

1991 BILL 3

Third Session, 22nd Legislature, 40 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 3

**FOREST AND PRAIRIE PROTECTION
AMENDMENT ACT, 1991**

MR. CHERRY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 3
Mr. Cherry

BILL 3

1991

FOREST AND PRAIRIE PROTECTION AMENDMENT ACT, 1991

(Assented to , 1991)

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

1 The Forest and Prairie Protection Act is amended by this Act.

*2 Section 3(1) is amended by adding "under section 40" after
"regulations".*

*3 Section 14 is amended by adding the following after subsection
(3):*

*(4) Lack of publication pursuant to subsection (2) is not
available as a defence to a person who has had actual notice of
the order.*

*(5) For the purposes of subsection (4), actual notice of an order
includes but is not limited to any oral notification from any
person to the affected person that adequately informs the affected
person generally of the contents and effect of the order.*

*(6) The Regulations Act does not apply to an order made under
subsection (1) or (3).*

4 Section 18 is amended

Explanatory Notes

1 This Bill will amend chapter F-14 of the Revised Statutes of Alberta 1980.

2 Section 3 presently reads:

3(1) The Minister may in writing delegate to any employee of his Department or to any ex officio forest officer any power, duty or function conferred on the Minister by this Act other than the power to make regulations.

(2) When, pursuant to subsection (1), the Minister delegates to any person any power, duty or function, any reference in this Act to the Minister in connection with that power, duty or function shall be construed as also referring to that person.

3 Section 14 presently reads:

14(1) The Minister may, by order, close to public entry any land where fire danger warrants a closure.

(2) An order made pursuant to subsection (1) shall be immediately published at least twice a day for not less than 2 consecutive days by the radio and television stations that are considered by the Minister most likely to bring the matter to the attention of the public.

(3) Subject to the regulations, no person other than a forest officer or fire guardian may enter a closed area without a permit or the written permission of a forest officer until the Minister, by order, reopens the closed area.

4 Section 18 presently reads:

- (a) *in subsection (1) by adding “or cause to be lit” after “light”;*
- (b) *by adding the following after subsection (1):*
 - (1.1) No person shall during a fire season allow any outdoor fire that is not authorized by a permit issued to him on land that is
 - (a) in a permit area, and
 - (b) owned or occupied by him or under his control.
- (c) *by repealing subsection (3);*
- (d) *in subsection (4) by striking out “Subsections (1) and (2) do” and substituting “This section does”.*

5 *Section 21 is amended by adding the following after subsection (3):*

- (4) Section 14(4) and (5) apply with respect to an order under subsection (1).
- (5) The *Regulations Act* does not apply to an order made under subsection (1).

6 *The following is added after section 28:*

28.1 Notwithstanding anything in this Act, a forest officer may, for the purpose of protecting timber, reducing fire hazards or managing wildlife habitat or for any other purpose relating to the proper management of Crown land, start a fire or cause a fire to

18(1) No person shall light an outdoor fire during the fire season on land in a permit area unless that person is the holder of a subsisting fire permit.

(2) A person who during a fire season knows or has reason to believe that there is an outdoor fire, not authorized by a permit issued to him, on land that is within a permit area and is owned or occupied by him or under his control, shall

(a) extinguish the fire, or

(b) if he is unable to extinguish the fire, immediately report the fire to a forest officer, an employee of the municipality in which the fire is located or a member of the Royal Canadian Mounted Police.

(3) A person who fails to comply with subsection (2) is guilty of an offence.

(4) Subsections (1) and (2) do not apply to an attended outdoor camp fire which has been lit for cooking or warming purposes.

5 Section 21 presently reads:

21(1) For the purpose of fire control the Minister may, by order,

(a) suspend or cancel within any part or all of Alberta all fire permits, or

(b) prohibit the lighting or require the extinguishing of a fire set other than under the authority of a fire permit.

