

No. 93

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

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## **BILL 93**

A Bill to Provide for the Licensing of Certain Mobile  
Construction Equipment

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HON. MR. HOOKE

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EDMONTON, ALBERTA  
Printed by A. SHNITKA, Printer to the Queen's Most Excellent Majesty,  
1957

## Explanatory Note

General. This Act repeals and replaces The Mobile Construction Equipment Licensing Act, 1953, c. 76. It is a revision and consolidation of that Act with a number of new provisions added. The references in the notes are to the section numbering used in the Statute Roll of the Revised Statutes of Alberta, 1955.

2. (a) This definition is broadened to make additional equipment, now subject to assessment and taxation under provisions of The Assessment Act, subject to licence under this Act in order to alleviate difficulty encountered under present assessment procedures by reason of the high degree of mobility of the units concerned.

(b) New. At present a ministerial order is required to appoint a person other than an assessor as an inspector.

(c) The present clause (b).

(d) The present clause (c).

(e) (i) The present (d) (i).

# BILL

No. 93 of 1957

An Act to Provide for the Licensing of Certain Mobile  
Construction Equipment

(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. This Act may be cited as "*The Mobile Construction  
Equipment Licensing Act, 1957*".

2. In this Act,

- (a) "construction work" means the operations required
  - (i) for the extraction or handling of materials or for excavating or for breaking or clearing,
  - (ii) for the construction or maintenance of a road, sidewalk, building, structure, bridge, culvert, dam, drainage system, irrigation system, airport, pipe line, power line, grades, strip mining, quarrying, or other works of like nature,
  - (iii) for drilling, testing or servicing water, oil or gas wells, or
  - (iv) for the purposes of geophysical exploration other than seismographic exploration;
- (b) "inspector" means
  - (i) a police officer, or other person employed for the preservation and maintenance of the public peace, and
  - (ii) a person appointed as an inspector for the purpose of enforcing the provisions of this Act;
- (c) "licence" means a licence issued pursuant to the provisions of this Act;
- (d) "Minister" means the Minister of Municipal Affairs;
- (e) "mobile construction equipment"
  - (i) means machinery or equipment constructed or manufactured for use in construction work, capable of being moved to its place of use under its own power or by being towed, pulled or carried and not intended to be affixed to realty, and

(ii) Partly new. Amended because of the change in definition of construction work.

(iii) (A) The present (d) (iii).

(B) New. Exemption is provided for units, other than truck mounted, used to drill oil and gas wells.

(f) The present clause (e) amended to include forest reserves and metis improvement districts. Heretofore there has been no authority to apportion any part of a licence fee to either a metis improvement district or a forest reserve. This amendment will provide such authority.

(g) The present clause (f).

(h) New. See section 8.

(i) The present clause (g).

**3.** The present section 3 as enacted by chapter 34 in 1956.

**4.** The present section 4.

**5.** (1) (a) The present clause (a) as amended in 1956.

(b) The present clause (c) of section 5 as amended in 1956. The present clause (b) is omitted.

(2) The present subsection (2).

- (ii) includes
  - (A) movable bunk, cooking, and dining houses and other units used as accommodation or storage for personnel or equipment, and
  - (B) machinery and equipment actually used in the performance of construction work,
 but
- (iii) does not include
  - (A) trucks licensed under *The Vehicles and Highway Traffic Act*, or *The Public Service Vehicles Act*, exclusive of mounted equipment on such trucks, and
  - (B) equipment, other than truck mounted, used to drill a gas or oil well;
- (f) "municipality" means a town, village, municipal district, county, improvement district, special area, metis improvement district or forest reserve;
- (g) "owner" includes a person renting mobile construction equipment or having the exclusive use thereof under a rental agreement or otherwise;
- (h) "permit" means a permit issued pursuant to the provisions of this Act;
- (i) "person" includes a partnership or corporation.

**3.** (1) An owner of mobile construction equipment shall not himself operate, nor shall he suffer or permit the operation of, the mobile construction equipment on construction work in any municipality unless there is a subsisting licence in respect of that equipment.

(2) No person shall operate, on construction work in a municipality, any mobile construction equipment upon which a subsisting licence is not displayed by means of a licence plate issued pursuant to this Act.

