

## Memorandum in Support

### COMMITTEE ON ANIMALS AND THE LAW

Animals #3

February 9, 2023

S. 1455

By: Senator Serrano

A.1226

By: M. of A. L. Rosenthal

Senate Committee: Environmental Conservation

Assembly Committee: Environmental Conservation

Effective Date: Immediately

**AN ACT** to amend the environmental conservation law, in relation to methods used to capture or dispose of nuisance wildlife.

**LAW & SECTION REFERRED TO:** Environmental Conservation Law, §11-0524, Subdivision 5.

### **THE COMMITTEE ON ANIMALS AND THE LAW** **SUPPORTS THIS LEGISLATION**

This bill amends subdivision 5 of §11-0524 of the Environmental Conservation Law, which has an annual reporting requirement for licensed nuisance wildlife control operators. This section of law, added by chapter 265 of the laws of 2002, provided for the licensing of nuisance wildlife control operators, and required them to submit an annual report to the Department of Environmental Conservation containing, among other information, the method of abatement for each animal that is controlled. This bill provides that, where a nuisance wildlife control operator uses a lethal method to capture or dispose of nuisance wildlife, the report must specify the fact that a lethal method was used and set forth the reason why a non-lethal method was not used.

The bill further provides that the department's list of nuisance wildlife control operators, required by ECL §11-0524(5), shall include any enforcement actions taken by the department against a nuisance wildlife control operator for violations of the law and regulations relating to nuisance wildlife control, and this information shall also be updated annually.

Under current law, individuals who seek to become licensed nuisance wildlife control operators must complete training on “methods of resolving common nuisance wildlife problems, including, but not limited to, non-lethal methods, exclusion methods, habitat modification, and capture and handling techniques.” [ECL §11-0524(2).]

Opinions expressed are those of the Section/Committee preparing this memorandum and do not represent those of the New York State Bar Association unless and until they have been adopted by its House of Delegates or Executive Committee.

However, although their mandatory training covers methods of non-lethal wildlife control, there are no requirements or guidelines that encourage the use of non-lethal methods by nuisance wildlife control operators (NWCO). DEC's reports on methods of controlling nuisance wildlife, which summarizes the information submitted to the department annually by NWCOs, indicate that NWCOs frequently use lethal methods to control nuisance wildlife instead of more humane methods such as capturing and relocating. NWCOs are permitted to euthanize nuisance wildlife under current laws and regulations, and this method of control is immediate and lethal. NWCOs typically charge high fees to property owners to resolve nuisance wildlife problems; when the NWCO is seeking the cheapest and easiest method of control, the wildlife that are damaging property or causing other problems are euthanized instead of being humanely captured and released.

Under the current requirements in ECL §11-0524(5), every licensed NWCO must submit an annual report to DEC. The proposed legislation does not create any additional filing requirement, it simply adds additional information to the report that the NWCO files and requires the NWCO to: i) record the method that is used to capture or dispose of nuisance wildlife; and ii) if a lethal method of control was used, explain why a non-lethal method was not used.

Currently there are no guidelines for the use of humane methods to control nuisance wildlife that do not result in killing the wildlife. While this bill does not establish guidelines or suggest that DEC should develop them, it does make public the types of control methods used by NWCOs and requires an explanation when lethal methods are used. It is to be hoped that this requirement, and the transparency created by the additional reporting requirement, will encourage the use of the humane capture and release practices instead of simply euthanizing the wildlife.

Moreover, disclosure of enforcement actions against licensed NWCO's who violate the law on the DEC's publicly available list of licensed NWCO's is another important step in providing information on the activities of those licensed in nuisance wildlife control. Property owners with a nuisance wildlife problem should be able to have access to this information and should be able to determine which NWCOs engage in capture and relocation, instead of simply euthanizing nuisance wildlife, when they are looking for a NWCO to help them address a problem with nuisance wildlife.

The law allowing for the control of nuisance wildlife should be structured in a manner that shows a respect for all wildlife, even where the wildlife has been determined to be a nuisance to the public or to property-owners.

The Committee on Animals and the Law commends the sponsors for proposing legislation that will promote the humane treatment of wildlife while providing important transparency concerning licensees and their activities, without creating additional costs or burdens.

For the foregoing reasons, the NYSBA's Committee on Animals and the Law **SUPPORTS** the passage and enactment of this legislation.