(2) The order made pursuant to subsection (1) shall be immediately published at least twice a day for not less than 2 consecutive days by the radio and television stations that are considered by the Minister most likely to bring the matter to the attention of the public.

(3) In an area affected by an order made pursuant to subsection (1), every person shall immediately proceed to extinguish every open outdoor fire lit by him or under his authority and every fire located on land occupied or owned by him.

6 Initiation of fire for control purposes.

be started under his direction

- (a) on any Crown land, or
- (b) on any other land if, in his opinion, the exigencies of the situation require such a fire.

7 The following is added after section 30:

30.1(1) Any forest officer or fire guardian or any person so authorized by the Minister may investigate the cause, origin and circumstances of any forest or prairie fire.

(2) Without limiting subsection (1), a person making an investigation under subsection (1) may, without a warrant, for the purposes of the investigation,

- (a) enter on any land or premises at any reasonable time, accompanied by any person or bringing with him any thing that he considers would be of assistance in making the investigation,
- (b) perform or have performed any tests he considers necessary on the land or premises or anything on them, and
- (c) remove anything from the land or premises
 - (i) that is reasonably pertinent to the matter under investigation, or
 - (ii) that the investigator considers, on reasonable and probable grounds, is or may be evidence of the commission of an offence against this Act.

(3) The investigator shall, on or before the completion of the investigation, return to the person entitled to it anything removed under subsection (2)(c) unless

- (a) it is required as evidence in a prosecution arising out of the investigation, or
- (b) for any other reason it is impossible or impractical to return it.

(4) The investigator shall, if so requested, produce to the person owning or in charge of the land or premises or of anything being tested or removed under subsection (2) evidence of his

7 Investigation of cause, etc. of fire.

appointment as a forest officer or fire guardian or of the authorization under subsection (1).

(5) If entry by the investigator or any other person referred to in subsection (2)(a) on the land or premises is refused, the investigator may make an application to a justice, and if it appears to the justice, on information laid before him on oath, that there are reasonable and probable grounds for believing that entry is needed for the purposes of ensuring a proper investigation under this section, the justice may issue a warrant authorizing the investigator and any such other person, by force if necessary, to

- (a) enter the land or premises, and
- (b) perform any other activity referred to in subsection (2).

(6) Before exercising any powers under subsection (2)(b) or (c), an investigator shall make reasonable efforts to obtain the co-operation of the owner or person in charge of the land or premises.

(7) In this section, "land or premises" includes vehicles and buildings, whether affixed to the land or not, but does not include a private dwelling.

8 The following is added after section 31:

31.1 The Minister is entitled on demand to be compensated by any person who without express authorization from the Minister causes any loss or damage to Crown timber or other forest growth on Crown land.

9 Section 35 is amended

- (a) *by striking out "or request directed to him" and substituting "issued, or with any request directed to him,";*
- (b) *in clause (a) by striking out "not less than \$100 and not more than \$1000" and substituting "not more than the amount prescribed in the regulations";*
- (c) *in clause (b) by striking out "not less than \$25 and not more than \$300" and substituting "not more than the amount prescribed in the regulations".*

8 Compensation for loss or damage to timber, etc.

9 Section 35 presently reads:

35 A person who contravenes this Act or the regulations or who refuses or neglects to comply with any condition in a permit or with any order or request directed to him pursuant to this Act or the regulations is guilty of an offence and liable,

(a) if the offence was a contravention of section 18 or 22 within a forest protection area, to a fine of not less than \$100 and not more than \$1000 and in default of payment to imprisonment for a term of not more than one year, or

(b) in any other case, to a fine of not less than \$25 and not more than \$300 and in default of payment to imprisonment for

10 Section 39 is amended by adding the following after clause (d):

(d.1) prescribing maximum monetary penalties for the purposes of section 35(a) and (b);

11 Section 9(b) and (c) come into force 14 days after Assent is given to this Act.

a term of not more than 90 days or to both fine and imprisonment.

10 Power by regulation to set maximum monetary penalties.

11 Commencement of section 9(b) and (c).