

1984 BILL 16

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 16

STRAY ANIMALS AMENDMENT ACT, 1984

MR. BATIUK

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

Bill 16
Mr. Batiuk

BILL 16

1984

STRAY ANIMALS AMENDMENT ACT, 1984

(Assented to _____, 1984)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

- 1 The Stray Animals Act is amended by this Act.*
- 2 Section 5(a) is amended by striking out “land or any agricultural product” and substituting “real or personal property”.*

- 3 Section 7(1)(c) is amended by striking out “land or to any agricultural product” and substituting “real or personal property”.*

- 4 Section 8 is amended*
 - (a) by repealing subsection (1) and substituting the following:*

8(1) If livestock trespass on land, the owner or occupier of the land may, while the livestock are on his land, capture and confine them or authorize another person to capture and confine them in a place appropriate to enable an inspector to identify them.
 - (b) in subsection (2)(a) by striking out “across or”.*

Explanatory Notes

1 This Bill will amend chapter S-23 of the Revised Statutes of Alberta 1980.

2 Section 5 presently reads in part:

5 When livestock trespass and

(a) damage is done to land or any agricultural product by the livestock or by any person in capturing the livestock, or . . .

the owner of the livestock and the last person in possession of the livestock are jointly and severally liable for the damage or expenses or both, except as otherwise provided in section 6.

3 Section 7 presently reads in part:

7(1) When a person

(a) opens and fails to close a gate, or

(b) tampers with, damages or destroys a gate or fence,

as a result of which livestock escape, the person doing or failing to do the act or thing referred to in clause (a) or (b) is liable to the persons referred to in subsection (2) for

(c) any damage done to land or to any agricultural product by the livestock or by any person in capturing the livestock, and

4 Section 8(1) and (2) presently read:

8(1) When livestock trespass on land, the owner or occupier of the land may

(a) while the livestock are on his land

(i) capture and confine them on his land, or

(ii) authorize a person to capture and confine them on the land on which they are trespassing,

5 *Section 9 is repealed and the following is substituted:*

9 An inspector may at any time, if he is satisfied that livestock are trespassing, capture and impound the livestock or authorize a person to capture and impound them.

6 *The following is added after section 9:*

9.1 An inspector who is satisfied that

- (a) livestock are trespassing on land,
- (b) attempted capture of the livestock will likely result in injury to some person, and
- (c) after reasonable inquiry the owner or the last person in possession of the livestock is unknown, or the owner or last person in possession of the livestock is unwilling or unable to remove the livestock,

may destroy and arrange for the disposal of the livestock or authorize another person to destroy and arrange for the disposal of the livestock.

7 *Section 15 is repealed and the following is substituted:*

15(1) When livestock are sold by public auction pursuant to this Act, the proceeds of sale shall be disbursed in accordance with this section.

(2) If the owner or the last person in possession of the livestock is not known, the proceeds of a sale of livestock shall be disbursed in the following order of priority, on proof of the expenses having been incurred:

- (a) to pay the expenses of selling the livestock;
- (b) to pay any expense in capturing and confining the livestock;
- (c) to pay any expense in transporting the livestock and attempting to ascertain the owner or the last person in possession of the livestock;

or

(b) authorize an inspector to capture the livestock.

(2) No owner, occupier or person on their behalf capturing trespassing livestock under subsection (1) shall permit or allow the captured livestock to be

(a) transported or driven across or along a highway, or

(b) transported or driven over any land of which he is not the owner or the person in possession,

unless authorized to do so by an inspector.

5 Section 9 presently reads:

9 An inspector may

(a) on receipt of a request to capture livestock pursuant to section 8,
or

(b) at any time he is satisfied that livestock is trespassing,

capture and impound the livestock or authorize a person to capture the livestock on his behalf.

6 Destruction of dangerous livestock.

7 Section 15 presently reads:

15(1) When livestock is sold by public auction pursuant to this Act, the proceeds of sale shall be forwarded to the Provincial Treasurer and disbursed in accordance with this section.

