

No. 111

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2nd Session, 15th Legislature, Alberta  
13 Elizabeth II

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## **BILL 111**

A Bill to amend The Public Utilities Board Act

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HON. MR. MANNING

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## Explanatory Note

**1.** This Bill amends chapter 35 of the Statutes of Alberta, 1960.

**2.** Section 48 presently reads:

48. (1) A document purporting to be signed by the chairman and secretary of the Board or by a single member of the Board, or by any officer of the Board, is, without proof of the signature, prima facie proof that the document was duly signed, and is sufficient notice to a company and all parties interested, if served in the manner hereinbefore provided for service of notice, that the document was duly signed and issued by the Board or an officer of the Board, as the case may be.

(2) If the document purports to be a copy of any regulation, rule, order, direction, decision or report made or given by the Board, or any of its officers, it is prima facie proof of the regulation, rule, order, direction, decision or report, and when served in the manner hereinbefore provided is sufficient notice of the regulation, rule, order, direction, decision or report from the time of service.

The amendment will make it clear that the admission of Board documents as prima facie proof is to be mandatory, rather than in the discretion of the court. Similar changes are being made in section 49.

**3.** Section 49 presently reads:

49. (1) A document purporting to be certified by the secretary as being a copy of a document deposited with the Board, or any portion thereof, is, without proof of the signature of the secretary, prima facie proof of the original document, and that it is so deposited, signed, certified, attested or executed by the persons by whom and in the manner in which it purports to be signed, certified, attested or executed, as shown or appearing from the certified copy, and also, if the certificate states the time when the original was deposited, that it was deposited at the time so stated.

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Board, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, is prima facie proof of the regulation, order or document without proof of the signature of the secretary.

See note to clause 2.

**4.** The new section 49a is designed to allay doubts as to the necessity of serving a copy of the Board's regulations if they are filed under The Regulations Act and also as to the admission in evidence of a copy printed by the Queen's Printer.

# BILL

No. 111 of 1965

An Act to amend The Public Utilities Board Act

(Assented to \_\_\_\_\_, 1965)

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

1. *The Public Utilities Board Act* is hereby amended.
2. Section 48 is amended
  - (a) as to subsection (1) by striking out the words "is, without proof of the signature," and by substituting the words "shall, without proof of the signature, be admitted in evidence as",
  - (b) as to subsection (2) by striking out the words "it is" and by substituting the words "it shall be admitted in evidence as".
3. Section 49 is amended
  - (a) as to subsection (1) by striking out the words "is, without proof of the signature of the secretary," and by substituting the words "shall, without proof of the signature of the secretary, be admitted in evidence as",
  - (b) as to subsection (2) by striking out the words "is *prima facie* proof" and by substituting the words "shall be admitted in evidence as *prima facie* proof".
4. The following section is added after section 49:

**49a.** Nothing in section 48 or 49 shall be construed to require service of any regulation or order of the Board that is filed under *The Regulations Act* and a copy of a regulation or order of the Board so filed

- (a) purporting to be printed by the Queen's Printer, or
- (b) contained in a copy of the *Gazette*,

and indicating that it is filed under *The Regulations Act*, shall be admitted in evidence as *prima facie* proof of the contents of the regulation or order and that it is filed under *The Regulations Act* on the date indicated.

**5. Section 103 presently reads:**

103. (1) The Board has jurisdiction upon its own initiative or upon complaint in writing to inquire into any matter relating to the production, supply, distribution or sale of milk.

(2) Where, in the opinion of the Board, the milk supply in any part of the Province is likely to be interrupted or impaired in quality to an extent affecting the public health or convenience or that the distribution, sale or disposal is subject to discriminatory, unfair or unwarranted competition, the Board may make such regulations and orders as it deems necessary in the public interest.

