thousands of Ontarians do not become unintended casualties of this Act.

Thank you for your consideration.

Yours in Conservation,



Matt DeMille
Manager, Fish and Wildlife Services

MD/jb

cc: OFAH Board of Directors
Angelo Lombardo, OFAH Executive Director
Mark Ryckman, OFAH Manager, Policy
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