**4.** On and after the first day of January, 1957, mobile construction equipment is exempt from assessment and taxation pursuant to *The Assessment Act*.

**5.** (1) No licence is required for any mobile construction equipment

- (a) the title to which is in the Crown in the right of Canada or in the right of the Province, or
- (b) owned by a municipality and used solely within the municipality for municipal purposes.

(2) The Lieutenant Governor in Council may exempt from the licensing requirements of this Act any mobile construction equipment that is

- (a) owned, used or operated by any person or class of persons, or

(3) The present subsection (3).

6. The present section 6.

7. (1) The present section 7 (1).

(2) The present licence fees are lower than the average levy that would have been imposed on equipment formerly not covered by this Act. The increase becomes effective with the 1958 licence year.

(3) The present subsection (2) reworded.

(4) The present subsection (3).

(5) The present subsection (4).

(b) used or operated for any type of construction work or for any particular construction work.

(3) An exemption under subsection (2) may be authorized by general regulations or by special order in any particular case and may be total or partial and unconditional or conditional.

**6.** (1) The owner of mobile construction equipment shall before the equipment is used on construction work in a municipality in any year, apply to the Minister for a licence.

(2) The application shall be accompanied by an affidavit stating in respect of the unit of mobile construction equipment for which the application is made

- (a) the name, description and serial number, if any, of the unit, and
- (b) the sale price at which a new unit of similar specifications is quoted at current market prices.

**7.** (1) Upon receipt of an application and accompanying affidavit the Minister shall calculate the annual licence fee for each unit

- (a) by determining the sale price at which a new unit of similar specifications is quoted at current market prices,
- (b) by reducing the amount determined pursuant to clause (a) by the amount of such depreciation as the Minister deems proper,
- (c) by calculating three-tenths of the net amount as determined pursuant to clause (b), and
- (d) by computing four per cent of the amount calculated pursuant to clause (c).

(2) When calculating the annual licence fee for each unit for the 1958 calendar year and subsequent licensing years the Minister shall compute five per cent of the amount calculated pursuant to clause (c) of subsection (1) and not four per cent as provided in clause (d) of subsection (1).

(3) Upon payment of the required licence fee the Minister shall issue a licence to the owner of the mobile construction equipment.

(4) A licence issued under this Act expires on the thirty-first day of December in the year for which the licence is issued.

(5) Notwithstanding any other provision of this Act, a licence shall not be required for mobile construction equipment where the price thereof is less than one thousand dollars when determined pursuant to clause (a) of subsection (1).

**8.** New. (1) See conditions in (2).

(2) At present the owner must pay a full year's licence fee even though the equipment may be required to operate only for a very brief period. This new section provides for licensing for a short period.

(3) Information required on application for permit.

(4) Amount of fee.

(5) When a licence is obtained in the same year as a permit, the permit fees can be applied to the licence fee.

**9.** The present section 8.

**10.** (1) to (3) The present section 9, subsections (1), (2) and (3).

(4) New. Procedure when licence plates lost or destroyed.

(5) New. Minister authorized to issue replacement plates.

**11.** New. (1) The Minister is authorized to recall and cancel any licence if it is considered under the circumstances to be necessary.

**8.** (1) Notwithstanding any other provision of this Act, the Minister, in his discretion, may issue a permit in lieu of a licence.

- (2) A permit issued pursuant to subsection (1)
- (a) shall have, while valid, the same effect as a licence,
  - (b) shall be valid for a period stated on the face thereof and not exceeding thirty days,
  - (c) shall state on the face thereof why it was expedient to issue it in lieu of a licence,
  - (d) shall state on the face thereof the municipality or municipalities where the unit is to be used for construction work,
  - (e) may be renewed once in any calendar year, and
  - (f) shall be in the possession of the owner of the equipment or his agent at the site of the construction work who shall produce it on demand.

(3) An application for a permit shall be in such form and contain such information as may be prescribed by the regulations.

(4) The fee payable for a permit or a renewal of a permit shall be twenty-five per cent of the annual licence fee as calculated pursuant to section 7.

