

2876

2011-2012 Regular Sessions

I N A S S E M B L Y

January 20, 2011

Introduced by M. of A. CALHOUN -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the establishment of the Hudson valley white-tail deer mitigation task force and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature finds that damage
2 caused by white-tail deer browsing is becoming a critical problem for
3 agricultural producers and landscape horticulturists in the Hudson
4 valley, who are annually sustaining tens of millions of dollars in
5 damage to crops. Also, residential ornamental shrubbery and vegetable
6 and flower gardens are being devastated by deer herd browsing, causing
7 both economic and aesthetic loss on a large scale. In addition, rapidly
8 rising deer populations are increasing the frequency of serious motor
9 vehicle crashes, the incidence of motor vehicle damage and physical
10 injury to motorists, and the spread of Lyme disease by deer to residents
11 in the Hudson valley. This act establishes an interagency task force to
12 arrive at innovative solutions to address this serious and growing prob-
13 lem.

14 S 2. Section 16 of the agriculture and markets law is amended by
15 adding a new subdivision 45 to read as follows:

16 45. PREPARE THE REPORT REQUIRED BY SECTION TWO HUNDRED NINETY-EIGHT OF
17 THIS CHAPTER, WHICH ESTABLISHES THE HUDSON VALLEY WHITE-TAIL DEER DAMAGE
18 MITIGATION TASK FORCE.

19 S 3. The agriculture and markets law is amended by adding a new
20 section 298 to read as follows:

21 S 298. HUDSON VALLEY WHITE-TAIL DEER DAMAGE MITIGATION TASK FORCE. 1.
22 THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, IN
23 CONSULTATION WITH THE SUPERINTENDENT OF INSURANCE AND THE COMMISSIONERS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD02836-01-1

1 OF HEALTH, MOTOR VEHICLES, TRANSPORTATION, AND TEMPORARY AND DISABILITY
2 ASSISTANCE, SHALL FORM AN INTERAGENCY TASK FORCE. SUCH TASK FORCE SHALL:

3 A. (1) DEVELOP INNOVATIVE METHODS THAT UTILIZE PRIVATE AND PUBLIC
4 FUNDING SOURCES TO MANAGE DEER HERDS IN SUCH A WAY AS TO MINIMIZE (A)
5 DAMAGE TO AGRICULTURAL CROPS, COMMERCIAL HORTICULTURE, RESIDENTIAL ORNA-
6 MENTAL SHRUBBERY, VEGETABLE, AND FLOWER GARDENS; AND (B) THE INCIDENCE
7 OF PERSONAL INJURY AND PROPERTY DAMAGE DUE TO MOTOR VEHICLE ACCIDENTS
8 INVOLVING DEER. THE TASK FORCE SHOULD DETERMINE IF CURRENT PROGRAMS THAT
9 ARE UTILIZED TO MANAGE SURPLUS DEER POPULATIONS NEED TO BE REVISED,
10 DETERMINE IF THE TIME OF HUNTING SEASONS NEEDS TO BE ALTERED, DETERMINE
11 IF ANY STATE AGENCY, PUBLIC AUTHORITY, OR OTHER ENTITY CONTROLLED BY THE
12 STATE OF NEW YORK CAN PURCHASE IN BULK OR AT REDUCED COSTS FENCING
13 SUPPLIES OR OTHER DEER CONTROL EQUIPMENT, SUPPLIES, OR DEVICES THAT CAN
14 THEN BE DISTRIBUTED TO FARMERS, ACADEMIC RESEARCHERS, AND OTHER LAND
15 OWNERS, DETERMINE IF ADDITIONAL ACADEMIC OR APPLIED RESEARCH NEEDS TO BE
16 CONDUCTED TO IDENTIFY EFFECTIVE MEANS TO REDUCE SURPLUS DEER POPULATIONS
17 OR MINIMIZE DAMAGE CAUSED BY DEER, DETERMINE IF MORE INEXPENSIVE FENCING
18 SOLUTIONS CAN BE DEVELOPED AND DISSEMINATED TO AGRICULTURAL PRODUCERS,
19 DETERMINE IF NEW DEER HERD WARNING SYSTEMS COULD BE ECONOMICALLY DEVEL-
20 OPED TO ALERT MOTORISTS OF THE PRESENCE OF DEER IN HIGH RISK AREAS OR AT
21 CERTAIN TIMES OF THE DAY, AND DETERMINE IF ANY OTHER COURSE OF ACTION
22 NEEDS TO BE TAKEN TO ACHIEVE THE GOALS STATED IN THIS SECTION;

