

No. 48

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3rd Session, 13th Legislature, Alberta  
5 Elizabeth II, 1957

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## **BILL 48**

A Bill to amend The Fuel Oil Tax Act

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HON. MR. HOOKE

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## **Explanatory Note**

**2.** (a) Clause (b) defines "fuel oil" and its meaning is being extended to include liquefied petroleum gas.

(b) Defines "liquefied petroleum gas" which is to be brought within this Act for tax levying purposes.

(c) This new clause is intended to give a definition of "owner" for the purposes of the Act in general and section 12 in particular; see clause 3 .

**3.** This new section results from the inclusion of liquefied petroleum gas as a fuel for taxation under this Act.

# BILL

No. 48 of 1957

An Act to amend The Fuel Oil Tax Act

(Assented to \_\_\_\_\_, 1957)

**H**ER 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 125 of the Revised Statutes of Alberta, 1955, is hereby amended.

**2.** Section 2 is amended

(a) as to clause (b)

(i) by relettering subclause (ii) as subclause (iii),

(ii) by adding immediately after subclause (i) the following subclause:

“(ii) includes liquefied petroleum gas, and”,

(b) by adding immediately after clause (d) the following new clause:

“(d1) “liquefied petroleum gas” includes any matter or substance that is composed predominantly of any of the following hydrocarbons or mixtures of them, namely: propane, propylene, butane (normal or iso-butane) or butylene;”,

(c) by adding immediately after clause (g) the following new clause:

“(g1) “owner” includes any person in whose name a vehicle is registered under *The Vehicles and Highway Traffic Act* and any person renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period of more than thirty days;”.

**3.** The following new section is added immediately after section 11:

“**11a.** Except the persons described in clauses (a) and (b) of section 12, no person within the Province shall have liquefied petroleum gas in the fuel tank of a motor vehicle of which he is the owner or driver, unless he has at the same time in his possession an invoice indicating payment of the tax on such liquefied petroleum gas.”.

4. Section 12 restricts the use of coloured fuel oil. In prosecutions under it there has been some doubt as to the proper interpretation of "possession and control".

5. Permits regulations to be made with specific reference to liquefied petroleum gas dealer. Subsection (2) begins: "Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations . . . .".

6. Section 24 presently authorizes the searching without a warrant of premises upon which fuel oil on which the tax has not been paid is suspected of being kept. Vehicles suspected of carrying fuel oil from outside the Province may be searched also; but vehicles may not be searched without a warrant otherwise. This amendment will remove an ambiguity by clause 6 (b) and by 6 (c) give a power to search vehicles without a warrant. Section 24 reads:

"24. An officer or police officer or a person authorized by the Minister in writing, either generally or specifically to exercise the powers of inspection under this section, may without a warrant

"(a) enter upon any premises, except a private dwelling, on which he has cause to believe that fuel oil is kept, or had in possession,

"(b) inspect the premises and all fuel oil found thereon,

"(c) make tests of fuel oil so found and take samples thereof, and

"(d) interrogate any person who is found on the premises, or who owns, occupies, or has charge of the premises."

7. This amendment is complementary to amendment in clause 6 above. Section 25 presently reads:

"25. When an officer or police officer in making or attempting to make a search under the authority conferred by section 24 finds in any place fuel oil that in his opinion has been unlawfully imported, or upon which in his opinion the tax has not been paid,

"(a) he may forthwith seize and remove the fuel oil and the barrel, tank or receptacle in which it is kept, and

"(b) he may seize and remove any book, paper or thing found upon the premises, and that, in his opinion, will afford evidence of the commission of a violation of this Act."

\*8. This amendment is also complementary to the amendment made in clause 6. Section 31 presently reads:

"31. Upon conviction of the owner or person in possession of fuel oil seized for violation of any provision of this Act, the fuel oil and all barrels, tanks or other receptacles containing it, except the fuel tank of a motor vehicle, are, in addition to any other penalty imposed, ipso facto, forfeited to the Crown in the right of the Province of Alberta."

