

Bill 136, Provincial Animal Welfare Services Act, 2019

-Defines roles of Minister, Chief Animal Welfare Inspector, Animal Welfare Inspectors and Animal Care Review Board

Below are the parts most relevant to Veterinarians

Part IV

Duties and Prohibitions

Duties

Standards of care and administrative requirements for animals.

13 (1) Every person who owns or has custody or care of an animal shall comply with the standards of care and the administrative requirements with respect to every animal that the person owns or has custody or care of.

Exception, agricultural activities

(2) Subsection (1) does not apply in respect of an activity regarding agricultural animal care, management or husbandry carried on in accordance with the reasonable and generally accepted practices of agricultural animal care, management or husbandry, unless the standards of care or administrative requirements expressly provide that they apply to that activity.

Exception, veterinarians

(3) Subsection (1) does not apply to,

(a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the *Veterinarians Act*,

(b) a person acting under the supervision of a veterinarian described in clause (a);
and

(c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Obligation to report

14 Every veterinarian or other person prescribed by the Lieutenant Governor in Council who has reasonable grounds to believe that an animal is being abused, being subject to undue physical or psychological hardship, privation or neglect, including by participating in fights with other animals, or is being trained to fight another animal shall report his or her belief in accordance with the regulations, if any, to an animal welfare inspector.

Distress, Animal Fights and Harm

Distress

Causing distress

15 (1) No person shall cause an animal to be in distress.

Permitting distress

(2) No owner or custodian of an animal shall permit the animal to be in distress.

Exposure to undue risk of distress

(3) No person shall knowingly or recklessly cause an animal to be exposed to an undue risk of distress.

Exception

(4) Subsections (1), (2) and (3) do not apply in respect of,

(a) an activity permitted under the *Fish and Wildlife Conservation Act, 1997* in relation to wildlife in the wild;

(b) an activity permitted under the *Fish and Wildlife Conservation Act, 1997* or the *Fisheries Act (Canada)* in relation to fish;

(c) an activity regarding agricultural animal care, management or husbandry carried on in accordance with,

(i) any standards of care or administrative requirements that expressly provide that they apply to that activity, or

(ii) if no standards of care or administrative requirements expressly provide that they apply to that activity, the reasonable and generally accepted practices of agricultural animal care, management or husbandry;

(d) a prescribed class of animals or animals living in prescribed circumstances or conditions; and

(e) prescribed activities.

Exception, veterinarians

(5) Subsections (1), (2) and (3) do not apply to,

(a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the *Veterinarians Act*;

(b) a person acting under the supervision of a veterinarian described in clause (a); and

(c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders.

Animal fighting prohibitions

16 (1) No person shall encourage, promote, arrange, conduct, assist in, receive a financial or material benefit for or take part in,

(a) the training of an animal to fight with another animal; or

(b) any meeting, competition, exhibition, pastime, display or event at or in the course of which an animal fights another animal.

Same, permitting fights, etc.

(2) No person shall,

(a) permit an animal to be trained to fight with another animal; or

(b) permit any meeting, competition, exhibition, pastime, display or event at or in the course of which an animal fights another animal to take place.

Animal fighting equipment

(3) No person shall own or possess equipment that is used in animal fights or in training animals to fight.

Animal fighting structure

(4) No person shall own or possess a structure that is used in animal fights or in training animals to fight.

Harming law enforcement or service animal

17 No person shall cause harm, or attempt to cause harm, to an animal that works with peace officers in the execution of their duties, or to a service animal, whether or not the animal is working at the time of the harm.

Prohibited and Restricted Animals

Prohibited animal possession or breeding

18 (1) No person shall possess or breed a prohibited animal in Ontario.

Exception

(2) Despite subsection (1), a person may, if the regulations made by the Lieutenant Governor in Council so provide, continue to possess a prohibited animal in Ontario if the person possessed the prohibited animal in Ontario before the day the regulation prescribing the animal as a prohibited animal came into force.

Regulation

(3) The Lieutenant Governor in Council may, by regulation, prescribe animals as prohibited animals if the Lieutenant Governor in Council determines that the animal, poses an undue risk to human safety or cannot be humanely kept in captivity in Ontario.

Prohibition on orca possession and breeding

19 (1) No person shall possess or breed an orca in Ontario.

Restricted animal possession or breeding

20 (1) No person shall possess or breed a restricted animal in Ontario unless the person is authorized to do so in accordance with the regulations made by the Lieutenant Governor in Council and complies with any conditions of the authorization.

