

Ontario Federation of Agriculture
Submission to the
Standing Committee on Justice Policy
on the
Provincial Animal Welfare Services Act
(Bill 136)

November 29, 2019



BACKGROUND:

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 38,000 farm family businesses across Ontario. These farm businesses form the backbone of a robust food system and rural communities with the potential to drive the Ontario economy forward.

The OFA welcomes this opportunity to present its perspectives on Bill 136, the *Provincial Animal Welfare Services Act, 2019*.

Animal welfare issues are front-of-mind for OFA and its farm family members; issues OFA has repeatedly spoken on. In 2008, we provided extensive comments to the Standing Committee on Justice Policy on amendments to the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) Act.

OFA firmly believes in and advocates for the humane treatment of all animals, including farmed livestock and poultry. Ontario's farm families who raise livestock and poultry as part of their agricultural activities genuinely love their animals. They treat them with the utmost care and consideration. To do otherwise goes against their very nature.

The Ontario government introduced the *Provincial Animal Welfare Services Act* (Bill 136) on October 29th. Bill 136 repeals the Ontario Society for the Prevention of Cruelty to Animals Act and sets out Ontario's new enforcement model.

OFA RECOMMENDATIONS:

- **OFA recommends that the word “psychological” be removed from the proposed definition of distress.**
- **OFA recommends that section 65 be removed from Bill 136.**
- **OFA nevertheless recommends that Bill 136 include a specific exclusion for livestock guardian dogs protecting livestock from predation from the “animal fighting” prohibitions in the *Provincial Animal Welfare Services Act, 2019*.**
- **The OFA recommends that the Minister of the Solicitor General emphasize to Crown Prosecutors the reason behind incorporating one's family owned farms to mitigate against indiscriminate application of the higher “corporate” penalties against family farms.**
- **OFA welcomes the inclusion of mandatory training requirements in the proposed legislation.**
- **OFA welcomes the addition of a formal complaints process to the *Provincial Animal Welfare Services Act, 2019*.**
- **In our opinion, including specific duties for the Minister strengthens the *Provincial Animal Welfare Services Act, 2019*, another welcome addition.**
- **OFA recommends citing the National Farm Animal Care Council Codes of Practice for farmed animals in regulations under the *Provincial Animals Welfare Services Act, 2019*.**
- **OFA recommends that the Minister of the Solicitor General ensure Ontario's livestock and poultry farmers that future standards of care regulations will**

clearly cite the National Farm Animal Care Council Codes of Practice as the definitive authority for livestock and poultry animal care standards.

- The government asserts that enforcement of Bill 136 will focus on non-compliance and repeat offenders. OFA applauds this focus.
- OFA supports provisions limiting entry and inspections to between 9:00 AM and 5:00 PM.
- OFA supports these two provisions enabling animal owners to apply to the ACRB to have an order revoked or to have an animal taken into the Chief Inspector's care returned.
- OFA recommends the provincial government to recognize the added stress, and mental health consequences from on-line bullying through social media.
- OFA recommends that Ontario's Trespass to Property Act be enhanced to protect farms and farmers against biosecurity breaches and extremist invasions.
- OFA proposes a statutory review of the Act after its first three years should be included, to ensure that the new enforcement structure is functioning as intended.

PROPOSED CHANGES:

Part I of Bill 136 defines terms used in the Act. For OFA, the proposed definition of "distress" is unacceptable. In addition to an animal needing "*proper care, water, food or shelter*" and being "*injured, sick, in pain or suffering*" distress would include being "*abused or subject to undue physical or **psychological** hardship, privation or neglect*". Adding "psychological" extends the scope of distress into uncharted territory; one based on guess work. Inclusion of "psychological" endeavours to attribute human emotions and responses to animals. OFA fundamentally opposes inserting the word "psychological" in the definition of "distress". In the absence of a clear definition for what constitutes "psychological hardship", how will it be determined, and by whom? Leaving it subject to interpretation is unacceptable. **OFA recommends that the word "psychological" be removed from the proposed definition of distress.**