23 (2) CONDUCT A STUDY TO IDENTIFY AND QUANTIFY WHERE, WHEN, AND HOW
24 MOTOR VEHICLE ACCIDENTS INVOLVING DEER OCCUR IN THE HUDSON VALLEY. THE
25 STUDY SHOULD CONCENTRATE SPECIFICALLY ON WHAT TYPES OF MOTOR VEHICLES
26 ARE INVOLVED IN SUCH DEER-RELATED ACCIDENTS, THE TIME OF YEAR, TIME OF
27 DAY, AND DAY OF THE WEEK THESE ACCIDENTS TEND TO OCCUR, THE TYPE OR
28 TYPES OF DRIVERS THAT TEND TO BE INVOLVED IN SUCH ACCIDENTS AND THE
29 GEOGRAPHICAL SITES THROUGHOUT THE HUDSON VALLEY WHERE SUCH ACCIDENTS
30 OCCUR. THE FINDINGS OF THIS STUDY SHOULD HELP THE DELIBERATIONS OF THE
31 TASK FORCE BY QUANTIFYING THE CIRCUMSTANCES WHICH LEAD TO SUCH ACCIDENTS
32 AND ENABLE THE TASK FORCE TO DEVELOP MEASURES TO MITIGATE PERSONAL INJU-
33 RY AND PROPERTY DAMAGE FROM SUCH ACCIDENTS;

34 (3) (A) CONDUCT A STUDY TO GAIN A GREATER UNDERSTANDING OF WHY SOME
35 FARMS SUSTAIN SUBSTANTIAL DAMAGE FROM DEER WHILE OTHER FARMS IN THE SAME
36 GEOGRAPHIC AREA DO NOT; (B) PREPARE AN ASSESSMENT OF THE EFFECTIVENESS,
37 WITH PARTICULAR REGARD TO EASE OF AVAILABILITY AND USE, OF THE DEPART-
38 MENT OF ENVIRONMENTAL CONSERVATION'S NUISANCE DAMAGE PERMIT PROGRAM; (C)
39 STUDY THE PROCESS WHEREBY INFORMATION PERTAINING TO DAMAGE CONTROL TECH-
40 Niques IS DISSEMINATED TO FARMERS AND MAKE RECOMMENDATIONS, IF
41 WARRANTED, FOR THE IMPROVEMENT THEREOF; AND (D) STUDY AND MAKE RECOMMEN-
42 DATIONS PERTAINING TO THE DEVELOPMENT AND IMPLEMENTATION OF MORE
43 COST-EFFECTIVE, UNDER-UTILIZED, AND NOVEL MEANS OF REPELLING DEER,
44 INCLUDING BUT NOT LIMITED TO: WILDLIFE FENCES AND NETTING, SCARING
45 DEVICES THAT DO NOT DISTURB ADJOINING LAND OWNERS, ENVIRONMENTALLY SOUND
46 CHEMICAL DEER REPELLANTS TO PROTECT CROPS, AND THE USE OF DOGS TO SCARE
47 DEER AWAY FROM CROPS;

48 (4) STUDY AND MAKE RECOMMENDATIONS FOR THE COORDINATION OF NUISANCE
49 PERMITS, DEER MANAGEMENT PERMITS, AND DEER MANAGEMENT ASSISTANCE PERMITS
50 TO ENHANCE UTILIZATION OF EXISTING RESOURCES TO MATCH HUNTERS, VENISON
51 PROCESSORS, AND CHARITABLE ORGANIZATIONS WITH FARMERS THAT HAVE SURPLUS
52 DEER POPULATIONS TO MAXIMIZE THE AMOUNT OF VENISON THAT CAN BE MADE
53 AVAILABLE TO CHARITABLE ORGANIZATIONS;

54 (5) DETERMINE WHETHER OR NOT THE DEPARTMENT OF ENVIRONMENTAL CONSERVA-
55 TION SHOULD REVISE ITS WILDLIFE MANAGEMENT PLAN OR RECONFIGURE THE BOUN-
56 DARIES OF WILDLIFE MANAGEMENT REGIONS FOR THE HUDSON VALLEY, WITH

