

No. 54

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3rd Session, 15th Legislature, Alberta  
14 Elizabeth II

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## **BILL 54**

A Bill respecting the Sale of Milk and Cream

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HON. MR. HOOKE

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## **Explanatory Note**

**1.** This Bill will repeal and replace Division 5 of Part II of The Public Utilities Board Act entitled "Milk and Cream". There are no substantial changes in the legislation, the object of the Bill being solely to put the present legislation in the form of a separate Act. References to sections in the explanatory notes are references to the provisions of The Public Utilities Board Act from which they are derived.

**2.** "Board" defined.

**3.** Regulations and orders re milk and cream. Sections 103 and 106 (2).

# BILL

No. 54 of 1966

An Act respecting the Sale of Milk and Cream

(Assented to \_\_\_\_\_, 1966)

**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 Milk Control Act*".

**2.** In this Act "Board" means the Public Utilities Board constituted under *The Public Utilities Board Act*.

**3.** (1) The Board may make such regulations and orders as it deems necessary in the public interest governing and controlling the production, processing, supplying, transportation, 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,

**4.** Inquiry re milk and cream. Section 104.

**5.** Refusal, suspension or cancellation of a licence. Section 106  
(1).

- (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 connection 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, supplying, transportation, distribution or sale of milke or cream, and
- (q) fix the amounts of the assessments under section 14 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.

(4) In prescribing minimum prices for milk or cream, the Board is not bound by any rule of law or of public utility practice to see that any rate of return is provided on any plant, equipment or investment.

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

5. Where the regulations require the licensing of persons or class of persons, the Board may in its discretion refuse to license any person or suspend or cancel any licence issued by it.

**6.** Report of operations. Section 105a.

**7.** Powers of inspector. Section 105b.

**8.** This section gives the Board powers equivalent to those given it by section 117 in relation to public utilities.

**6.** The Board may from time to time require a person licensed pursuant to the regulations under this Act 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.

**7.** An inspector or officer of the Board may, for the purposes of this Act 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 transporting or 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.

**8. (1)** The Board may take such steps and employ such persons as are necessary for the enforcement of any order made by it, and for the purposes thereof may

- (a) forcibly or otherwise enter upon, seize and take possession of the whole or part of the movable and immovable property of a licensee, together with the books and offices thereof, and
- (b) until the order has been enforced, assume and take over the management of the undertaking for and in the interests of the shareholders and the public,

and all or any of the powers, duties, rights and functions of the directors and officers of the undertaking in all respects, including the employment and dismissal of officers and servants thereof, for such time as the Board continues to direct the management.

(2) Upon the Board taking possession of any undertaking, every officer and employee of the licensee shall obey the orders of the Board or of such person or persons as it places in authority in the management of any or all departments of the undertaking.

(3) The Board may, upon taking possession of an undertaking, determine, receive and pay out all moneys due to or owing by the licensee, and give cheques, acquittances and receipts for moneys to the same extent and as fully as the proper officers thereof could do if no such possession had been taken.

(4) The costs and expenses of and incidental to proceedings to be taken by the Board under this section are in the discretion of the Board, and the Board may direct by whom and to what extent they are to be paid.

**9.** Penalties for sale below minimum price. Section 107. The minimum fines in clauses (a) and (b) are \$25. and \$50. respectively in the present Act and now correspond with those in section 11.

**10.** Sale below minimum price. Section 108.

**11.** Penalties. Section 109.

**12.** Evidence. Section 109a.



**9.** A person who sells or otherwise disposes of any commodity, in respect of which a minimum price has been prescribed by the regulations made under this Act, at a price lower than the minimum price so prescribed 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 for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, 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 for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than six months.

