

CHAPTER 43

AGRICULTURE

SENATE BILL 14-052

BY SENATOR(S) Crowder, Aguilar, Guzman, Heath, Hodge, Jones, Nicholson, Rivera, Roberts, Schwartz, Tochtrop, Todd;
also REPRESENTATIVE(S) Sonnenberg, Lebsock, Rosenthal, Scott, Vigil, Young.

AN ACT

CONCERNING ACTIONS TAKEN TO REMEDIATE SOIL EROSION CREATING PROPERTY DAMAGE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 35-72-103, **amend** (1) as follows:

35-72-103. Action by county commissioners - emergency conditions.

(1) (a) When the board of ~~any~~ A county of the state is advised in writing or otherwise informed that soil is blowing from ~~any~~ land in the county; ~~and~~ THE BOARD is supplied with a description of ~~such~~ THE land; and it appears that ~~by reason of such blowing from any land in the county;~~ private property, including ~~but not limited to~~ crops, grasslands, fences, fencerows, irrigation canals, ditches, or livestock on adjacent or other land, or roads, barrow ditches, fences or other public property is being damaged ~~such~~ BY THE BLOWING SOIL, THE board shall as soon as practicable:

(I) Give notice of ~~such~~ THE complaint to the owner or occupier of the land from which soil is blowing; and

(II) Inspect or ~~cause to be inspected such~~ ORDER THE INSPECTION OF THE land.

(b) If the board finds, after consultation with ~~a member or members of~~ the local district board of directors, ~~with~~ the state conservation board or ~~with~~ EXTENSION AGENT WITH EXPERTISE IN SOIL CONSERVATION OR SOIL SCIENCE, AND AFTER CONSULTATION WITH local owners or occupiers, including the owner or occupier of the land from which soil is blowing, that soil is blowing from ~~such~~ THE land in sufficient quantity to be injurious to private property, including ~~but not limited to~~ crops, grasslands, fences, fencerows, irrigation canals, ditches, or livestock on adjacent or other land, or to roads, barrow ditches, fences, or other public property

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

because of soil being blown thereon, ~~such~~ THE board shall determine what, if anything, can be done to prevent or materially lessen ~~such~~ THE blowing of soil from ~~such~~ THE land. If the board determines, after ~~such~~ THE consultation, that the complaint lodged with it falls under ~~the provisions of article 3.5 of this title, no~~ THE BOARD SHALL NOT TAKE further action. ~~shall be taken by the board.~~ If the board finds, after ~~such~~ THE consultation, that an emergency exists, that ~~such~~ THE blowing is occurring, THAT PROPERTY DAMAGE APPEARS TO BE RESULTING FROM THE BLOWING SOIL, AND that it can be prevented or materially lessened by treatment of the soil, ~~and that property damage appears to be resulting therefrom, such~~ THE board shall issue a citation to the owner as listed upon the records of the county assessor and to the occupier, if known to ~~such~~ THE board, specifying the nature of the treatment required and the extent thereof, ~~and~~ the date by which ~~such~~ THE treatment is to be commenced, and the date it is to be completed.

SECTION 2. In Colorado Revised Statutes, 35-72-105, **amend** (1) as follows:

35-72-105. Method of assessment. (1) Upon the completion of the treatment caused to be performed by the board as provided in section 35-72-103, the board shall, by resolution, determine ~~the WHAT land so benefited~~ BENEFITS and from which soil is blowing and assess against ~~said~~ THE OWNER OF THE BENEFITED land ~~so benefited~~ the ACTUAL cost of ~~said~~ THE treatment not in excess of ~~fifteen~~ FORTY dollars per acre or the actual cost of treatment, whichever is less, in ~~any~~ one calendar year. ~~Said~~ THE BOARD SHALL RECORD THE resolution ~~shall be recorded~~ in the minutes of the board, ~~DELIVER the original thereof shall be delivered by the clerk of said board~~ to the county assessor, and ~~SEND a copy thereof shall be mailed by registered mail~~ BY REGISTERED MAIL to the landowner at the address shown on the records of the county assessor and to the occupier, if known to the board.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to mitigation actions taken on or after the applicable effective date of this act.

Approved: March 20, 2014