S T A T E O F N E W Y O R K

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:

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

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

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

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

S 298. HUDSON VALLEY WHITE-TAIL DEER DAMAGE MITIGATION TASK FORCE. 1. THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, IN 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.

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

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

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

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

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

(5) DETERMINE WHETHER OR NOT THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHOULD REVISE ITS WILDLIFE MANAGEMENT PLAN OR RECONFIGURE THE BOUNDARIES OF WILDLIFE MANAGEMENT REGIONS FOR THE HUDSON VALLEY, WITH

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

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

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

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

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

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

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

THE TASK FORCE SHALL MAKE RECOMMENDATIONS AS TO HOW THE RESPECTIVE DEPARTMENTS AND OFFICE CAN IMPLEMENT THE TASK FORCE'S RECOMMENDATIONS. SUCH DEPARTMENTS AND OFFICE ARE AUTHORIZED TO PROMULGATE RULES AND REGULATIONS AND TAKE OTHER MEASURES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION; AND

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

2. THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, IN COOPERATION WITH THE SUPERINTENDENT OF INSURANCE AND THE COMMISSIONERS OF MOTOR VEHICLES AND TRANSPORTATION, SHALL DEVELOP RECOMMENDATIONS TO ADDRESS THE ITEMS CONTAINED IN PARAGRAPH A OF SUBDIVISION ONE OF THIS SECTION. THE COMMISSIONER AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, IN COOPERATION WITH THE COMMISSIONERS OF HEALTH AND TEMPORARY AND DISABILITY ASSISTANCE, SHALL DEVELOP RECOMMENDATIONS TO ADDRESS THE ITEMS CONTAINED IN PARAGRAPH B OF SUBDIVISION ONE OF THIS SECTION.

3. THE PERMITS REFERRED TO IN SUBDIVISION ONE OF THIS SECTION ARE THE NUISANCE DAMAGE PERMITS AUTHORIZED PURSUANT TO SUBDIVISION ONE OF SECTION 11-0521 OF THE ENVIRONMENTAL CONSERVATION LAW, SPECIAL ANTLERLESS DEER LICENSES ISSUED PURSUANT TO PARAGRAPH C OF SUBDIVISION SIX OF SECTION 11-0903 OF THE ENVIRONMENTAL CONSERVATION LAW, DEER MANAGEMENT ASSISTANCE PERMITS AUTHORIZED PURSUANT TO SUBDIVISION ELEVEN OF SECTION 11-0903 OF THE ENVIRONMENTAL CONSERVATION LAW, DEER MANAGEMENT PERMITS AUTHORIZED PURSUANT TO SECTION 11-0903 OF THE ENVIRONMENTAL CONSERVATION

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

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

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

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

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

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

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