(3) Without limiting the generality of its powers under subsection (2), the Board may

- (a) prescribe the areas, whether bounded municipally or otherwise, in which any such regulations or orders are to have effect,
- (b) supervise the production, furnishing, delivery, keeping for sale and the sale of milk, within the areas prescribed, including the licensing, if deemed expedient, of any of the respective classes or persons referred to in the regulations or orders, and the fixing and collection of a reasonable fee therefor.
- (c) prohibit any person or any class or classes of persons who may be designated by the Board from engaging in the production, distribution, selling or keeping for sale of milk and milk products or such of them as may be designated by the Board, unless authorized to do so by the Board, and suspend or cancel any authorization previously given,
- (d) prescribe the terms and conditions upon which milk may be produced, received, handled, stored, delivered, kept for sale or sold in any such area,
- (e) classify milk producers and distributors or other persons keeping milk for sale or selling milk,
- (f) approve or establish from time to time schedules of minimum rates at which milk is to be supplied by the respective classes, having regard primarily to the interests of the public and to the continuity and quality of supply,
- (g) establish schedules of prices at which a distributor carrying on business in a prescribed area shall, outside that area, furnish, deliver, sell or keep for sale any fluid milk, and
- (h) establish schedules of minimum prices at which milk may be purchased by a distributor in a prescribed area from any milk producer whether located within or without the prescribed area.

The present section 104 is virtually identical to section 103 but relates only to cream.

5. Sections 103 and 104 are struck out and the following sections are substituted:

**103.** (1) The Board may make such regulations and orders as it deems necessary in the public interest governing and controlling the production, processing, supplying, distribution or sale within the Province of milk or cream or both.

(2) Without limiting the generality of subsection (1) the regulations of the Board may

- (a) define milk and cream,
- (b) prescribe the areas, hereinafter referred to as "controlled areas", in which the regulations or any provisions thereof are to apply,
- (c) designate classes of persons engaged in producing, processing, supplying, distributing or selling milk or cream,
- (d) require the licensing by the Board of persons in all or any of the classes designated pursuant to clause (c) and prohibiting any person from producing, processing, supplying, distributing or selling milk or cream unless he is the holder of the appropriate licence from the Board,
- (e) prescribe fees to be paid to the Board for the issue of licences,
- (f) prescribe the information and documents that the Board may require in connection with applications for licences,
- (g) prescribe the conditions under which the Board may suspend or revoke a licence,
- (h) prescribe the books, records and accounts to be kept by licensees or any class of licensees,
- (i) require annual reports to be made by any class of licensees and prescribe the information to be contained in the reports and the manner in which the reports or any part thereof are to be certified,
- (j) prescribe the minimum prices for milk or cream that are to be paid to producers and that are to be charged by processors, suppliers, distributors and sellers of milk or cream,
- (k) prescribe the minimum prices that a distributor carrying on business in a controlled area is to charge when furnishing, delivering, keeping for sale or selling milk or cream outside a controlled area,
- (l) provide for the regulation of the supply of milk or cream by producers to a processor or processors and for that purpose, provide for a system of quotas for producers supplying milk to the same processor,
- (m) provide for the appointment of committees in con-

**6.** 105a. Powers of Board to require financial and other information.

105b. Powers of Board's inspectors.

nection with the administration of the system of quotas referred to in clause (l) and prescribe their powers and duties,

- (n) regulate the manner and time of payments to producers by processors or others and require the making of statements accompanying payments to producers and prescribe the information to be contained in the statements,
- (o) prescribe the terms and conditions upon which milk or cream may be produced, processed, received, handled, stored, delivered, kept for sale or sold,
- (p) prohibit any act or practice in connection with the production, processing, supply, distribution or sale of milk or cream, and
- (q) fix the amounts of the assessments under section 112 and provide for any matter in connection with or incidental to assessments and levies under that section.

(3) Regulations under this section may, with respect to any subject matter, relate to both milk and cream or to either milk or cream.

**104.** The Board has jurisdiction, upon its own initiative or upon complaint in writing, to inquire into any matter relating to the production, processing, supply, distribution or sale within the Province of milk or cream.

**6.** The following sections are added after section 105:

**105a.** The Board may from time to time require a person licensed pursuant to the regulations under this Division to submit to the Board at or within such time as it may direct a report on his operations or any part thereof, in such form and containing such information and verified in such manner as the Board may require.

**105b.** An inspector or officer of the Board may, for the purposes of this Division or the regulations,

- (a) enter and inspect any place, building, plant or property other than a dwelling house,
- (b) stop and search any vehicle and inspect any package or container if, in his opinion, the vehicle is being used for the purpose of distributing milk or cream,
- (c) require the production of any books, records or accounts that are required by the regulations to be kept by a licensee, and
- (d) take such quantities of any lot of milk as may reasonably be required for the purpose of analysis.