Section 65 of Bill 136 carries forward a section from the Ontario Society for the Prevention of Cruelty to Animals Act. It proposes to defer provincial animal care standards to a municipal by-law should that municipal by-law "afford greater protection for animals" than the Provincial Animal Welfare Services Act. The *Provincial Animal Welfare Services Act, 2019* should constitute and set out the highest standards for animal care in the context of standards that are science-based, appropriate to each animal's different needs and not subject to animal activist pressure on a municipal council. We do not support a patch work of differing animal care rules from municipality to municipality. It exposes municipal councils to pressure from extremists to go above and beyond the animal protection provisions in Bill 136, the *Provincial Animal Welfare Services Act, 2019*. Setting the standards of care for animals should be solely a provincial responsibility. **OFA recommends that section 65 be removed from Bill 136.**

Section 16 speaks to animals fighting. Similar provisions were in the Ontario Society for the Prevention of Cruelty to Animals Act. OFA's concern is that these provisions **do not**

explicitly exclude or exempt livestock guardian dogs protecting livestock from predation by coyotes or wolves. While the wording in section 16 of Bill 136 differs slightly from that in section 11.2 (3) of the Ontario Society for the Prevention of Cruelty to Animals Act, **OFA nevertheless recommends that Bill 136 include a specific exclusion for livestock guardian dogs protecting livestock from predation from the “animal fighting” prohibitions in the *Provincial Animal Welfare Services Act, 2019*.**

Bill 136 continues the widespread practice of assigning significantly higher penalties to corporations versus individuals. As set out in Bill 136, this would include family farm corporations. Canada-wide, 97% of farms are family owned. Many family owned farms are incorporated, primarily to facilitate inter-generational transfers of the family farm. OFA highlights this to explain the reasoning behind incorporating one’s farm, and that these higher penalties could expose an individual who is the sole shareholder of their farm corporation to the higher “corporate” penalties. **The OFA recommends that the Minister of the Solicitor General emphasize to Crown Prosecutors the reason behind incorporating one’s family owned farms to mitigate against indiscriminate application of the higher “corporate” penalties against family farms.**

STRONG SUPPORT FOR PROPOSED CHANGE:

Part II of the *Provincial Animal Welfare Services Act, 2019* establishes a provincially funded animal welfare enforcement model, headed by a Chief Animal Welfare Inspector and one or more deputies. The Chief and deputies are appointed by, and accountable to, the Minister of the Solicitor General. The Chief Animal Welfare Inspector appoints animal welfare inspectors who are accountable to the Chief. All animal welfare inspectors, including the Chief and deputies are subject to a code of conduct. Also included in Part II are the training requirements for animal welfare inspectors, including the Chief and deputies; training they **must** complete before performing their duties. Part II also sets out the mandatory oversight responsibilities of the Minister. OFA sees the proposed new enforcement model addressing the acknowledged shortcomings in the Ontario Society for the Prevention of Cruelty to Animals Act enforcement model; a complete lack of accountability, oversight, transparency and mandatory officer training. **OFA welcomes the inclusion of mandatory training requirements in the proposed legislation.**

Part III of the *Provincial Animal Welfare Services Act, 2019* sets out a formal complaints process. The Ontario Society for the Prevention of Cruelty to Animals Act did not have a formal complaints process; one of its obvious shortcomings. **OFA welcomes the addition of a formal complaints process to the *Provincial Animal Welfare Services Act, 2019*.**

The effectiveness of both Parts II and III of Bill 136 are bolstered by the specific and obligatory duties of the Minister (Section 3). **In our opinion, including specific duties for the Minister strengthens the *Provincial Animal Welfare Services Act, 2019*, another welcome addition.**

Part IV sets out the duties owed to animals and prohibitions against causing them distress or critical distress. Provided that our objections to Bill 136’s proposed definition of

“distress” are addressed, OFA supports the duties owed to animals and the prohibition against causing them distress. We look forward to working with Ministry of the Solicitor General staff on future regulations to define the required standards of care for animals. We propose that different classes of animals be owed class-appropriate standards of care. **OFA recommends citing the National Farm Animal Care Council Codes of Practice for farmed animals in regulations under the *Provincial Animals Welfare Services Act, 2019*.**