**10.** Where a minimum price has been fixed in respect of a commodity and upon the sale thereof

- (a) any discount or rebate, either in money or in kind, is allowed, or
- (b) any plan, system or device is used whereby any advantage of any kind, whether in money, goods, services or otherwise, accrues to the purchaser either directly or indirectly, and whether as a term of the sale or collaterally or incidentally,

so that the price for the commodity is in effect reduced to less than the minimum price fixed in respect of it, the sale so made shall be deemed to be a sale at less than the minimum price.

**11.** A person who contravenes any provision of any order or regulation made by the Board pursuant to this Act 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.

**12.** (1) In a prosecution for an offence under this Act,

- (a) the description of a commodity purporting to be milk or cream on a container or on the cap on a

**13.** Analyst's report as evidence. Section 109b.

**14.** Costs of enforcement. Section 112.

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 Act, 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.

**13.** (1) In a prosecution for an offence under this Act, 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).

**14.** (1) The costs incurred or to be incurred in the enforcement of the regulations and the administration of them with respect to controlled areas, 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.

(2) For the purpose of defraying

- (a) the portion of the costs required to be paid pursuant to this section by persons engaged in the production, marketing, distribution, processing, keeping for sale or selling in controlled areas of milk and cream in liquid form and who are so licensed by the Board,

- (b) the cost of such other activities as the Board deems necessary or expedient for the proper conduct of the milk or cream trade in any controlled areas, and

**15.** Recovery of assessments. Section 113.

**16.** Surplus revenues. Section 114.

**17.** Application of Part I of The Public Utilities Board Act.

**18.** Continuation of regulations, orders and licences under The Public Utilities Board Act.

**19.** Consequential amendments to The Public Utilities Board Act.

- (c) without in any way limiting the generality of the foregoing, sums sufficient to cover the cost of general advertising for the milk or cream trade, cost surveys and special investigations,

the Board may, from time to time as occasion requires, raise sums sufficient therefor by means of assessment and levy upon the persons mentioned in clause (a) in such manner and in such amounts as may be fixed by the Board.

**15.** (1) Every person referred to in section 14 shall on demand pay to the Board on behalf of the Crown the amount of the sum or sums so assessed and levied, and the Board may recover any sum so assessed and levied by action brought by the Board in the name of the Crown as a debt due to the Crown.

(2) All sums collected under this section shall be paid to the Provincial Treasurer and kept by him in a special trust account subject to subsection (3) and section 16 and shall be used for the purposes mentioned in section 14.

(3) The Board may determine whether any expenditure made from the moneys in the special trust account is to be classified as an expense of enforcement or of administration referred to in section 14, or as an expense for purposes other than enforcement or administration.

**16.** Any moneys raised by the Board by assessment and levy under this Act and not required for the purpose of enforcement or administration as determined by the Board shall on the thirty-first day of March in each year be transferred by the Provincial Treasurer to a reserve trust account, and those moneys, together with accumulated reserves from year to year, may be used for any purpose that the Board considers necessary or expedient in any matter relating to the proper conduct of the milk or cream trade in any controlled areas.

**17.** All the provisions of Part I of *The Public Utilities Board Act* apply and have effect as if they formed part of this Act.

**18.** (1) All regulations and orders made pursuant to Division 5 of Part II of *The Public Utilities Board Act* remain in force until they are revoked or others made in their stead.

(2) All licences issued under the regulations made pursuant to Division 5 of Part II of *The Public Utilities Board Act* and in force on the commencement of this Act shall be deemed to be licences issued pursuant to this Act.

**19.** *The Public Utilities Board Act* is amended

**20. Commencement of Act.**

- (a) as to section 28, subsection (1) by striking out clause (i), and
- (b) by repealing Division 5 of Part II.

**20.** This Act comes into force on the first day of July, 1966.

No. 54

THIRD SESSION  
FIFTEENTH LEGISLATURE  
14 ELIZABETH II  
1966

**BILL**

An Act respecting the Sale of Milk  
and Cream

Received and read the

First time .....

Second time .....

Third time .....

HON. MR. HOOKE