(5) When a licence is issued for a unit in the same year that a permit has been issued for that unit, the fees paid for the permit and a renewal of the permit shall be credited to the fees payable for the licence for such unit.

**9.** Where an application for a licence is made after the thirtieth day of September in any year for a unit of mobile construction equipment not previously used on construction work in a municipality in that year, the Minister may allow a reduction of up to seventy-five per cent of the licence fee otherwise required.

**10.** (1) A licence plate shall be issued by the Minister with each licence.

(2) The licence plate shall be attached in a conspicuous place to the unit for which it is issued.

(3) A licence plate shall not be transferred from one unit to another.

(4) Where a licence plate is lost or destroyed, the licensee may apply to the Minister for a replacement plate, and every such application shall be accompanied by an affidavit setting forth such information as the Minister may require.

(5) Upon being satisfied of the loss or destruction of a licence plate and upon receipt of such fee as he may prescribe the Minister shall issue a replacement licence plate.

**11.** (1) The Minister, in his discretion, may cancel and recall any permit, licence or licence plate issued pursuant to the provisions of this Act.

(2) A partial refund of fee may be made.

**12.** The present section 10.

**13.** (a) to (c) The present section 11, clauses (a), (b) and (c).

(2) Where a licence or permit is cancelled pursuant to subsection (1), the Minister, in his discretion may allow a refund of not more than one-half of the fee paid for such licence or permit or renewal of permit.

**12.** (1) The owner of mobile construction equipment, either himself or through his agent in charge of the equipment,

- (a) shall keep and maintain a complete record in each calendar year of the number of days each unit of equipment, for which a licence has been issued at any time in that year, has been in each municipality in that year both before and after the issuance of the licence, whether or not such unit was in use or in storage in the municipality, and
- (b) on or before the thirty-first day of December in each year, shall make a return to the Minister, in such form as he may prescribe, showing the number of days in that year a licensed unit of equipment was in each municipality, whether or not such unit was in actual use.

(2) For the purposes of subsection (1) reference to a unit of mobile construction equipment shall be made by stating

- (a) the name or type of the unit of equipment, and
- (b) the number of the licence issued therefor pursuant to this Act.

(3) When the legal possession of a unit of mobile construction equipment for which a licence has been issued is at any time during the licence year transferred by sale, lease or rental or other agreement, the person so transferring the legal possession of the unit shall notify the Department of Municipal Affairs of the transfer within ten days thereof.

(4) A person who fails to comply with any requirement of this section is guilty of an offence and liable on summary conviction to a fine of not less than one hundred dollars nor more than five hundred dollars.

**13.** As soon as possible in each year, the Minister shall assemble the returns made to him for the preceding year pursuant to clause (b) of subsection (1) of section 12, and according to the returns and in respect of each unit of equipment, shall

- (a) determine the total number of days the unit was in all municipalities,
- (b) divide ninety-five per cent of the amount of the licence fee received by him pursuant to section 7 by the total number of days the unit was in all municipalities,
- (c) compute the number of days the unit was in each municipality, and

(d) The present clause (d) amended to include forest reserves and metis improvement districts among those entitled to share in the licence fees.

**14.** New. Provides for the division of permit fees not covered by the preceding section.

**15.** The present section 12.

**16.** The present section 13 as amended in 1956.

**17.** The present section 14.

- (d) pay
- (i) to each town, village, municipal district or county,
  - (ii) in the case of an improvement district or special area to the Department of Municipal Affairs,
  - (iii) in the case of a forest reserve to the Minister of Lands and Forests, or
  - (iv) in the case of a metis improvement district to the Minister of Public Welfare,
- the amount arrived at by multiplying the result obtained pursuant to clause (b) by the number of days the unit was in that municipality.

**14.** (1) The Minister shall pay ninety-five per cent of the fee received for a permit or a renewal thereof to the municipality named on the face thereof.

(2) Where more than one municipality is named on a permit, the amount shall be divided equally among them.

(3) Where a permit or renewal fee has been credited to a licence fee pursuant to subsection (5) of section 8 such fee shall be deemed part of a licence fee.