**4.** Section 12 is amended by striking out the words “in possession or control” and by substituting the words “the owner or driver”.

**5.** Section 17, subsection (2) is amended by adding immediately after clause (n) the following new clause:

(n1) for licensing dealers in liquefied petroleum gas and for appointing such licensed dealers as collectors of the tax provided under this Act in respect of that type of fuel oil, and providing fees for such licences.”.

**6.** Section 24 is amended

(a) by renumbering the present section as subsection (1),

(b) as to the renumbered subsection (1) by striking out all the words preceding clause (a) and by substituting the words “Any person who is authorized in writing by the Minister, either generally or specifically, to exercise the powers of inspection under this section, or any police officer, may without a warrant”.

(c) by adding immediately after the renumbered subsection (1) the following subsection:

“(2) An officer or police officer may, without a warrant search any vehicle, other than a railway tank car, in or on which he has reason to believe is being carried any fuel oil upon which the tax has not been paid and may make tests and take samples of any fuel oil or other liquid that he suspects to be fuel oil found in or on the vehicle and for such purpose may break any seal on any barrel, tank or receptacle, and interrogate any person found in the vehicle or who owns or has charge of the vehicle.”

**7.** Section 25 is amended

(a) by adding immediately after the word “place” the words “or in or on any vehicle”.

(b) as to clause (a) by adding immediately after the word “kept” the words “or any vehicle in or on which the fuel oil is being carried”.

(c) as to clause (b) by adding immediately after the word “premises” the words “or in or on the vehicle”.

**8.** Section 31 is amended by adding immediately after the words “motor vehicle,” the words and figures “and in the case of a seizure of a vehicle under section 25, the vehicle in or on which the fuel oil was carried”.

**9.** Section 34, subsection (1) reads:

"34. (1) An individual who violates or fails to comply with any of the provisions of sections 9, 10, 11, 13 and 14, is liable on summary conviction to a fine of

- "(a) not more than one hundred dollars for the first offence, and
- "(b) not more than two hundred dollars for a subsequent offence, and in default of payment to imprisonment for a term not exceeding six months, or to both fine and imprisonment."

**10.** Section 35 provides penalties for the use of fuel oil prohibited in section 12. A reference is added to the proposed new section 11a. See clause 3.

**11.** This amendment increases the maximum penalty for being in possession of fuel oil on which fuel oil tax has not been paid from five hundred dollars to one thousand dollars.

**12.** Section 41 reads:

"41. A person liable for the payment of any tax pursuant to this Act who makes default in payment or attempts to evade payment is guilty of an offence and is, in addition to any other penalty imposed by this Act in respect of the default or attempted evasion, liable on summary conviction to a fine

"(a) of treble the amount of the tax in respect of which the default is made or evasion is attempted, or

"(b) of the sum of one hundred dollars, whichever is the greater, and in default of payment to imprisonment for a term of not less than thirty days."

**9.** Section 34, subsection (1) is amended

- (a) by adding at the beginning of clause (a) the words “not less than fifty dollars and”,
- (b) by adding at the beginning of clause (b) the words “not less than one hundred dollars and”.

**10.** Section 35 is amended

- (a) as to subsection (2) by adding immediately after the word “section” the figure and word “11a or”,
- (b) as to subsection (4) by adding immediately after the word “section” the figure and word “11a or”.

**11.** Section 40 is amended by striking out the words “five hundred” and by substituting the words “one thousand”.

**12.** Section 41, clause (b) is amended by striking out the word “one” and by substituting the word “five”.

**13.** This Act comes into force on the day upon which the Revised Statutes of Alberta, 1955, come into force.

THIRD SESSION  
THIRTEENTH LEGISLATURE  
5 ELIZABETH II  
1957

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**BILL**

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Act

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Received and read the

First time.....

Second time.....

Third time.....

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