Part V

Protection of Animals

General Inspection Powers

Inspection to determine compliance

23 (1) An animal welfare inspector may enter and inspect any place for the purpose of determining compliance with,

(a) a condition in an authorization that is issued under section 20 or 21;

(b) an order to relieve an animal's distress under section 29; or

(c) the standards of care or administrative requirements or the reasonable and generally accepted practices of agricultural animal care, management or husbandry, if the animals are kept for,

(i) an entertainment, commercial, educational or charitable purpose, or

(ii) a purpose prescribed by the Lieutenant Governor in Council related to sport.

Dwellings

(2) Subsection (1) does not authorize an animal welfare inspector to enter a place, or part of a place, that is being used as a dwelling without a warrant unless the occupier of the dwelling consents to the entry.

Accredited veterinary facilities

(3) Subsection (1) does not authorize an animal welfare inspector to enter and inspect an accredited veterinary facility.

Powers during inspection

24 (1) During an inspection under section 23, an animal welfare inspector may,

(a) inspect any animal or thing that the inspector believes on reasonable grounds to be relevant to the inspection;

(b) open any receptacle, baggage, package, container, cage or other thing where the inspector believes on reasonable grounds that it may contain something relevant to the inspection;

(c) conduct any test, take any measurement, specimen or sample, set up any equipment and make any photographic or other record that may assist in the inspection;

(d) require the production of any animal or thing, including any document or data that is relevant to the inspection;

(e) use or cause to be used any computer or other device that contains or is able to retrieve information, for the purpose of examining information relevant to the inspection that is contained in or available to the computer or other device, and produce or cause to be produced a printout or other output from the computer or other device of information that is relevant to the inspection;

(f) remove any documents or other things that are relevant to the inspection for the purpose of making copies or of further inspection; and

(g) ask questions that are relevant to the inspection.

Taking possession of animal in distress

30 (1) An animal welfare inspector may remove an animal from the place where it is and take possession of the animal for the purpose of providing it with necessaries to relieve its distress if,

(a) a veterinarian has advised the inspector in writing that alleviating the animal's distress necessitates its removal;

(b) the inspector has inspected the animal and has reasonable grounds for believing that the animal is in distress and the owner or custodian of the animal is not present and cannot be found promptly; or

(c) an order respecting the animal has been made under section 29 and the order has not been complied with.

Euthanization of animal

31 (1) An animal welfare inspector may cause an animal to be euthanized,

(a) with the consent of the owner; or

(b) if a veterinarian has advised the inspector in writing that, in his or her opinion, it is the most humane course of action.

Critical distress in motor vehicle

33 (1) A prescribed person who has reasonable grounds to believe that there is an animal in critical distress in a motor vehicle may enter the motor vehicle for the purpose of relieving the animal from distress.

Part VIII

Offences and Penalties

Offences

Minor offences

48 (1) Every person is guilty of an offence who,

(a) contravenes,

- (i) section 13 (Standards of care and administrative requirements for animals),
- (ii) subsection 15 (3) (Exposure to undue risk of distress),
- (iii) section 20 (Restricted animal possession or breeding),
- (iv) section 21 (Prescribed activities),
- (v) section 22 (Prescribed procedures),
- (vi) section 25 (Assisting inspector during inspection),
- (vii) subsection 26 (6) (Subject of demand),
- (viii) subsection 29 (4) (Required compliance with order), or
- (ix) subsection 33 (7) (No obstruction);

(b) contravenes or fails to comply with an order of the Board; or

(c) knowingly makes a false report to the Chief Animal Welfare Inspector or to another animal welfare inspector.

Major offences

(2) Every person is guilty of an offence who contravenes,

- (a) subsection 15 (1) (Causing distress);
- (b) subsection 15 (2) (Permitting distress);
- (c) section 16 (Animal fighting prohibitions);
- (d) section 17 (Harming law enforcement or service animal);
- (e) section 18 (Prohibited animal possession or breeding); or
- (f) section 19 (Prohibition on orca possession and breeding).

Penalty — individual, minor offences

- (3) On conviction under subsection (1), an individual is liable,
 - (a) in the case of a first offence, to a fine of not more than \$75,000, to imprisonment for a term of not more than six months, or to both; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$100,000, to imprisonment for a term of not more than one year, or to both.

Penalty — individual, major offences

- (4) On conviction under subsection (2), an individual is liable,
 - (a) in the case of a first offence, to a fine of not more than \$130,000, to imprisonment for a term of not more than two years, or to both; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$260,000, to imprisonment for a term of not more than two years, or to both.

Penalty — corporation, minor offences

- (5) On conviction under subsection (1), a corporation is liable,
 - (a) in the case of a first offence, to a fine of not more than \$100,000; or
 - (b) in the case of a second or subsequent offence, to a fine of not more than \$250,000.

