

REPRINTED BILL

BILL

No. 89 of 1935.

An Act to Encourage Methods of Cultivation to Control Soil Drifting.

(Assented to _____, 1935.)

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

1. This Act may be cited as "*The Control of Soil Drifting Act.*"

2. It shall be the duty of the occupier of land which is being summer-fallowed to till the same in such a manner as to prevent soil on any part of the summer-fallowed land from drifting so as to cause damage to adjacent land and property.

3. The occupier of any land which is being summer-fallowed shall be deemed to have discharged the duty imposed upon them by this Act if each quarter-section upon which land is being summer-fallowed is cultivated according to any of the methods following, namely:

- (a) By summer-fallowing and cropping the land in alternate strips not exceeding twenty rods in width approximately at right angles to the prevailing direction of wind liable to cause soil drifting; or
- (b) By surrounding all summer-fallowed land with a strip of land of at least thirty rods in width cultivated in three strips paralleling the edge of the summer-fallow of which the inside and the outside strips are each at least ten rods in width and are either under a grain crop or in stubble, and the remaining strip is summer-fallowed; or
- (c) By surrounding all the summer-fallowed land with a strip of land of at least thirty rods in width paralleling the edge of the summer-fallow which is under a growing crop of grain or which is in stubble; or
- (d) By seeding upon the land a covering crop of grain sown not later than the tenth day of August, using for that purpose not less than twenty pounds of seed per acre on all of the land which is under summer-fallow, or by seeding the land to fall wheat or fall rye on or before the first day of September; or

- (e) By maintaining on each side of any summer-fallowed land a strip of land forty rods in width of which alternating strips of not less than ten rods in width are either under grain crop or in stubble; or
- (f) By maintaining a strip of natural or planted tree growth at least three rods in width within forty rods of and along the whole of each boundary of the property.

4.—(1) Subject to the other provisions of this section the occupier of any land in respect of which the duty imposed upon the occupier of land by this Act is not discharged shall be liable to the owner of land and to the owner of crops which are damaged by soil drifting except only when the land upon which the damage occurs or any part thereof is being summer-fallowed and the duty imposed upon the occupier by this Act in respect of that land is not discharged.

(2) The liability of the occupier for damage shall not exceed the sum of one hundred dollars for each parcel of land occupied by him and upon which soil drifting occurs which is a quarter-section, and in case the parcel contains less than one hundred and sixty acres, a sum bearing that proportion to the sum of one hundred dollars which the acreage of the parcel bears to one hundred and sixty acres.

5. Any person who is the owner of any land or of any crops damaged by soil drifting to whom an occupier is liable under section 4 of this Act to pay damages may recover the same by action brought in the District Court of the district in which the land upon which the damage occurred is situate on behalf of himself and all other persons to whom the occupier is similarly liable.

6. No claim under this Act and no action so brought shall be settled or compromised without the approval of the Judge of the said District Court, and any settlement or compromise effected without that approval shall not relieve any person liable from any liability under this Act to any other person or persons not party to the settlement or compromise.

7. Before proceeding to approve any compromise or settlement of any claim under this Act or before proceeding to adjudicate upon any claim made under this Act, the Judge shall require notice to be given to any other persons who may be entitled to recover damages on account of the soil drifting which is the subject matter of the compromise, settlement or action.

8. The fact that any land or any crop damaged by soil drifting is to the leeward of the wind prevailing at the time the soil drifting occurs and within a distance of forty rods from any land upon which soil drifting occurs shall be *prima facie* evidence that the land or crop was damaged by reason of the soil drifting from adjacent land situate to the windward thereof.

9. In case the damage caused by soil drifting from any lands is in excess of the sum of five hundred dollars for each quarter-section upon which the soil drifting occurred, or in case a parcel is less in area than a quarter-section such lesser sum as provided in section 4, the aggregate amount of all such claims shall be abated accordingly and the amount of each separate claim shall be abated rateably.

10. Notwithstanding the provisions of any other Act, the total amount of the damages payable under any judgment in any action brought under this Act shall be payable to the claimant entitled thereto without regard to any of the other creditors of the person liable therefor and shall be payable in priority to all claims enforceable by execution other than claims of the Crown, municipal taxes, school taxes, drainage or irrigation rates and wages.

11. It shall be deemed to be a condition of every letting, whether oral or in writing, and every agreement for sale of any land that the tenant or purchaser shall in summer-fallowing the land comply with the requirements of this Act, and if upon the breach of that condition soil drifting occurs upon the land the lessor or the vendor, as the case may be, shall be entitled to forthwith declare the tenancy or agreement for sale at an end and to recover the possession of the land comprised therein.

12. For the purposes of this Act any person or corporation who has the control and management of any highway shall be deemed to be the owner of the road allowance upon which the highway is located and every person or body who is the owner or has the management or control of any irrigation ditch or drainage ditch shall be deemed to be the owner of the land which forms the site of any such ditch.

13. The Lieutenant Governor in Council may from time to time define any part or parts of the Province as areas within which this Act shall not be in force, and upon the publication of any order so made in *The Alberta Gazette* this Act shall not be in force in the area defined therein.

14. This Act shall come into force on the first day of March, 1936.

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FIFTH SESSION
SEVENTH LEGISLATURE
25 GEORGE V
.1935

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An Act to Encourage Methods of Cul-
tivation to Control Soil Drifting.

Received and read the

First time.....

Second time.....

Third time

HON. MR. GRISDALE

EDMONTON:
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1935