(2) If the owner and the last person in possession of the livestock are not known, the proceeds of sale of the livestock shall be disbursed in the following priority:

(a) in paying the expense of selling the livestock,

(b) to pay for any expense in capturing and confining the livestock,

(c) to pay for any expense in transporting the livestock and attempting to ascertain the owner or the last person in possession of the livestock,

(d) to pay for any expense in maintaining the livestock, and

(e) to pay for any damage to land or to an agricultural product caused by the livestock or by any person in capturing the livestock

(d) to pay any expense in maintaining the livestock.

(3) Any balance of the proceeds of a sale remaining after compliance with subsection (2) shall be paid into the Stray Animals Act Fund established under section 15.1.

(4) The Provincial Treasurer shall pay out of a balance referred to in subsection (3), to the extent that money is available in that balance, to a person claiming damage to real or personal property caused by the livestock or by a person capturing the livestock, the following amount:

(a) the amount of the damage claim, if it is reasonable in the opinion of an inspector, or

(b) the assessment calculated by an assessor under section 16.

(5) The Minister may direct the Provincial Treasurer to pay out of the Stray Animals Act Fund the balance of the proceeds of a sale of livestock after compliance with subsection (4) to a person who

(a) claims, within 1 year from the date of the sale of livestock, and

(b) establishes to the satisfaction of the Minister

that he was the owner of the livestock prior to the sale.

(6) Subject to section 18, if no claim is made under subsection (5), the Provincial Treasurer shall, on the expiration of 1 year from the date of the public auction, transfer the balance of the proceeds of a sale of livestock to the General Revenue Fund.

(7) When livestock are sold by public auction pursuant to this Act and a dispute exists or arises between the former owner or the last person in possession of the livestock and a person claiming to have suffered damage to real or personal property as a result of the trespass of the livestock, the proceeds of a sale of the livestock shall be paid in accordance with subsections (2) and (3) until

(a) the parties to the dispute agree in writing to the disposition of the balance of the proceeds, whereupon the Provincial Treasurer shall pay the balance of the proceeds of the sale of that livestock in accordance with the agreement, or

(b) a court awards damages and directs payment of the balance of the proceeds to one or both of the parties to the dispute, whereupon the Provincial Treasurer shall pay an amount in accordance with the direction of the court and pay any balance of the proceeds of the sale of that livestock to the former owner of that livestock.

8 *The following is added after section 15:*

15.1(1) There is established a fund known as the Stray Animals Act Fund, which is held by the Provincial Treasurer in a special account.

(i) if the amount of the damage claim is, in the opinion of an inspector, reasonable, or

(ii) in accordance with an assessment made pursuant to section 16,

and any balance of the proceeds of sale remaining shall be paid into the General Revenue Fund.

(3) When livestock is sold by public auction pursuant to this Act and a dispute exists or arises between

(a) the former owner or the last person in possession of the livestock, and

(b) any person claiming to have suffered damage to land or to an agricultural product as a result of the trespass of the livestock,

the proceeds of sale of the livestock shall be paid in accordance with subsection (2)(a) to (d), and any balance remaining shall continue to be held in trust by the Provincial Treasurer until

(c) the parties to the dispute agree in writing to the disposition of the proceeds whereupon the Treasurer shall pay the proceeds in accordance with the agreement, or

(d) a court awards damages and directs payment of the proceeds to one or more of the parties to the dispute whereupon the Treasurer shall pay the sum in accordance with the direction of the court and pay any balance remaining to the owner of the livestock.

8 Establishment of Stray Animals Act Fund.

(2) The Provincial Treasurer shall make payments out of the Stray Animals Act Fund in accordance with section 15(4), (5) and (7) and section 18 on a requisition for payment being submitted to the Provincial Treasurer by an inspector.

(3) The Stray Animals Act Fund may be a depositor to the Consolidated Cash Investment Trust Fund established under the *Financial Administration Act*.

9 *Section 16 is amended*

(a) *in subsection (1)(b) by striking out “land or to an agricultural product” and substituting “real or personal property”, and*

(b) *in subsection (3) by striking out “section 15(2)(e)” and substituting “section 15(4)”.*

10 *Section 17 is repealed.*

11 *Section 18 is repealed and the following is substituted:*

18 Where livestock is sold by public auction pursuant to this Act and the proceeds of the sale are insufficient to pay the expenses referred to in section 15(2), the Provincial Treasurer may pay the expenses out of money in the Stray Animals Act Fund

(a) that has not been claimed under section 15(5), and

(b) that, but for this section, would be transferred to the General Revenue Fund under section 15(6).

12 *The following is added after section 19:*

19.1(1) In this section,

(a) “community pasture” means land of the Crown in right of Alberta that is

(i) established and operated as a community grazing reserve, or

9 Section 16 presently reads in part:

16(1) When livestock is impounded pursuant to this Act and

(a) the owner and the last person in possession of the livestock are not known, and

(b) a person claiming to have suffered damage to land or to an agricultural product as a result of trespassing livestock and an inspector do not agree on the amount of damage done by the livestock and by any person in capturing the livestock,

the Minister may, on being requested to do so, direct an assessor to assess the amount of the damage and, when appropriate, to determine the livestock responsible for the damage.

(3) The assessment and the determination, if any, of the assessor is final for the purpose of computing the amount to be paid to a person claiming to have suffered damage pursuant to section 15(2)(e).

10 Section 17 presently reads:

17 When a person is able to establish to the satisfaction of the Minister within one year of the date of the sale of livestock by public auction pursuant to this Act that

(a) he was the owner of the livestock, and

(b) the balance of the proceeds of sale of the livestock were paid into the General Revenue Fund,

the Minister may direct the Provincial Treasurer to repay the balance of the proceeds of sale of the livestock to that person from money voted by the Legislature for that purpose.

11 Section 18 presently reads:

18 When livestock is sold by public auction pursuant to this Act and the proceeds of sale are insufficient to pay the expenses referred to in section 15(2)(a) to (d), the Government shall pay the expenses on application therefor out of money voted by the Legislature for the purpose.

12 Allows unclaimed nursing calves to be sold and the proceeds paid to the grazing association.

(ii) held under a grazing lease by a grazing association,
under the *Public Lands Act*;

(b) “grazing association” means a grazing association incorporated under the *Societies Act* or the *Co-operative Associations Act*.

(2) Notwithstanding any other provision of this Act, if a nursing calf is found on a community pasture during roundup and an inspector is satisfied that the owner of the calf cannot readily be determined, he may, as soon as possible, sell the calf by public auction.

(3) The net proceeds of the sale under subsection (2) after deducting the expenses of maintaining, transporting and selling the calf shall be paid to the grazing association or other association that utilizes the community pasture on which the calf was found.

13 *Section 24(3) is repealed and the following is substituted:*

(3) Subsection (2) does not apply to a highway, other than a primary highway,

(a) within the boundaries of land in an Indian reserve, or

(b) within the boundaries of land

(i) held under a grazing lease or a grazing permit under the *Public Lands Act*,

(ii) established and operated as a community grazing reserve under the *Public Lands Act*, or

(iii) designated for grazing use under the *Forest Reserves Act*.

14 *The following is added after section 26:*

26.1 A person who finds stray livestock on his land or land that he occupies shall, within 7 days after he finds the livestock, notify the registered brand owner of the livestock or an inspector.

In accordance with section 4(1) of the Interpretation Act, this Bill comes into force on the date it receives Royal Assent.

13 Section 24(3) presently reads:

(3) Subsections (1) and (2) do not apply to a highway, other than a primary highway, within the boundaries of any land in an Indian reserve or within the boundaries of any land

(a) held under a grazing lease or a grazing permit, or

*(b) established and operated as a community grazing reserve,
pursuant to the Public Lands Act.*

14 Requires a person who finds stray livestock to notify the owner or an inspector within 7 days.