1 SPECIAL EMPHASIS ON ADDRESSING DEER BROWSING DAMAGE IN FRUIT PRODUCING
2 AREAS. IN CONNECTION WITH SUCH SUGGESTED REVISIONS, SAID DEPARTMENT, IN
3 COOPERATION WITH CORNELL COOPERATIVE EXTENSION, SHOULD ANALYZE THE
4 FOLLOWING FACTORS TO REDUCE DEER BROWSING DAMAGE AND, PERHAPS, REVISE
5 THE BOUNDARIES OF LOCAL WILDLIFE MANAGEMENT REGIONS:

6 (I) CHARACTERISTICS OF LOCAL DEER POPULATIONS, SUCH AS REPRODUCTION
7 CYCLES, REPLACEMENT RATES, AND THE MIX OF BUCKS, DOE, AND FAWNS;

8 (II) FEEDING, MOVEMENT, AND MIGRATION PATTERNS OF DEER HERDS;

9 (III) THE MOVEMENT OF DEER HERDS BETWEEN FARMS, ADJACENT LAND, AND
10 WITHIN THE HUDSON VALLEY;

11 (IV) THE IDENTIFICATION OF SUBSTITUTE CROPS OR NATURAL SOURCES OF
12 FORAGE, SUCH AS ACORNS, THAT DEER WOULD RATHER EAT THAN COMMERCIALY
13 GROWN CROPS;

14 (V) THE RELATIONSHIP BETWEEN CROP DAMAGE SUSTAINED AND THE POSITION
15 AND GEOGRAPHY OF ADJACENT LANDS THAT SERVE AS COVER AND REFUGE FOR DEER
16 HERDS; AND

17 (VI) ANALYSIS OF THE SUBSTANTIAL VARIATIONS IN LEVELS OF DEER-CAUSED
18 DAMAGE SUFFERED BY FARMS IN THE SAME GEOGRAPHIC AREA;

19 THE TASK FORCE SHALL MAKE RECOMMENDATIONS AS TO HOW THE RESPECTIVE
20 DEPARTMENTS AND OFFICE CAN IMPLEMENT THE TASK FORCE'S RECOMMENDATIONS.
21 SUCH DEPARTMENTS AND OFFICE ARE AUTHORIZED TO PROMULGATE RULES AND REGU-
22 LATIONS AND TAKE OTHER MEASURES NECESSARY TO IMPLEMENT THE PROVISIONS OF
23 THIS SECTION; AND

24 B. IDENTIFY INNOVATIVE WAYS TO EXPAND THE DISTRIBUTION OF DEER LEGALLY
25 TAKEN PURSUANT TO THE PERMITS LISTED IN SUBDIVISION THREE OF THIS
26 SECTION TO CHARITABLE OR NONPROFIT ORGANIZATIONS WHICH SERVE OR DISTRIB-
27 UTE FOOD TO THE POOR OR NEEDY PURSUANT TO PARAGRAPH C OF SUBDIVISION
28 NINE OF SECTION 11-0917 OF THE ENVIRONMENTAL CONSERVATION LAW. THE TASK
29 FORCE SHOULD IDENTIFY NEW INCENTIVES TO RETAIN THE NUMBER OF PERSONS
30 THAT HOLD DEER HUNTING LICENSES OR PERMITS WHO WOULD BE WILLING TO
31 DONATE VENISON TO CHARITABLE OR NONPROFIT ORGANIZATIONS, TO STREAMLINE
32 THE PROCESS TO FACILITATE THE TRANSFER OF DONATED VENISON TO CHARITABLE
33 OR NONPROFIT ORGANIZATIONS, TO REDUCE THE COST OF PROCESSING VENISON AND
34 TRANSFERRING SUCH MEAT TO CHARITABLE OR NONPROFIT ORGANIZATIONS, TO
35 IDENTIFY ADDITIONAL PRIVATE AND PUBLIC SOURCES OF FUNDING TO SUPPORT THE
36 EXPANSION OF EXISTING AND PROPOSED PROGRAMS THAT DISTRIBUTE VENISON TO
37 THE NEEDY, TO IDENTIFY INCENTIVES TO ENCOURAGE MORE LICENSEES OR PERMIT-
38 TEES TO PARTICIPATE IN SUCH A PROGRAM, AND EXPLORE ANY OTHER COURSE OF
39 ACTION THAT MAY AID IN ACHIEVING THE GOALS STATED IN THIS SECTION.