**7.** The amendment is necessitated by the re-enactment of sections 103 and 104 by clause 5 of this Bill

**8.** Corrects a reference.

**9.** The new section 109 is a revision of subsections (1), (2) and (3) of the present section 109, which set out three separate offence provisions. There will now be one general offence provision but with the minimum fine for a first offence raised from \$25 to \$50 and for a second or subsequent offence raised from \$50 to \$100.

109a. Subsection (1) of the new section 109a is the present section 109(4) revised. Subsection (2) of the new section 109a is new.

109b. Certificate of analyst is to be admitted as prima facie proof of facts stated in it.



7. Section 106, subsection (1) is amended by striking out the words "under section 103 or 104," and by substituting the words "under the regulations made pursuant to this Division,".

8. Section 107 is amended by striking out the words "any order of the Board," and by substituting the words "the regulations made under this Division,".

9. Section 109 is struck out and the following sections are substituted:

**109.** A person who contravenes any provision of any order or regulation made by the Board pursuant to this Division is guilty of an offence and liable upon summary conviction

- (a) for a first offence to a fine of not less than fifty dollars nor more than two hundred and fifty dollars and in default of payment to imprisonment for a term of not more than three months, and
- (b) for a second or subsequent offence to a fine of not less than one hundred dollars nor more than five hundred dollars or in default of payment to imprisonment for a term of not more than six months,

and in any case, either in lieu of or in addition to a fine, to imprisonment for a term of not more than six months.

**109a.** (1) In a prosecution for an offence under this Division,

- (a) the description of a commodity purporting to be milk or cream on a container or on the cap on a container shall be admitted in evidence as *prima facie* proof of the contents of the container and of the grade or class of milk or cream, and
- (b) an invoice purporting to record the sale of milk or cream shall be admitted in evidence as *prima facie* proof of the sale of the grade or class of milk or cream set out in the invoice at the price and in the quantity specified therein.

(2) In a prosecution for an offence under this Division, if it is shown

- (a) that any container admitted in evidence indicates on the container itself or on the container's cap the measure of its capacity or of its contents, and
- (b) that the container is or was filled or approximately filled at the time or times material to the offence,

it shall be presumed that the measure of the contents of the container is the same as the measure of its capacity or contents so indicated on the container or cap.

**10. Section 112, subsection (1) presently reads:**

112. (1) The costs incurred or to be incurred in enforcing any orders or regulations made by the Board pursuant to section 103 or 104, or in the administration of both or either of these sections in any area prescribed as an area in which any of such orders or regulations are to have effect, shall be borne and paid as to twenty-five per cent thereof by the Crown and as to seventy-five per cent thereof by persons who are licensed by the Board as milk or cream producers in such areas and by persons licensed as milk or cream distributors who market, distribute, process, keep for sale or sell in such areas milk and cream or either of them in liquid form.

The section is recast for clarification and to tie its language in with the new sections 103 and 104.

**11. Section 115 presently reads:**

115. Every order made by the Board under this Part shall be served in the manner set out in section 44 upon the person affected thereby or his duly authorized agent or solicitor, within ten days from the time the order is signed, or within such longer time as the Board may direct.

Regulations filed under The Regulations Act are published in the Gazette and as public notice is thus given, it is considered that there is no necessity to also serve them on persons who might be affected by them.

**12. Commencement of Act.**

**109b.** (1) In a prosecution for an offence under this Division, the certificate or report signed or purporting to be signed by an analyst relating to the analysis or ingredients of any commodity submitted to him shall be admitted in evidence as *prima facie* proof of the facts stated therein and of the authority of the person making it, without proof of his appointment or signature.

(2) The expenses of the analysis shall be part of the costs of the proceedings.

(3) In this section, "analyst" means an analyst appointed under *The Dairymen's Act* or the *Food and Drugs Act* (Canada).

**10.** Section 112, subsection (1) is amended by striking out the words "any orders or regulations made by the Board pursuant to section 103 or 104, or in the administration of both or either of these sections in any area prescribed as an area in which any of such orders or regulations are to have effect," and by substituting the words "the regulations under this Division and the administration of them with respect to controlled areas,".

**11.** Section 115 is amended by renumbering the section as subsection (1) and by adding the following subsection:

(2) This section does not apply to any order of the Board that is a regulation within the meaning of *The Regulations Act* or to an order of the Board prescribing regulations.

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

No. 111

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SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

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**BILL**

An Act to amend The Public  
Utilities Board Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. MANNING

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