

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Mary M. Cheh introduced the following bill, which was referred to the Committee on \_\_\_\_\_.

To require the Fish and Wildlife division of the District Department of the Environment to license individuals performing wildlife control activities; to create qualifications and conditions for licensure; to set restrictions on the capture, handling, and transport of wildlife; to set restrictions on euthanasia of wildlife; to require an annual report of wildlife activities; to create standards for suspension of licensure; and to require reporting of complaints against those providing wildlife services.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Wildlife Protection Act of 2009.”

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Animals” or “wildlife” shall mean free-roaming wild animals, except commensal rodents, which are designated on the wildlife control operator license by the Department as species that may be controlled under this chapter by a wildlife or pest control operator.

“Animals” or “wildlife” does not include domestic animals kept as pets, including feral dogs and cats.

(2) “Commensal rodent” shall include the following species:

(1) House mouse (*Mus musculus*).

(2) Norway rat (*Rattus norvegicus*).

(3) Roof rat (*Rattus rattus*).

(c) “Director” means the Director of the District Department of the Environment.

(d) “Department” means the District Department of the Environment.

(e) “Euthanasia” means the act of killing of an animal by a method that conforms to the most recently published Report of the American Veterinary Medical Association Panel on Euthanasia, unless otherwise prohibited in this act or regulations promulgated by the Department. “Euthanize” means to kill an animal by such method.

(f) “Landowner” means a person holding real property under title or lease.

(g) “Site of capture” means the parcel of land on which the animal was captured and which is owned or leased by the person who controlled the animal or who engaged a wildlife control operator to effect such control.

(h) “Wildlife control operator” means a person who is licensed under this chapter to perform wildlife control services.

(i) “Wildlife control” means to harass, repel, evict, exclude, possess, transport, liberate, take, euthanize, or kill wildlife that is damaging property or posing a health or safety risk to persons or domestic animals.

(j) “Wildlife control services” means the operation of a business which in whole or part involves wildlife control and/or the charging of a fee for services in wildlife control. Such services may include placing, setting, and tending to traps or capture devices and disturbing, removing, or destroying dens, lodges, burrows, or nests where permitted by District or federal law.

Sec. 3. Wildlife control operator license required.

(a) No person shall engage in the business of providing wildlife control services unless the person is licensed under this chapter.

(b) A person may obtain a wildlife control operator license from the Director upon meeting the requirements set forth in section 4 of this act. The Director may deny a license if the applicant fails to meet requirements in section 4 of this act, if the applicant was convicted of any violation or criminal offense involving wildlife or cruelty to animals within the previous 15 years, or if there exists a reasonable belief that it would not otherwise be safe for animals or humans to issue a license to an applicant.

(c) A wildlife control operator license must be renewed annually.

#### Sec. 4. Qualifications for a wildlife control operator license.

To obtain a wildlife control operator license, an applicant shall:

(1) Be at least 18 years of age;

(2) Complete a wildlife control operator training class approved by the Department;

(3) Pass a written examination approved by the Department; and

(4) Pay a fee in an amount specified by the Department.

#### Sec. 5. General wildlife control operator license conditions.

(a) A wildlife control operator may perform wildlife control of animals that are designated on his or her license. The Department shall identify the species of animals that may be controlled and specify the methods that may be used to control each species.

(b) A wildlife control operator may perform wildlife control only of an animal that is causing actual damage to property or posing an immediate health or safety threat to persons or domestic animals, according to rules set by the Department.

(c) A wildlife control operator shall fully describe to the client the nature of the problem, the available control methods to alleviate the problem, and shall further advise the client as to the methods and practices which the client may employ in the future to avoid a recurrence of the problem. The wildlife control operator shall provide a written statement to the client, approved by the Director, describing approved lethal and nonlethal options available to the client.

(d) A wildlife control operator shall recommend and employ exclusionary means in preference to lethal means for the control of problem animals. Lethal control shall be used only when public safety is immediately threatened or when nonlethal control methods have been employed to address the specific problem at the site and have proven unsuccessful.

(e) Control measures taken by the wildlife control operator shall address the root cause of the problem, including but not limited to identifying unfounded concerns, cultural practices such as structural repairs or habitat management, removal or modification of attractions such as better trash management, and displacement or removal of target animals.

(f)(1) Prior to undertaking any control measures, the wildlife control operator shall provide to the client, in writing, the following:

(A) An assessment of the problem,

(B) The methods that will be employed to resolve the problem, including the fate of the animal; and

(C) An estimate of the fee to be charged.

(2) If lethal control is to be used, including live capture and euthanasia, the wildlife control operator shall provide notice to the client, in writing, and the client shall sign a statement consenting to the use of lethal control.

(g) Wildlife, or parts thereof, shall not be sold, bartered, traded, given to another or retained for any purpose, except that an animal may be given to a wildlife rehabilitator, veterinarian, or animal control officer for rehabilitation or euthanasia.

(h) The Department shall set minimum liability insurance requirements for wildlife control operators to ensure protection of District residents.

(i) Wildlife control operator licenses are not transferable.

Sec. 6. Capture, handling, and transport of wildlife.

(a) All traps and exclusion devices must be labeled with the name, address, and phone number of the wildlife control operator.

(b) Traps shall not be set in a location that will expose the animal to weather or temperature extremes likely to harm the animal.

(c) Traps shall be set in a manner designed to catch the target animal, and in the manner most likely to avoid capture of and harm to non-target animals.

(d) Wildlife shall be captured and handled in an expeditious and careful manner to ensure against causing unnecessary discomfort, behavioral stress, or physical harm to the animal.