**15.** The Lieutenant Governor in Council may make regulations not inconsistent with this Act prescribing the procedure to be followed and the forms to be used in carrying out any of the provisions of this Act.

**16.** A person

- (a) who gives false information in his application for a licence under this Act, or
- (b) who displays or permits to be displayed a licence plate upon a unit for which that licence plate was not issued,

is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for a term of not more than thirty days.

**17.** (1) The Minister may appoint persons as inspectors of mobile construction equipment licences who shall have such duties as may be assigned to them by the Minister.

(2) The assessor of a municipality is *ex officio* an inspector of mobile construction equipment licences under this Act.

(3) An inspector of mobile construction equipment licences may inspect mobile construction equipment for the purpose of ascertaining whether or not the equipment or any unit thereof is duly licensed.

**18.** The present section 15.

**19.** The present section 16 as amended in 1956.

**18.** (1) A person who is the owner or who has the control or management of mobile construction equipment shall permit an inspector to inspect and examine the equipment at any reasonable time during the day and shall furnish such information as the inspector requires.

(2) A person

(a) who fails to comply with the provisions of subsection (1), or

(b) who knowingly makes a false statement to an inspector,

is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for a term of not more than thirty days.

**19.** (1) A person

(a) who performs or attempts to perform construction work by the use of a unit of mobile construction equipment for which a licence is required and for which a licence has not been obtained, or

(b) who performs or attempts to perform construction work by the use of a unit of mobile construction equipment for which a licence is required and upon which a licence is not displayed,

is guilty of an offence and liable on summary conviction to a fine of not more than three hundred dollars and in default of payment to imprisonment for a term of not more than thirty days.

(2) Where a person is convicted of an offence under subsection (1), the convicting magistrate or justice, in addition to any penalty imposed in respect of such offence, may order the impounding of the unit concerned in the commission of the offence for a period of not more than sixty days.

(3) When a person is convicted for an offence under clause (a) of subsection (1), the Minister may, from whatever information he has available, calculate the annual licence fee for the unit of mobile construction equipment in respect of which the offence was committed and may collect the computed fee by action in any court of competent jurisdiction as a debt due to the Crown, notwithstanding the imposition of any penalty imposed by the convicting magistrate or justice.

(4) A certificate purporting to be under the hand of the Minister, or his deputy, or such other person as the Minister may authorize to sign such certificates, and to the effect that the unit of mobile construction equipment described in the certificate has or has not been licensed pursuant to this Act, is admissible as *prima facie* proof of such fact without any further proof being required as to the signature or official character of the person signing the certificate.

**20.** The present section 17.

**21.** The present section 18.

**22.** The present section 19.

**23.** Land in a metis improvement district and a forest reserve excluded from other municipalities.

**20.** A prosecution for an offence under this Act may be commenced at any time within two years of the commission of an alleged offence.

**21.** The Minister may refund in whole or in part any moneys received by way of a licence fee when

- (a) the mobile construction equipment for which the licence fee was collected or received was not used on construction work in any municipality during the licence year,
- (b) the licence fee or any part thereof was paid or received in error, or
- (c) the mobile construction equipment for which a licence fee was collected or paid was not required to be licensed under or pursuant to this Act.

**22.** (1) The expenses of the administration of this Act shall be paid out of such moneys as may be appropriated by the Legislative Assembly for the purposes of the Department of Municipal Affairs.

(2) Any surplus moneys from licence fees and permit fees remaining with the Minister after the annual apportionment to municipalities pursuant to sections 13 and 14 shall be paid into the General Revenue Fund of the Province.

**23.** For the purposes of this Act, land contained within a metis improvement district or a forest reserve shall be deemed not to be contained within any other municipality.

**24.** *The Mobile Construction Equipment Licensing Act*, being chapter 76 of the Statutes of Alberta, 1953, is hereby repealed.

**25.** This Act comes into force on the day upon which it is assented to and upon so coming into force shall be deemed to have been in force at all times on and after the first day of January, 1957.

No 93

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THIRD SESSION  
THIRTEENTH LEGISLATURE  
5 ELIZABETH II  
1957

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**BILL**

An Act to Provide for the Licensing  
of Certain Mobile Construction  
Equipment

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. HOOKE

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