

No. 76

5th Session, 13th Legislature, Alberta
7 Elizabeth II, 1959

BILL 76

A Bill to Provide for the Licensing of Certain
Mobile Equipment

HON. MR. HOOKE

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Edmonton, Alberta, 1959

Explanatory Note

General. This Bill will replace The Mobile Construction Equipment Licensing Act, 1957 and The Seismographic Recording and Drilling Equipment Licensing Act, 1957 which are similar in purpose and contain many identical provisions. This Bill combines the two Acts for better administration. Some changes are made as set out in the explanatory notes. The references in the explanatory notes to chapter 52 are to the similar provisions in The Mobile Construction Equipment Licensing Act, 1957 and the references to chapter 88 are to the similar provisions in The Seismographic Recording and Drilling Equipment Licensing Act, 1957.

2. (a) Chapter 52, section (2b); chapter 88, section 2(b).

(b) Chapter 52, section 2(c); chapter 88, section 2(c).

(c) Chapter 52, section 2(d); chapter 88, section 2(d).

(d) The definition of "mobile construction equipment" (c. 52, s. 2(e)) amended by removing its restriction to "machinery or equipment constructed or manufactured for use in construction" and the definition of "seismographic recording and drilling equipment" (c. 88, s. 2(i)) combined. The change will result in more types of equipment being subject to licensing.

BILL

No. 76 of 1959.

An Act to Provide for the Licensing of Certain Mobile Equipment

(Assented to _____, 1959)

HER 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 Equipment Licensing Act*".

2. In this Act,

- (a) "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;
- (b) "licence" means a licence issued pursuant to this Act;
- (c) "Minister" means the Minister of Municipal Affairs;
- (d) "mobile equipment"
 - (i) means machinery or equipment 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 land, and
 - (ii) includes equipment used for the purposes of seismographic exploration and, without restricting the generality of the foregoing, includes
 - (A) seismographic recording equipment and all appurtenances thereto,
 - (B) conductor cables and cable reels, geophones, amplifiers and cameras,
 - (C) explosive and detonating equipment,
 - (D) drilling units and all the component parts and appurtenances thereof, and
 - (E) water tanks and pumping equipment,but
 - (iii) does not include

(e) Chapter 52, s. 2(f); chapter 88, section 2(e).

(f) Chapter 52, section 2(g); chapter 88, section 2(f).

(g) Chapter 52, s. 2 (h); chapter 88, section 2(g).

3. Chapter 52, section 3.

4. Chapter 52, section 5.

5. Chapter 52, section 6; chapter 88, section 5.

6. Chapter 52, section 7 and chapter 88, section 6, revised to give the Lieutenant Governor in Council power to prescribe the procedure for establishing licence fees; the present provisions provide a fixed formula. The exemption guide by subsection (4) is revised.

- (A) vehicles licensed under *The Vehicles and Highway Traffic Act*, or *The Public Service Vehicles Act*, exclusive of mounted equipment on such vehicles, and
- (B) equipment, other than vehicle mounted equipment, used to drill a gas or oil well;
- (e) "municipality" means a town, village, municipal district, county, improvement district, special area, metis improvement district or forest reserve;
- (f) "owner" includes a person renting mobile equipment or having the exclusive use thereof under a rental agreement or otherwise;
- (g) "permit" means a permit issued pursuant to this Act.

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

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

4. (1) No licence is required for any mobile 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 equipment that is owned, used or operated by any person or class of persons.

(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.

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

(2) The application shall state in respect of the unit of mobile equipment for which the application is made, the name, description and serial number, if any, of the unit.

6. (1) Upon the recommendation of the Minister, the Lieutenant Governor in Council may prescribe methods and standards of establishing an annual licence fee and shall establish such fee for each and every unit of mobile equipment.