(e) All traps shall be checked by the wildlife control operator at least once every 24 hours. If a wildlife control operator is notified that an animal is caught in a trap sooner, the wildlife control operator shall attend to the trap in a timely and reasonable manner. The wildlife control operator shall keep records of the time and date of each trap check.

(f) Captured non-target wildlife shall be released immediately at the site of capture.

(g) Notwithstanding subsection (i) of this section, captured wildlife shall:

(1) Be released at the site of capture;

(2) Relocated to a suitable location where nuisance problems are unlikely to occur, with permission of the property owner;

(3) Transferred to a wildlife rehabilitator, if the animal is sick, injured, or abandoned; or

(4) If none of the other options are feasible, euthanized.

(h) Wildlife shall not be kept in captivity longer than 12 hours unless specifically authorized by the Department, or authorized by subsection (i).

(i) A wildlife control operator shall make every reasonable effort to preserve family units using humane eviction and/or displacement and reunion strategies. Wildlife captured by a wildlife control operator may be held in captivity for up to 72 hours when reunion attempts are employed. A wildlife control operator shall not knowingly abandon dependent young in a structure.

(j) Captured wildlife shall be transported in covered, secure containers to minimize stress to the animal and potential hazards to the general public. Captured wildlife shall be transported in such a way to:

(1) Minimize stress to the animal and its exposure to the elements by covering the trap or vehicle with appropriate material; and

(2) Ensure that the covering is of such material that the animal has an adequate supply of air to prevent overheating.

(k) The use of “sticky” or glue traps to control any wildlife, as defined in section 2 of this act, domestic animals, or feral dogs or cats is prohibited.

(l) The use of leghold and other body-gripping traps, body-crushing traps, snares, or harpoon-type traps to control any wildlife, as defined in section 2 of this act, domestic animals, or feral dogs or cats is prohibited.

(m) Wild animals expressing symptoms of disease shall be taken to a licensed wildlife rehabilitator or surrendered to Animal Care and Control for evaluation and assessment. Outbreaks or potential widespread occurrence of suspect diseases (e.g. avian botulism) shall be reported to the Department.

#### Sec. 7. Euthanasia of wildlife.

(a) A wildlife control operator shall kill animals only by methods that conform to the most recently published Report of the American Veterinary Medical Association Panel on Euthanasia, unless otherwise prohibited by this act or regulations promulgated by the Department.

(b) A wildlife control operator shall use the quickest, least stressful, and least painful the animal method available under the circumstances.

(c) Failure to abide by the approved methods of euthanasia may result in suspension or revocation of the wildlife control operator license, prosecution under the animal cruelty statute, or both.

#### Sec. 8. Control of specific species.

(a)(1) A wildlife control operator shall remove bats only by nonlethal exclusion, prior to hibernation, except when health department requires lethal removal.

(2) Bat colonies containing more than 10 adults, whether or not young are present, require prior approval from the Department to be excluded from buildings from March 31 to August 31.

(b) A federal permit is required to conduct any exclusion or modification of a chimney actively occupied by swifts with nests that include eggs or young. Nests shall not be removed prior October 31.

(c) The use any toxicant to lethally control feral pigeons, European starling, or house sparrows is prohibited.

Sec. 9. Service records and annual reports.

(a) A wildlife control operator shall maintain records of all wildlife control services documenting the following information at each service call:

- (1) Complainant's name, address and phone number;
- (2) Date(s) of service;
- (3) Nature of the complaint;
- (4) Methods employed to alleviate problem;
- (5) Number and species of all animals handled; and
- (6) Disposition of all animals, including method of euthanasia, location of release

site, or name, address and phone number of wildlife rehabilitator who receives an animal.

(b) On or before January 1 of each year, a wildlife control operator shall submit copies of service records required under subsection (a) of this section and an accurate summary of activities of the preceding calendar year on forms provided by the Department. The summary shall contain the following information:

- (1) Total number of complaints received;
- (2) Total number of complaints serviced;
- (3) Name, phone number and address of wildlife control operator;
- (4) Number and kinds of animals liberated at site of capture or relocated;

(5) Number and kinds of animals transferred to a wildlife rehabilitator; and

(6) Number and kinds of animals euthanized and method of euthanasia employed.

(c) All wildlife control operator records shall be available for inspection by the Director or his or her designee at any reasonable time.

(e) The Department shall keep records of all wildlife control operator service records and summary reports and shall compile the information in an annual report each year no later than June 1.

#### Sec. 10. Suspension or revocation of license.

(a) A wildlife control operator license may be suspended or revoked if the applicant:

(1) Violates the provisions of this chapter or the conditions of the license;

(2) Engages in fraudulent business practices;

(3) Is convicted of a wildlife-related violation or misdemeanor; or

(4) Is convicted of animal cruelty under § 22-1001(a) or § 22-1002.

(b) A wildlife control operator license shall be revoked if the applicant:

(1) Is convicted of a wildlife-related felony; or

(2) Is convicted of animal cruelty under § 22-1001(d).

#### Sec. 11. Fees.

(a) The Mayor shall establish a schedule of fees for licenses issued under section 4.

(b) The Mayor may require reimbursement of costs for services, including inspections, pursuant to section 9.

#### Sec. 12. Complaints.

The Department shall keep a record of any written or verbal complaints lodged against a wildlife control operator and shall document action taken by the Department in response to the complaint.

Sec. 13. Enforcement.

(a) The Mayor may adopt such other rules as may be necessary or appropriate for the implementation and enforcement of this chapter.

(b) The Mayor may bring an action in the Superior Court of the District of Columbia to enjoin the violation or threatened violation of any provision of this chapter or of any rules or regulation promulgated thereto.

Sec. 14. Applicability.

This act shall apply as of October 1, 2010.

Sec. 15. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 16. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia.