

No. 95

1st Session, 15th Legislature, Alberta
12 Elizabeth II

BILL 95

A Bill to amend The Liquor Control Act, 1958

HON. MR. COLBORNE

Explanatory Note

1. This Bill amends The Liquor Control Act, 1958, which is chapter 37 of the Statutes of Alberta, 1958.

2. Various definitions are amended.

- (a) The definition of "liquor" is amended by removing the word "liquor" from the description defining it and by substituting the word "liquid".
- (b) Under the present definition of "residence" a trailer used as a summer or vacation dwelling is a residence but one used as a year-round dwelling is not. The revised definition will remove this anomaly.

BILL

No. 95 of 1964

An Act to amend The Liquor Control Act, 1958

(Assented to _____, 1964)

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

1. *The Liquor Control Act, 1958* is hereby amended.
 2. Section 2, subsection (1) is amended
 - (a) by striking out clause 13 and by substituting the following:
 13. "liquor" includes
 - (i) any alcoholic, spirituous, vinous, fermented, malt or other intoxicating liquid or combination of liquids,
 - (ii) any mixed liquid, a part of which is spirituous, vinous, fermented or otherwise intoxicating,
 - (iii) all drinks or drinkable liquids and all preparations or mixtures that are capable of human consumption and intoxicating, and
 - (iv) beer and wine;
 - (b) by striking out clause 22 and by substituting the following:
 22. "residence" means
 - (i) a building or part of a building or a trailer, tent or vessel that is *bona fide* and actually occupied and used by the owner, lessee or tenant solely
 - (A) as a private dwelling, or
 - (B) as a private guest room in a hotel, motel, auto court, lodging house, boarding house, or in a club, or
 - (C) as a private summer dwelling or as a private dwelling or living place used during vacation periods or as a private hunting or shooting lodge,
 - and
 - (ii) a building or part of a building that is for the time being designated by the Board in writing as a residence,
- together with the lands appurtenant thereto, if any, that are essential or appropriate for the convenient use, occupation and enjoyment thereof as a private dwelling;

(c) Clause 25 presently reads:

"25. "vendor" means an official appointed under section 14 to conduct the sale of liquor at a liquor store;"

(d) The Act is being amended to provide for the issue of winery licences and appropriate definitions are added.

3. Section 37, subsection (2) presently reads:

"(2) Before a vendor makes delivery of any liquor sold pursuant to this section, he shall receive a dated order in writing signed by the purchaser setting out the number of his permit, if any, and describing the kind and quantity of the liquor ordered and receive the purchase price in cash."

The amendment will allow the Lieutenant Governor in Council to determine the manner in which the order for liquor is to be given.

4. Section 42 presently reads:

"42. A person who is not prohibited by law from having or consuming liquor may have and consume in a residence or in a roomette, duplex roomette, compartment, bedroom or drawing room occupied by him in a train, but not in a public place except when authorized under a permit,

- (a) any liquor that has lawfully been acquired by him under this Act from the Board,
- (b) any beer that has lawfully been acquired by him under The Liquor Licensing Act from a beer vendor licensee under that Act,
- (c) liquor not in excess of one bottle or beer not in excess of twelve pints purchased outside Canada by him or by the person from whom he received it is a bona fide gift, if the receptacle or container in which the liquor is contained has while containing that liquor been stamped or marked by a Canadian customs officer, or
- (d) liquor not in excess of one bottle or beer not in excess of twelve pints purchased outside Alberta from a liquor board, commission or similar body in any province or territory of Canada other than Alberta, by such person or by a person from whom he received it as a bona fide gift."

5. Section 69 is revised to provide for winery licences. Section 69 presently reads:

"69. (1) No person shall operate a distillery within the Province unless he is licensed to do so by the Board.

- (c) as to clause 25 by adding at the end thereof the words "and includes a liquor store manager",
- (d) by adding the following clause after clause 27:
28. "winery licence" means a licence issued under subsection (3) of section 69, and "winery licensee" means the person named in any such subsisting licence.