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

7. Chapter 52, section 8; chapter 88, section 7.

8. Chapter 52, section 9; chapter 88, section 8.

9. Chapter 52, section 10; chapter 88, section 9.

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

(4) Notwithstanding any other provision of this Act a licence is not required for any unit of mobile equipment that has a retail market value of less than two thousand dollars.

7. (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,
- (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 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 established pursuant to section 6.

(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.

8. Where an application for a licence is made after the thirtieth day of September in any year for a unit of mobile equipment not previously used on 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.

9. (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.

10. Chapter 52, section 11; chapter 88, section 10.

11. Chapter 52, section 12; chapter 88, section 11.

12. Chapter 52, section 13; chapter 88, section 12.

(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.

10. (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) 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.

11. (1) The owner of mobile 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 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 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 more than five hundred dollars.

12. 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 11, and according to the returns and in respect of each unit of mobile equipment, shall

(a) determine the total number of days the unit was in all municipalities,

13. Chapter 52, section 14; chapter 88, section 13.

14. Chapter 52, section 15; chapter 88, section 22.

15. Chapter 52, section 16; chapter 88, section 14.

16. Chapter 52, section 17; chapter 88, section 15.

- (b) divide ninety-five per cent of the amount of the licence fee received by him pursuant to section 6 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) 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.

13. (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 7, such fee shall be deemed part of a licence fee.

14. The Lieutenant Governor in Council may make regulations prescribing the procedure to be followed in carrying out any of the provisions of this Act.

15. A person

- (a) who gives false information in his application for a licence or permit 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.

16. (1) The Minister may appoint persons as inspectors of mobile 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 equipment licences under this Act.

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

17. Chapter 52, section 18; chapter 88, section 16.

18. Chapter 52, section 19; chapter 88, section 17. Subsection (2) is new.

17. (1) A person who is the owner or who has the control or management of mobile 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.

18. (1) a person

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

(b) who performs or attempts to perform work by the use of a unit of mobile 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 for the non-payment of a licence fee payable under this Act, the convicting justice or magistrate may adjudge payment thereof in addition to the penalty.

(3) 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.

(4) When a person is convicted for an offence under clause (a) of subsection (1), the Minister may, from whatever information he has available, establish the annual licence fee for the unit of mobile equipment in respect of which the offence was committed and may collect the established 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.

(5) 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 mobile equipment described in the certificate has or has not been licensed pursuant to this Act, is admissible in evidence 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.

19. Chapter 52, section 20; chapter 88, section 18.

20. (1) Chapter 52, section 21; chapter 88, section 21.

(2) New.

21. Chapter 52, section 22; chapter 88, section 20.

22. Chapter 52, section 23; chapter 88, section 21.

23. Repealing section.

24. Coming into force.

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

20. (1) The Minister may refund in whole or in part any moneys received by way of a licence fee when

- (a) the mobile equipment for which the licence fee was collected or received was not used 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 equipment for which a licence fee was collected or paid was not required to be licensed under or pursuant to this Act.

(2) The Minister, in his discretion, may by order provide for the remission of a portion of a licence fee paid or to be paid by any person where for any reason the Minister deems it inequitable that the full amount of the fee be paid.

21. (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 purpose.

(2) Any surplus moneys from licence fees and permit fees remaining with the Minister after the annual apportionment to municipalities pursuant to sections 12 and 13 shall be paid into the General Revenue Fund of the Province.

22. 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.

23. (1) *The Mobile Construction Equipment Licensing Act, 1957*, being chapter 52 of the Statutes of Alberta, 1957, is repealed.

(2) *The Seismographic Recording and Drilling Equipment Licensing Act, 1957*, being chapter 88 of the Statutes of Alberta, 1957, is repealed.

24. This Act comes into force on the first day of January, 1960.

No. 76

FIFTH SESSION

THIRTEENTH LEGISLATURE

7 ELIZABETH II

1959

BILL

An Act to Provide for the Licensing
of Certain Mobile Equipment

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE
