

Bill No. 22 of 1954

A BILL TO AMEND THE FUEL OIL TAX ACT

NOTE

This Bill amends The Fuel Oil Tax Act, being chapter 45 of the Revised Statutes of Alberta, 1942.

Section 2, clause (b) is amended to include "bituminous sands" among the listing of derivatives of fuel oil.

Certain sections, that is sections 15, 37, 38 and clause (c) of subsection (2) of section 18, relate to blending and grading of fuel oil and are more appropriate to *The Fuel Oil Licensing Act*. In 1936 when that last mentioned Act was enacted the provisions with regard to licensing were removed from the then existing Fuel Oil Tax Act and only these sections mentioned continued in *The Fuel Oil Tax Act*. As these provisions are now to be placed in *The Fuel Oil Licensing Act* they are removed by this Bill from *The Fuel Oil Tax Act*.

Section 36 is amended by striking out subsection (1) and by substituting four new subsections. The amendment rearranges the matter contained in the former subsection (1) and increases the penalty for a contravention of section 12, the section prohibiting the use of coloured fuel oil.

Section 48 is renumbered as section 49 and a new section 48 is added to the Act. The new section outlines the procedure to be followed when a second or subsequent offence under this Act is charged. The provision is similar in effect to provisions in *The Vehicles and Highway Traffic Act* in respect of subsequent offences under that Act.

This Bill is to come into force on the 1st day of July, 1954.

J. W. RYAN,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 22 of 1954

An Act to amend The Fuel Oil Tax Act

(Assented to _____, 1954)

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

1. *The Fuel Oil Tax Act*, being chapter 45 of the Revised Statutes of Alberta, 1942, is hereby amended.

2. Section 2, clause (b) is amended by adding immediately after the words "coal tar," the words "bituminous sands," Section 2 amended

3. Section 15 is repealed. Section 15 repealed

4. Section 18, subsection (2) is amended Section 18 amended
(a) by striking out clause (c);
(b) by striking out the words "exemption or" where they occur in clause (e).

5. Section 36 is amended by striking out subsection (1) and by substituting the following: Section 36 amended

"36. (1) In this section 'costs' include the expenses of impounding the motor vehicle under section 20 and this section and of keeping it impounded. "costs"

"(1a) A person who contravenes the provisions of section 12 is guilty of an offence and liable on summary conviction Penalty for misuse of coloured fuel oil

"(a) for a first offence to a fine of not less than twenty-five dollars and not more than fifty dollars and costs,

"(b) for a second offence to a fine of not less than fifty dollars and not more than seventy-five dollars and costs,

"(c) for a third or subsequent offence to a fine of not less than one hundred dollars and not more than one hundred and fifty dollars and costs.

"(1b) In addition to imposing a fine under subsection (1a) the police magistrate or justice of the peace may order that the motor vehicle in respect of which the offence was committed be immediately seized, taken into custody of the law and impounded for a specified period of not more than fourteen days or until the fine and costs have been fully paid and satisfied, whichever is the longer period. Impoundment

Suspension
of licence

“(1c) Where a person has been convicted for a third or subsequent offence under section 12, the police magistrate or justice of the peace in addition to imposing a fine under clause (c) of subsection (1a) shall order the suspension

“(a) of any operator’s, driver’s or other licence issued in the name of that person pursuant to *The Vehicles and Highway Traffic Act*,

“(b) of any motor vehicle registration issued in the name of that person pursuant to *The Vehicles and Highway Traffic Act* or *The Public Service Vehicles Act*,

for a period of three months from the date of the conviction of that person.”.

Sections 37
and 38
repealed

6. Sections 37 and 38 are repealed.

New
section 48

7. The following new section is added immediately after section 47:

Procedure in
subsequent
offences

“48. Where upon an information for an offence against any of the provisions of this Act a previous conviction is charged

“(a) the justice or police magistrate shall in the first instance inquire concerning the subsequent offence only, and if the accused is found guilty thereof he shall then and not before be asked whether he was so previously convicted as alleged in the information and if he answers that he was so previously convicted, the accused shall be sentenced accordingly but if the accused denies that he was so previously convicted or does not answer the question, the police magistrate or justice of the peace shall then inquire concerning the previous conviction or convictions,

“(b) a copy of the certificate of a prior conviction made by the convicting police magistrate, the justice of the peace or one of the convicting justices of the peace or the certificate of the Minister is, for the purpose of a second, third or subsequent conviction under the provisions of this Act, *prima facie* evidence of the prior conviction without proof of the signature or official character of the person signing the certificate and without proof of the identity of the person charged with the person named in the certificate,

“(c) if a conviction for a second or subsequent offence becomes void or defective after the making thereof, by reason of a previous conviction being set aside, quashed or otherwise rendered void, the justice or police magistrate by whom the second or subsequent conviction was made, shall summon the person convicted to appear at a time and place to be specified and shall thereafter, upon proof of the due service of the summons, if such person fails to appear or on his appearance, amend the second or subsequent

conviction and adjudge the penalty or punishment that might have been adjudged had the previous conviction never existed, and the amended conviction shall thereupon be held valid to all intents and purposes as if it had been made in the first instance.”.

8. The present section 48 is renumbered as section 49. Section 48
renumbered
9. This Act comes into force on the first day of July, Coming into
force
1954.

No. 22

SECOND SESSION
TWELFTH LEGISLATURE
3 ELIZABETH II

1954

BILL

An Act to amend The Fuel Oil Tax
Act

Received and read the

First time

Second time

Third time

HON. MR. GERHART