40 2. THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVA-
41 TION, IN COOPERATION WITH THE SUPERINTENDENT OF INSURANCE AND THE
42 COMMISSIONERS OF MOTOR VEHICLES AND TRANSPORTATION, SHALL DEVELOP RECOM-
43 MENDATIONS TO ADDRESS THE ITEMS CONTAINED IN PARAGRAPH A OF SUBDIVISION
44 ONE OF THIS SECTION. THE COMMISSIONER AND THE COMMISSIONER OF ENVIRON-
45 MENTAL CONSERVATION, IN COOPERATION WITH THE COMMISSIONERS OF HEALTH AND
46 TEMPORARY AND DISABILITY ASSISTANCE, SHALL DEVELOP RECOMMENDATIONS TO
47 ADDRESS THE ITEMS CONTAINED IN PARAGRAPH B OF SUBDIVISION ONE OF THIS
48 SECTION.

49 3. THE PERMITS REFERRED TO IN SUBDIVISION ONE OF THIS SECTION ARE THE
50 NUISANCE DAMAGE PERMITS AUTHORIZED PURSUANT TO SUBDIVISION ONE OF
51 SECTION 11-0521 OF THE ENVIRONMENTAL CONSERVATION LAW, SPECIAL ANTLER-
52 LESS DEER LICENSES ISSUED PURSUANT TO PARAGRAPH C OF SUBDIVISION SIX OF
53 SECTION 11-0903 OF THE ENVIRONMENTAL CONSERVATION LAW, DEER MANAGEMENT
54 ASSISTANCE PERMITS AUTHORIZED PURSUANT TO SUBDIVISION ELEVEN OF SECTION
55 11-0903 OF THE ENVIRONMENTAL CONSERVATION LAW, DEER MANAGEMENT PERMITS
56 AUTHORIZED PURSUANT TO SECTION 11-0903 OF THE ENVIRONMENTAL CONSERVATION

1 LAW, AND ANY DEER TAKEN BY DEER LICENSES AUTHORIZED PURSUANT TO SECTION
2 11-0907 OF THE ENVIRONMENTAL CONSERVATION LAW.

3 4. A. THE INTERAGENCY TASK FORCE SHALL BE CHAIRED JOINTLY BY THE
4 COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR THEIR
5 DESIGNEES.

6 B. EACH AGENCY AND OFFICE SHALL DESIGNATE THE AGENCY PERSONNEL IT
7 DEEMS APPROPRIATE TO PARTICIPATE IN THE INTERAGENCY TASK FORCE AND IT
8 SHALL BE CONVENED NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER THIS
9 SECTION SHALL HAVE BECOME LAW.

10 C. THE TASK FORCE MAY ESTABLISH AN AD HOC ADVISORY COMMITTEE THAT
11 CONSISTS OF NO MORE THAN TWENTY PRIVATE CITIZENS TO ASSIST THE TASK
12 FORCE WITH THIS LEGISLATIVE CHARGE. THE MEMBERS OF THE ADVISORY COMMIT-
13 TEE SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT SHALL BE
14 ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
15 OF THEIR DUTIES.

16 D. THE TASK FORCE MAY CONDUCT PUBLIC MEETINGS OR PUBLIC HEARINGS, AND
17 SHALL PREPARE A REPORT ON ITS FINDINGS AND RECOMMENDATIONS WITHIN TWO
18 HUNDRED SEVENTY DAYS AFTER IT SHALL HAVE BEEN CONVENED. SUCH REPORT
19 SHALL BE SUBMITTED TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE,
20 SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADERS OF THE SENATE AND
21 ASSEMBLY. THE TASK FORCE MAY ISSUE ADDITIONAL REPORTS OR STUDIES BEFORE
22 THE EXPIRATION OF THIS SECTION.

23 5. THIS SECTION SHALL APPLY TO THE "HUDSON VALLEY", WHICH, FOR THE
24 PURPOSES OF THIS SECTION, MEANS THE COUNTIES OF COLUMBIA, DUTCHESS,
25 GREENE, ORANGE, PUTNAM, ROCKLAND, ULSTER, AND WESTCHESTER.

26 S 4. This act shall take effect immediately and shall expire and be
27 deemed repealed June 30, 2021.