Penalty — corporation, major offences

- (6) On conviction under subsection (2), a corporation is liable,
 - (a) in the case of a first offence, to a fine of not more than \$500,000; or

(b) in the case of a second or subsequent offence, to a fine of not more than \$1,000,000.

Minimum penalty for certain offences

(7) The following offences have a minimum penalty of \$25,000:

1. Causing an animal to be in distress in contravention of subsection 15 (1), if the conduct that caused distress resulted in either of the following:

i. The death of the animal.

ii. The euthanization of the animal after a veterinarian determines it is the most humane course of action.

2. Permitting an animal to be in distress in contravention of subsection 15 (2), if the conduct or omission resulted in either of the following:

i. The death of the animal.

ii. The euthanization of the animal after a veterinarian determines it is the most humane course of action.

3. Contravening subsection 16 (1) or (2) (Animal fighting prohibitions).

4. Contravening section 17 (Harming law enforcement or service animal).

Penalty — directors, officers

(8) Every director or officer of a corporation who authorized, permitted or participated in the corporation's commission of an offence under this Act is also guilty of the offence and on conviction is liable to the same penalty to which an individual is liable for the offence, whether or not the corporation has been prosecuted or convicted.

Prohibition order

(9) If a person is convicted of an offence listed in subclause (1) (a) (i), (ii), (iii), (iv), (v) or (viii) or subsection (2), the court making the conviction may, in addition to any other penalty, make an order prohibiting the convicted person and, if the convicted person is a corporation, the directors and officers of the corporation described in subsection (8), from owning, having custody or care of, or living with any animal, or any kind of animal

specified in the order, for any period of time specified in the order, including, in the case of an individual, for the remainder of the person's life and, in the case of a corporation, forever.

Restitution order

(10) If a person is convicted of an offence listed in subclause (1) (a) (i), (ii), (iii), (iv), (v) or (viii) or subsection (2), the court making the conviction may, in addition to any other penalty, make an order that the convicted person pay the whole or any part of the cost of providing food, care or treatment to an animal that was the victim of the offence of which the convicted person was convicted.

Other orders

(11) If a person is convicted of an offence listed in subclause (1) (a) (i), (ii), (iii), (iv), (v) or (viii) or subsection (2), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.

Powers of Police, Veterinarians, Etc.

Police and First Nations Constable powers

58 (1) Subject to the regulations, a police officer or First Nations Constable may exercise the powers of an animal welfare inspector under sections 27, 28, 30, 31, 32, 40, 41, 42, 43, 46 and 47.

Veterinarian may euthanize animal

59 A veterinarian may euthanize an animal if,

- (a) the animal is injured, sick, in pain or suffering;
- (b) the animal's owner or custodian is not present and cannot be found promptly, or the veterinarian believes that the owner or custodian has abandoned the animal; and
- (c) in the veterinarian's opinion, euthanization is the most humane course of action.

Shelter deemed to be owner

60 A prescribed entity operating an animal shelter that takes custody of an animal is deemed to be the owner of the animal for all purposes if,

(a) no person is identified as the animal's owner or custodian within a prescribed period of time; or

(b) the owner or custodian of the animal has not claimed the animal within a prescribed period of time.

Immunity

64 (1) No animal welfare inspector, veterinarian, member of the Board or person acting in accordance with section 33 is personally liable for any act done in good faith in the execution or intended execution of the person's powers or duties under this Act or for any neglect or default in the execution, in good faith, of the person's powers or duties under this Act.

Part X

Regulations

Regulations — Lieutenant Governor in Council

67 (1) The Lieutenant Governor in Council may make regulations,

(a) respecting anything that, in this Act, may or must be prescribed by the Lieutenant Governor in Council or done by regulation made by the Lieutenant Governor in Council;

(b) prescribing additional duties for the Chief Animal Welfare Inspector;

(c) prescribing the nature of the information that may be disclosed under subsection 2 (7) by the Chief Animal Welfare Inspector or a designate, to whom it may be disclosed and the circumstances in which it may be disclosed;

(d) prescribing standards of care for the purposes of this Act, including prescribing different standards in respect of different classes of animals, circumstances, conditions or activities;

(e) prescribing administrative requirements for the purposes of this Act, including, but not limited to,

- (i) prescribing different administrative requirements in respect of different classes of animals, circumstances, conditions or activities,
- (ii) requiring the establishment of a committee to oversee an animal's welfare and prescribing the functions, duties, governance and operation of such a committee,
- (iii) requiring a committee referred to in subclause (ii) to develop and implement a plan to promote an animal's care,
- (iv) requiring the development and implementation of a program designed by a veterinarian to provide care for an animal,
- (v) requiring specified records to be kept or disclosed;

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