



November 29, 2019

Goldie Ghamari
Chair, Standing Committee on General Government
Room 1405, Whitney Block
Queen's Park
Toronto, Ontario M7A 1A2

Dear Ms. Ghamari,

Re: Bill 132, Better for People, Smarter for Business Act, 2019

Beef Farmers of Ontario (BFO) appreciates the opportunity to provide written comments to the Standing Committee on General Government on Bill 132, the *Better for People, Smarter for Business Act, 2019*. BFO represents the 19,000 beef farmers across Ontario by advocating in the areas of policy planning, industry development and research, environment, animal health and welfare, and domestic and export market development.

Please see below for comments from BFO on the following sections of Bill 132: Schedule 2, *Line Fences Repeal Act, 2019*; Schedule 4, *Beef Cattle Marketing Act*; Schedule 9, *Nutrient Management Act, 2002*.

Schedule 2, the *Line Fences Repeal Act, 2019*

Line fences are an essential component of livestock farming. As such, BFO believes there is continued value in maintaining the mechanism within the current *Line Fences Act* that provides a framework and adjudication method for municipalities, particularly those in rural Ontario, to help resolve disputes between abutting property owners over cost-sharing of construction, maintenance or repairs to property line fences. Under the *Line Fences Act*, municipally-appointed “fence-viewers” attend the site, hear from both parties, and then make a decision and assign each party a specified portion of the fence to build or maintain.

Rural agricultural property owners are frequent users of the current adjudication process and guidance that is provided under the *Line Fences Act*. Our concern with the proposed repeal is that (mainly rural) municipalities will be forced to create new by-laws to replace the dispute resolution mechanism already provided under the existing Act. In our opinion this would create unnecessary burden and downloading from the province without providing any benefit to property owners. Furthermore, the proposed *Line Fences Repeal Act, 2019* does not require municipalities to create such by-laws, which in effect may create a gap for many rural property owners that are left without any guideline or framework to help resolve disputes between neighbours outside of the traditional court system.



BFO does not support the current proposal to simply repeal the Act without a replacement mechanism to resolve line fence disputes. The *Line Fences Act* is not viewed by BFO as red tape or a regulatory burden, but rather as a necessary statute that allows our members to protect their rights as property owners and avoids costly and time-consuming court proceedings.

Schedule 4, *Beef Cattle Marketing Act*

BFO supports the proposed changes to the *Beef Cattle Marketing Act*, including conferring the power to make regulations from the Lieutenant Governor in Council to the Minister of Agriculture, Food and Rural Affairs.

Further to the changes currently included in Bill 132, BFO is interested in having further discussions with the Province about the *Beef Cattle Marketing Act* and other potential revisions to consider in the future.

Schedule 9, *Nutrient Management Act, 2002*

BFO is not opposed to appropriate tools that encourage compliance with the *Nutrient Management Act* and that are utilized in response to situations where nutrient management has had a harmful impact on neighbouring surface water or groundwater and/or when a producer fails to follow a provincial officer's order. While BFO recognizes the need for appropriate tools to encourage compliance with the *Nutrient Management Act*, it is not clear how amendments to Section 40 of the *Nutrient Management Act* are beneficial to the Province or fair and reasonable for potentially affected producers. We encourage the Province to consider both the effectiveness and fairness of the current compliance and enforcement tools before implementing the use of administrative monetary penalties (AMPs) under the *Nutrient Management Act*.

The current compliance and enforcement tools utilized by the Ministry of Environment, Conservation and Parks (MECP) for nutrient management include a) education and abatement for administrative situations found through routine inspection and audits (Category I situations as defined in the Informed Judgment Matrix) and b) significant fines in complaint-response situations where there is impact on neighbouring surface water or groundwater and/or a producer fails to follow a provincial officer's order (Category III situations as defined in the Informed Judgment Matrix).

Ontario's livestock organizations, including BFO, have been working cooperatively with the Ministry of Agriculture, Food and Rural Affairs and MECP through the "Nutrient Management Efficiency and Continuous Improvement Forum" to encourage improved administrative compliance to *the Nutrient Management Act*, such as through the development of recordkeeping templates and more effective integration with the 4-R Stewardship Certification Program's recordkeeping standards and policies.

Livestock organizations are also involved with other initiatives that improve environmental outcomes through producer outreach and education, such as the "Timing Matters" project. For Category I situations, BFO encourages continuation of the existing cooperation, education and awareness abatement programs, with renewed emphasis on assistive compliance rather than a compliance framework based on AMPs.

It is our understanding that proposed changes to enable use of AMPs, as set forth in Bill 132, would include an absolute liability provision that would require a violator to pay an AMP even if they took all reasonable steps to prevent the contravention or had an honest belief that no contravention occurred



(i.e. a violator could only appeal on the grounds of whether the violation occurred or how the penalty was calculated). BFO recommends that the consideration of due diligence and/or mitigation measures should be a significant factor in considering if an AMP is even going to be applied to an agricultural operation. Agricultural operations are subject to many external forces (e.g. weather) that are beyond the control of the farmer. Failing to recognize the due diligence a farmer takes to mitigate the risk of these variable factors outside of their control is unacceptable.

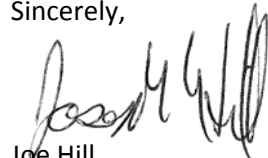
The proposed Section 40 (2) will expand the authority to issue AMPs to the director and provincial officers, if prescribed by the regulations. BFO requests that this be amended to be consistent with the current Section 40 (1) of the *Nutrient Management Act*, which limits the authority to issue AMPs to the director. There is potential for discrepancy in application across the province if provincial officers have the authority to make AMP charges. It also makes for an inappropriate appeals process in situations when the decision of a provincial officer is challenged and brought to the director who is ultimately responsible for said provincial officer. We believe that in most circumstances, the director will support the decision of his/her employee, making the appeals process appear biased and creating potential for appellants to feel they did not receive a fair or legitimate review.

Section 40 (11) provides the legal authority to pass regulations specifying the types of contraventions and the amounts of AMPs. BFO understands that, at this time, no regulations authorizing routine AMPs under the *Nutrient Management Act* have been proposed. However, should regulatory development be undertaken now or in the future, we request the following:

- a) BFO recommends that the agricultural industry be consulted in early discussions if the decision is made to develop corresponding regulations.
- b) The benefits of the current approach to *Nutrient Management Act* compliance and enforcement should be considered and evaluated before implementation of alternative approaches.
- c) BFO supports the inclusion of some discretion regarding the dollar amount of AMP charged, up to a determined maximum. The amount of the AMP should be proportional to the direct risk to the environment. Further to this, AMPs should not apply to Compliance Category I situations as defined in the Informed Judgment Matrix, due to the lack of risk and/or harm to the environment.
- d) There should be clear operational and implementation guidelines, including the option of negotiated solutions before the AMP is issued.

BFO would like to thank the Standing Committee on General Government for providing us with the opportunity to submit written comments on Bill 132, the *Better for People, Smarter for Business Act, 2019*. We would be pleased to answer any questions or take part in further discussion on our provided comments.

Sincerely,



Joe Hill
President

cc: BFO Board of Directors
Jocelyn McCauley, Clerk, Standing Committee on General Government
Michael Helfinger, Senior Policy Advisor, MEDJCT

