



16th Legislative Assembly of the Northwest Territories

Standing Committee on Economic Development and Infrastructure

Report on Bill 16:
An Act to Amend the Dog Act

Chair: Mr. David Ramsay

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Legislative Assembly
Standing Committee on Economic
Development and Infrastructure
Assemblée législative
Comité permanent du développement
économique et de l'infrastructure

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SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Economic Development and Infrastructure is pleased to provide its Report on Bill 16: *An Act to Amend the Dog Act* and commends it to the House.

David Ramsay, MLA
Chairperson

**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT
AND TOURISM**

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**STANDING COMMITTEE ON
ECONOMIC DEVELOPMENT
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**REPORT ON BILL 16:
*AN ACT TO AMEND THE DOG ACT***

INTRODUCTION

The Standing Committee on Economic Development and Infrastructure is pleased to report on Bill 16: *An Act to Amend the Dog Act*.

The interest in and response to this Bill from both within and outside the Northwest Territories was unprecedented. The Committee held public hearings on Bill 16 in Yellowknife, Hay River, and Inuvik between January 13 and 19, 2011, and in Fort Smith on February 10, 2011. All of the public hearings were very well attended. The Committee would like to thank all hearing participants, as well as everyone who sent written submissions.

The Committee's clause-by-clause review of the Bill took place on February 23, 2011. During this review, the Committee passed twelve motions to amend the Bill. The Minister concurred with all of these amendments. Following the clause-by-clause review, a motion was carried to report Bill 16, as amended and reprinted, as ready for consideration in Committee of the Whole.

AMENDMENTS MADE TO BILL 16

Locally Accepted and Traditional Practices

The most controversial and debated provisions of Bill 16 were the two clauses providing exemptions for locally accepted and traditional practices. The first occurred in proposed section 3, which sets out dog owners' duty of care to provide adequate food, water, care, shelter, ventilation, space and protection from heat and cold. Proposed subsection 3(2) provided that a dog owner did not fail in his or her duty of care by treating a dog "in accordance with generally accepted local or traditional practices of dog care, use and management."

The second of these clauses occurred in proposed section 4, which prohibits permitting or causing distress to dogs. Proposed subsection 4(3) provided that the prohibition on permitting or causing distress to dogs did not apply if the distress resulted from activities carried on "in accordance with generally accepted local or traditional practices of dog care, use and management."

An overwhelming number of presentations and written submissions argued that the two clauses were loopholes that would allow dog abuse to go unpunished, and recommended that the exemptions be removed altogether. Some also took offense to the clauses as they felt they suggested that cruelty to dogs was condoned in traditional Aboriginal societies, which the Committee heard clearly was not the case. Instead, the Committee heard that although as in any society there were always some people who abused dogs, this was not an accepted norm: rather, most people respected the working dogs they depended on to survive, and cared for them accordingly.

Some people supported the exemptions out of concern that traditionally accepted Aboriginal dog care practices, though not cruel, are different from what southerners are used to and might be misconstrued as abuse. The concern is that this might result in harvesters being punished or prevented from carrying out traditional activities on the land. As an example of different cultural perspectives on dogs, some people mentioned that practices such as dressing a dog in a sweater or carrying it around in a small bag might also be considered cruel and disrespectful. However, of the people who supported keeping exemptions for local and traditional practices, many were concerned that the wording that appeared in the Bill was too vague and would not necessarily be interpreted in keeping with their intent.

During the clause-by-clause review of the Bill, the Committee and Minister agreed to three amendments to the Bill related to this issue.

The first amendment removed the “locally accepted and traditional practice” wording from proposed section 3, which sets out dog owners’ duties of care, and replaced it with a clause providing that a person does not fail in his or her duty of care by treating a dog in accordance with a municipal bylaw. This amendment is intended to reflect the fact that some communities have bylaws which set out standards of care for dogs, often in more detail than this Bill provides, and to defer to those locally set standards.

The second amendment replaced the “locally accepted and traditional practice” wording from proposed section 4, which prohibits causing or permitting distress, with more specific provisions modeled on the Manitoba *Animal Care Act*. This section provides an exemption for “accepted activities”, which are harvesting and protection of people from wildlife. Regulations may provide for additional “accepted activities” and may also prohibit specific practices and procedures. Accepted activities must be carried out in a manner that is either consistent with generally accepted practices and procedures or that is otherwise reasonable in the circumstances. Accepted activities must not be carried out in a manner that causes undue suffering.

The third amendment provided the regulation-making authority for “accepted activities”.

Injurious Heat and Cold

Proposed section 3 of the Bill places a duty of care on owners to protect their dogs from “injurious heat and cold”. During the public review process, there was a great deal of discussion about the difference between breeds such as the Canadian Eskimo Dog, which is well adapted to the northern climate with thick fur and fat layers, and other types of dog which are now common in the Northwest Territories, but are much less able to withstand the cold. It was generally agreed that “injurious heat or cold” could mean very different things depending on the type of dog.

During the clause-by-clause review of the Bill, the Committee and Minister agreed to an amendment to specify that “injurious heat or cold” must be interpreted “having regard to the physical characteristics of the dog.” The intent was to provide clear direction to those interpreting and enforcing the *Act* that they must consider an individual dog’s adaptability to heat and cold, rather than, for example, determining that a specific temperature constitutes “injurious” heat or cold in all cases.

Euthanizing Dogs

The Committee was made aware of some specific instances of cruelty in the destruction or attempted destruction of dogs. Although euthanization by lethal injection performed by a veterinarian is not an option in most communities, other methods of destroying dogs that are quick and painless are available.

During the clause-by-clause review of the Bill, the Committee and Minister agreed to an amendment providing that “a person who destroys a dog shall do so in a manner that prevents undue suffering”.

Dogs Running at Large and Dogs in Harness

During the public review process, several people brought to the Committee’s attention outdated provisions on owners’ duties to keep their dogs from running at large and restrictions applying to dogs in harness. The Committee and Minister agreed to three amendments to address these concerns during the clause-by-clause review of the Bill.

Proposed section 5, which prohibits owners from allowing their dogs to run at large, taken with the current definition of “running at large” in the *Dog Act*, required owners to have their dogs either muzzled or under physical control at all times. While this is often a requirement of municipal bylaws for public safety reasons, many people argued that it was an unduly onerous standard to apply

outside of communities. For example, the provisions would have meant that common practices such as hiking, skiing, hunting, trapping or fishing with dogs off-leash in wilderness areas would be in violation of the law.

Two amendments were made to address this issue. The first adds a new definition of “immediate control”, which can include physical control of a dog with a leash or other device, but also includes control through voice commands or other signals. The second amendment changed proposed section 5 so that “immediate control” is the standard required of dog owners when outside of communities.

Proposed paragraph 6(b) prohibited leaving a dog in harness outside of a municipality except in cases where the dog was muzzled or under the care of someone at least sixteen years old. Objections to this provision were that muzzling sled dogs is itself a cruel practice, and that dog teams are often capably handled by mushers younger than sixteen. The amendment to this provision removes the reference to muzzling and the age requirement, and requires instead that dogs in these circumstances be under “the immediate control of a person capable of ensuring that the dog will not harm the public or create a nuisance.”

Other Amendments

Bill 16 provided for maximum fines of \$5,000 for a first offence and \$10,000 for a second offence. Although many people expressed support for these maximums, some raised concerns that they might be too onerous given the economic conditions in many NWT communities, especially for a first offence. During the clause-by-clause review, the Committee and Minister agreed to an amendment that decreases the maximum fine for a first offence to \$2,500.

Proposed section 8.3 also required that a dog taken into custody by an officer be kept for three days before any steps were taken to sell, give away or destroy the dog. Some people were concerned that this process might happen too quickly for an owner to be located and notified, and/or to respond in time. During the clause-by-clause review, the Committee and Minister agreed to an amendment to extend the minimum time for keeping a dog in custody to five days. It should be noted that as stated in proposed section 8.6, municipal bylaws on impounding, selling or destroying dogs that are taken into custody prevail over this Act. Therefore, if a municipal bylaw sets a shorter or longer period for holding a dog in custody before taking further steps, that is the number of days that will apply when a dog is seized under the authority of that bylaw.

In addition to the amendments described above, two amendments of a minor and technical nature were agreed to by the Committee and the Minister during the clause by clause review.

OTHER ISSUES

Although this Bill will be an important tool to prevent cruelty to dogs, it is not sufficient in itself. The Committee heard that further action by the GNWT will be needed in order to achieve the intent of the legislation. The Committee would like to highlight the following issues that were raised during the public review process.

Access to Veterinary Services

Many presentations and submissions called attention to the lack of access to veterinary services in most NWT communities. In particular, the absence of spay and neuter programs was identified as an underlying contributor to cruelty and abuse because it results in so many unwanted puppies. Several people spoke to the success of the mobile vet clinic in the Sahtu that takes place in partnership with the University of Calgary. The Committee believes that there are opportunities for similar programs to be established in other regions with minimal or no requirement for GNWT funding.

Recommendation 1

The Committee recommends that the Department of Municipal and Community Affairs initiate discussions with stakeholders and veterinary colleges to explore options for expanding access to veterinary services, and in particular spay and neuter programs, throughout the NWT, and where necessary, facilitate the implementation of such options.

Assistance to Community Governments

Committee members were concerned that the Department of Municipal and Community Affairs had not consulted with community governments prior to the introduction of Bill 16 about whether they will have the resources to implement it. For example, communities may not currently have adequate shelters to meet their obligations for dogs taken into custody under the *Act*. Bylaw and dog officers may require training on the new requirements.

Recommendation 2

The Committee recommends that the Department of Municipal and Community Affairs consult with community governments prior to the coming into force of the *Act* to ensure they have adequate resources, including staff training, to implement the *Act*.

Public Education

One witness began his presentation by stating "I'd just like to touch on a key word and that key word is 'education.'" The Committee heard several comments on the same theme, which spoke to the need for public education on the responsibilities of dog ownership, and on traditional and modern dog care practices in the NWT. A Sahtu-based study provided with one written submission strongly recommended that such programs target youth, who are often dogs' primary caregivers.

Recommendation 3

The Committee recommends that the Department of Municipal and Community Affairs initiate discussions with stakeholders on the development and delivery of a public education program on dogs, and, if and as appropriate, assist with the development and delivery of such a program.

Comprehensive Animal Protection Legislation

Several presentations and written submissions to the Committee advocated for comprehensive animal protection legislation, which already exists in most other Canadian provinces and territories. Such legislation would protect not only dogs, but all domestic animals. Currently, the only means of prosecuting people who abuse animals other than dogs in the NWT are the *Criminal Code* provisions, under which it is very difficult to convict offenders.

CONCLUSION

Once again, the Standing Committee on Economic Development and Infrastructure would like to thank all those who participated in the public hearings on Bill 16 and who provided written submissions.

The Committee is pleased that this Bill was brought forward during the life of the 16th Assembly, and strongly encourages the Government to follow through on its intent by devoting the necessary attention to the implementation of the new *Dog Act* and the other recommendations contained in this report.