In the section addressing “distress” [15], there is an exception for “*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 of husbandry*”. OFA understands that this language directs animal welfare inspectors to apply the appropriate National Farm Animal Care Council Codes of Practice, a long-standing OFA position. **OFA recommends that the Minister of the Solicitor General ensure Ontario’s livestock and poultry farmers that future standards of care regulations will clearly cite the National Farm Animal Care Council Codes of Practice as the definitive authority for livestock and poultry animal care standards.**

The government asserts that enforcement of Bill 136 will focus on non-compliance and repeat offenders. OFA applauds this focus. It is worthwhile to note that only about 12% of calls to OSPCA involved “farm animals”, and the majority of the farm animal calls involved horses. Unfortunately, we have no data on how many of these calls involved farms or simply involved places keeping farm animals? Livestock and poultry farming is not the on-going threat to animal protection, as some suggest.

Inspection and entry powers are found in Part V of Bill 136. Inspectors may enter for determining compliance with an order to relieve an animal’s distress or standards of care. Inspectors may be “*accompanied or assisted by any person during an inspection*”. This **could** include livestock/poultry commodity organization staff or representatives, who will be able to provide a perspective that reflects the unique needs and standards of care for a specific type of livestock or poultry. In the absence of an available livestock/poultry representative, a veterinarian with expertise in livestock or poultry could provide perspective. It is noteworthy that inspections may only be carried out between 9:00 AM and 5:00 PM, during “*any business day, or at any other time when the place is open to the public*” [24. (3)]. **OFA supports provisions limiting entry and inspections to between 9:00 AM and 5:00 PM.**

Part VI of Bill 136 continues the Animal Care Review Board (ACRB) for appeals. Appeals of orders must be filed within five (5) business days; unchanged from the Ontario Society for the Prevention of Cruelty to Animals Act. Furthermore, the ACRB **must** schedule a hearing “not more than ten (10) business days after receiving an appeal notice”, unchanged from the OSPCA Act. Lastly, **OFA supports these two provisions enabling animal owners to apply to the ACRB to have an order revoked or to have an animal taken into the Chief Inspector’s care returned.**

ADDITIONAL CONSIDERATIONS:

OFA proposes several additional recommendations to address some of the consequences of the actions of extreme animal activists.

On-line Bullying:

On-line bullying of farmers by extremists adds to the every-day stress of farming. It is more than enough to deal with international trade uncertainties, unpredictable weather and international commodity prices without adding the stress on farmers and their families from on-line bullying. While bullying is front of mind in the context of schools and workplaces, including its negative impacts on mental health, not enough is being done to combat on-line bullying through social media. **OFA recommends the provincial government to recognize the added stress, and mental health consequences from on-line bullying through social media.**

Biosecurity and Trespass:

Too little time and thought is given to the impacts on farmed livestock and poultry from animal activists invading livestock and poultry barns. The presence of unfamiliar people in the barn stresses the animals within, perhaps causing them to flee from the intruders, potentially causing deaths. Today's livestock and poultry farms restrict human access to barns to protect the animals within from exposure to animal disease. The specific people who must enter the barn to tend to the animals maintain the disease-free environment by showering before entering the barn, and again when they leave. Animal activists invading livestock and poultry barns compromise the biosecurity protocols that farm uses to ensure a disease-free environment, causing animal sickness and deaths through the introduction of diseases. To date, our current laws against trespass appear ineffective in protecting private property in general, and livestock and poultry farms, from animal activists invading livestock and poultry barns. **OFA recommends that Ontario's Trespass to Property Act be enhanced to protect farms and farmers against biosecurity breaches and extremist invasions.**

Review After 3 Years:

We recognize that the OSPCA Act enforcement model was irreparably broken. We all want the *Provincial Animal Welfare Services Act, 2019* to successfully balance animal protection with enforcement that understands the different standards of care appropriate for different types of animals. **OFA proposes a statutory review of the Act after its first three years should be included, to ensure that the new enforcement structure is functioning as intended.**

The OFA welcomes this opportunity to present its perspectives on Bill 136, the *Provincial Animal Welfare Services Act, 2019*. We trust that the Standing Committee on Justice Policy will carefully consider OFA's perspectives on the *Provincial Animal Welfare Services Act, 2019* when proposing amendments to Bill 136.