3. Section 37 is amended by striking out subsection (2) and by substituting the following:

(2) A vendor shall not make delivery of any liquor sold pursuant to this section until he

- (a) receives the purchase price of the liquor in cash, and
- (b) receives, unless otherwise prescribed, a dated order in writing signed by the purchaser setting out the number of his permit, if any, and describing the kind and quantity of liquor ordered.

4. Section 42 is amended

- (a) by renumbering the section as subsection (1),
- (b) as to the renumbered subsection (1)
 - (i) by striking out clause (c) and by substituting the following:
 - (c) liquor of a kind and up to a quantity that he or the person from whom he received it as a *bona fide* gift is permitted, under any Act of Canada, to import into Canada without payment of duty or tax thereon, if the receptacle or container in which the liquor is contained has while containing that liquor been stamped or marked by a Canadian customs officer,
 - (ii) by adding the word "and" at the end of clause (d) and by adding the following clause after clause (d):
 - (e) liquor in respect of which a special permit has been issued under subsection (2).
- (c) by adding the following subsection after the renumbered subsection (1):
 - (2) Notwithstanding clauses (c) and (d) of subsection (1), the Board may, in addition to the quantities mentioned therein, by special permit in the form prescribed, authorize the importation of such additional quantities of liquor as may be considered reasonable and desirable and assess additional charges it sees fit and proper with respect to such additional importations.

5. Section 69 is struck out and the following is substituted:

69. (1) No person shall operate a distillery or winery within the Province unless he is licensed to do so by the Board.

(2) On application being made therefor in the prescribed form and on payment of the prescribed fee and on compliance with this Act and the regulations, the Board may issue in accordance with this Act and the regulations, a distiller's licence to a person who is licensed as a distiller by the Government of Canada.

(3) A distiller's licence authorizes the licensee to manufacture liquor within the Province, to sell liquor to the Board and to sell liquor to such persons as the Board may authorize by permit in writing."

Related amendments are made to sections 70 to 72 by the following clauses to this Bill.

6. Section 70 presently reads:

"70. No distiller licensee shall, within the Province, produce or sell any liquor except in compliance with the regulations and standards prescribed by the Board."

7. Section 71 presently reads:

"71. (1) Upon the application of a distiller licensee, the Board may, subject to such conditions and restrictions as the Board deems advisable to prescribe, grant a permit in writing to the distiller licensee authorizing him to import wines and spirits.

(2) The wines and spirits shall be purchased only from such persons as are authorized to sell the same, and shall be used for the sole purpose of blending with and flavouring the liquor manufactured by the distiller licensee to whom the permit is granted."

8. Section 72 presently reads:

"72. The Board may require a distiller to make returns, to permit examination of his books, to permit examination of his distillery and all lands, buildings and other premises used in connection therewith, and to furnish samples, in the same manner and to the same extent as provided in the case of a brewer."

9. Section 72a presently reads:

"72a. (1) No person shall directly or indirectly hold himself out or act as an agent, representative or salesman of a brewer, distiller or wine maker unless he is registered with the Board as a representative of such brewer, distiller or wine maker.

(2) The Board may make such regulations as it deems necessary to control and regulate the business activities of registered representatives and may prescribe the numbers of such representatives to be registered with the Board.

(3) Clauses (a) to (c) of subsection (1) of section 90 do not apply in respect of the prescribed business activities of registered representatives."

(2) On application being made for a distiller's licence in the prescribed form and on payment of the prescribed fee and on compliance with this Act and the regulations, the Board may issue in accordance with this Act and the regulations, a distiller's licence to a person who is licensed as a distiller by the Government of Canada.

(3) On application being made for a winery licence in the prescribed form and on payment of the prescribed fee, and on compliance with this Act and the regulations, and conforming to the laws of Canada where applicable, the Board may, in accordance with this Act and the regulations, issue a winery licence to a person making the application.

(4) A distiller's licence authorizes the licensee to manufacture liquor within the Province, to sell liquor to the Board and, subject to the laws of Canada, to export liquor from the Province.

