

1987 BILL 30

Second Session, 21st Legislature, 36 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 30

AGRICULTURAL OPERATION PRACTICES ACT

MR. HYLAND

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 30
Mr. Hyland

BILL 30

1987

AGRICULTURAL OPERATION PRACTICES ACT

(Assented to _____, 1987)

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

Definitions

1 In this Act,

(a) “agricultural land” means land the use of which for agriculture

(i) is either a permitted or discretionary use under the land use by-law of the municipality in which the land is situated, or

(ii) is permitted pursuant to section 74 of the *Planning Act*;

(b) “agricultural operation” means an agricultural activity conducted on agricultural land for gain or reward or in the hope or expectation of gain or reward, and includes

(i) the cultivation of land,

(ii) the raising of livestock, including poultry,

(iii) the raising of fur-bearing animals, pheasants or fish,

(iv) the production of agricultural field crops,

(v) the production of fruit, vegetables, sod, trees, shrubs and other specialty horticultural crops,

(vi) the production of eggs and milk,

(vii) the production of honey,

(viii) the operation of agricultural machinery and equipment, including irrigation pumps, and

(ix) the application of fertilizers, manure, insecticides, pesticides, fungicides and herbicides, including application by ground and aerial spraying, for agricultural purposes;

(c) “land use by-law” means a land use by-law or a land use regulation as defined in the *Planning Act*;

(d) “Minister” means the Member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act.

Nuisance claims **2(1)** A person who carries on an agricultural operation and who, in respect of that operation, does not contravene any of the following:

- (a) the land use by-law of the municipality in which the agricultural operation is carried on;
- (b) the regulations made by the Minister under section 3;
- (c) the generally accepted practices for similar agricultural operations;

is not liable to any person in an action in nuisance resulting from the agricultural operation and shall not be prevented by injunction or other order of a court from carrying on the agricultural operation because it causes or creates a nuisance.

(2) Subsection (1) continues to apply notwithstanding that 1 or more of the following occur:

- (a) the land use by-law of the municipality in which the agricultural operation is carried on changes;
- (b) the ownership of the agricultural land on which the agricultural operation is carried on changes;
- (c) the agricultural operation is carried on by other persons;
- (d) the use of land adjacent to the land on which the agricultural operation is carried on changes.

(3) Where a plaintiff or claimant in a proceeding against a person who carries on an agricultural operation

- (a) claims damages in nuisance resulting from the agricultural operation, or
- (b) applies for an injunction or other order of a court preventing or restricting the carrying on of the agricultural operation because it causes or creates a nuisance,

the onus of proving that the defendant contravened the land use by-law, regulation or practice referred to in subsection (1) is on the plaintiff or claimant, as the case may be.

Regulations **3** The Minister may make regulations respecting standards for the carrying on of agricultural operations.