(5) A winery licence authorizes the licensee to manufacture wine within the Province, to sell wine to the Board and, subject to the laws of Canada, to export wine from the Province.

6. Section 70 is amended by adding after the words "distiller licensee" the words "or winery licensee".

7. Section 71 is amended by adding after the words "distiller licensee" wherever they occur the words "or winery licensee".

8. Section 72 is struck out and the following is substituted:

72. The Board may require a distiller or a wine maker to make returns, to permit examination of his books, to permit examination of his distillery or winery and all lands, buildings and other premises used in connection therewith, and to furnish samples, in the same manner and to the same extent as provided in the case of a brewer.

9. Section 72*a* is struck out and the following is substituted:

72*a*. (1) No person shall directly or indirectly hold himself out or act as an agent or representative of a brewer, distiller or wine maker unless he is registered with the Board as a representative of that brewer, distiller or wine maker.

(2) The Board in its discretion may determine the numbers of representatives to be registered with the Board, and in what manner and to what extent clauses (a) to (c) of subsection (1) of section 90 apply to them in order to control and regulate the business activities of the registered representatives.

10. The Act and the regulations require all liquor to be sealed by a seal or other means with certain exceptions as set out in section 78 (1). The amendment will add another class of exceptions—see clause 4 of this Bill which sets out section 42.

11. Section 80 presently reads:

“80. No brewer, distiller or manufacturer of liquor shall by himself, his clerk, servant or agent, give to any person any liquor, except as may be permitted by and in accordance with this Act and with the regulations.”.

12. Section 83 presently reads:

‘83. (1) No person shall knowingly sell or supply liquor to a person under the age of twenty-one years.

(2) No liquor shall be sold or supplied to a person who is apparently under the age of twenty-one years unless that person is in fact twenty-one years of age or over.

(3) This section does not apply to the supplying of liquor to a person under the age of twenty-one years for beverage or medicinal purposes by the parent, guardian or spouse of such person, or to the administering of liquor to such person by a physician or dentist for medicinal purposes or as provided by this Act or the regulations.”.

13. A prohibition against causing a disturbance in licensed premises is added. A contravention of this new section would be an offence under section 93, punishable by fine or in the case of a third offence by imprisonment.

14. Section 97, subsection (2) presently reads:

“(2) A distiller who omits, neglects or refuses to comply with a requirement of the Board under section 72 is guilty of an offence and liable on summary conviction to a fine of not more than one thousand dollars.”.

and see clause 8 of this Bill.

15. Section 101 provides for an order of interdiction on voluntary application. Subsection (2) presently reads:

“(2) An order made under this section has the same force and effect as an order made under section 100 except that it may not be revoked within one year from the making thereof, and no appeal lies in respect thereof under section 107.”.

The amendment will enable the order to be revoked under section 106 at any time if the magistrate thinks it just.

16. Section 113 provides for the seizure of liquor that appears to have been had or kept contrary to The Liquor Control Act or The Liquor Licensing Act. Subsections (3), (4) and (5) presently read:

“(3) If within thirty days from the date of its seizure no person, by notice in writing filed with the Board, claims to be the owner of the liquor, the liquor and all packages containing it are forfeited to the Crown in right of the Province and shall forthwith be delivered to the Board.

(4) Within thirty days of the seizure of the liquor, but not after, any person claiming to be the owner of the liquor may file with the Board a notice in writing giving at least three days' notice of the time and place fixed by a justice for a hearing to prove his claim and his right under this Act to the possession of the liquor and packages.

(5) On failure by the claimant to prove and establish his claim and right to the satisfaction of the justice, the liquor and packages are forfeited to the Crown in right of the Province.”.

10. Section 78, subsection (1) is amended

- (a) by striking out the word “or” at the end of clause (b) and by adding the word “or” at the end of clause (c),
- (b) by adding the following clause after clause (c):
 - (d) liquor had or kept under clause (c), (d) or (e) of subsection (1) of section 42,

11. Section 80 is amended by adding after the word “brewer,” the words “wine maker,”.

12. Section 83, subsection (3) is amended by adding after the words “twenty-one years” the words “in his own home or in a residence”.

13. The following section is added after section 88:

88a. No person shall cause a disturbance in a licensed premises

- (a) by fighting, shouting, swearing or using insulting or obscene language, or
- (b) by impeding or molesting other persons.

14. Section 97, subsection (2) is amended by adding after the word “distiller” the words “or wine maker”.

15. Section 101, subsection (2) is amended by striking out the words “it may not be revoked within one year from the making thereof, and”.

16. Section 113 is amended

- (a) as to subsection (3) by striking out the words “containing it are forfeited to the Crown in right of the Province and shall forthwith be delivered to the Board” and by substituting the words “shall be delivered to the Board to be dealt with in accordance with subsection (5)”,
- (b) as to subsection (5) by striking out the words “are forfeited to the Crown in right of the Province” and by substituting the words “shall be dealt with in the manner directed by the Board and the packages in which the liquor is kept shall become the property of the Board”.

17. Section 114 presently reads:

"114. (1) Where a justice makes an order for the forfeiture of liquor under any of the provisions of this Act and a claimant to liquor under section 113 fails to establish his claim and right thereto, the liquor in question and the packages in which the liquor is kept shall be destroyed in accordance with subsection (2).

(2) The liquor forfeited and the packages in which it is kept

(a) shall be destroyed in the presence of a justice by the Royal Canadian Mounted Police in such manner as may be directed from time to time by the Attorney General, and a report thereof signed by the justice forwarded to the Board if the liquor was seized by an officer or constable of the Royal Canadian Mounted Police, or

(b) if the liquor was seized by an officer or constable other than an officer or constable of the Royal Canadian Mounted Police, shall be delivered to either the Edmonton or Calgary warehouse or the nearest liquor store, and shall there be destroyed in the manner prescribed and a report of the destruction forwarded to the Board."

18. Section 115 presently reads:

"115. Where liquor is seized by a constable, he shall forthwith make or cause to be made to the Board a report in writing of the particulars of the seizure."

19. Section 126, subsection (1) presently reads:

126. (1) The burden of proving the right to have or keep or sell or give or purchase or consume liquor is on the person accused of improperly or unlawfully having or keeping or selling or giving or purchasing or consuming the liquor."

A reference to carrying or conveying is added to reverse the onus of proof in prosecutions under section 94 (10) which was added to the Act in 1960.

20. Commencement of Act.

17. Section 114 is struck out and the following is substituted:

114. (1) Where a justice makes an order for the forfeiture of liquor under any of the provisions of this Act and a claimant to liquor under section 113 fails to establish his claim and right thereto, the liquor in question shall be destroyed in the manner directed by the Board and the packages in which the liquor is kept shall become the property of the Board.

(2) The liquor forfeited and the packages in which it is kept

(a) shall be destroyed in the presence of a justice by the Royal Canadian Mounted Police in such manner as may be directed from time to time by the Attorney General, and a report thereof signed by the justice forwarded to the Board if the liquor was seized by an officer or constable of the Royal Canadian Mounted Police, or

(b) if the liquor was seized by an officer or constable other than an officer or constable of the Royal Canadian Mounted Police, the liquor in question shall be destroyed in the manner directed by the Board and the packages in which the liquor is kept shall become the property of the Board.

18. Section 115 is struck out and the following is substituted:

115. Where liquor is seized by a constable, a report in writing of the particulars of the seizure shall be made if required in the manner directed by the Board.

19. Section 126 is amended by striking out subsection (1) and by substituting the following:

126. (1) The burden of proving the right to have or keep or sell or give or purchase or consume or carry or convey liquor is on the person accused of improperly or unlawfully having or keeping or selling or giving or purchasing or consuming or carrying or conveying the liquor.

20. This Act comes into force on the day upon which it is assented to.

FIRST SESSION
FIFTEENTH LEGISLATURE
12 ELIZABETH II
1964

BILL

An Act to amend The Liquor Control
Act, 1958

Received and read the

First time

Second time

Third time

HON. MR. COLBORNE
