

1969 Bill 74

Second Session, 16th Legislature, 18 Elizabeth II

THE LEGISLATIVE ASSEMBLY ~~OF~~ ALBERTA

BILL 74

**An Act to Control and Regulate the Use and
Handling of Agricultural Chemicals**

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

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An Act to Control and Regulate the Use and Handling of Agricultural Chemicals

(Assented to _____, 1969)

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 Agricultural Chemicals Act*.

2. In this Act,

- (a) “agricultural chemical” means any substance or mixture of substances intended, sold or represented for use as a fertilizer, pesticide, plant growth regulator or soil supplement, or any other substance or mixture of substances used to control plant or animal pests or to promote or control plant growth, except drugs and medicines intended for human or veterinary use;
- (b) “analyst” means an analyst appointed by the Minister;
- (c) “animal”
 - (i) means any animal other than man, and
 - (ii) includes mammals, birds, fish, amphibians, reptiles, invertebrates, insects and animals similar to insects, wild or domestic, living or dead;
- (d) “fertilizer” means any substance or mixture of substances containing nitrogen, phosphorus, potassium or other plant food, manufactured, sold or represented for use as a plant nutrient;
- (e) “inspector” means an inspector appointed by the Minister or by a municipality for the purposes of this Act and the regulations;
- (f) “Minister” means the Minister of Agriculture;
- (g) “municipality” means any city, town, new town, village, county, municipal district, improvement district or special area;

Explanatory Notes

1. General. This Act provides for a measure of control over the use and handling of agricultural chemicals with special emphasis on those agricultural chemicals which are defined as pesticides.

2. Definitions.

- (h) “open body of water” means a lake, slough, river, creek, brook or stream and includes any other water defined by the regulations as an open body of water;
- (i) “pesticide”
 - (i) means any substance or mixture of substances intended, sold or represented for use in preventing, destroying, repelling or mitigating any insect, nematode, rodent, predatory animal, bacteria, fungus, weed or other form of plant or animal life or virus, except a virus, bacteria or fungus in living man or animals, and
 - (ii) includes any substance intended for use as a pest control product under the *Pest Control Products Act* (Canada), plant growth regulator, defoliant or plant desiccant;
- (j) “sell” includes keep for sale, expose for sale, offer for sale and advertise;
- (k) “soil supplement”
 - (i) means any substance or mixture of substances other than a fertilizer, manufactured, sold or represented for use in promoting plant growth or the improvement of the chemical or physical condition of soils to aid growth or crop yields, and
 - (ii) includes manipulated manures, sewage sludges, composts or soil conditioners, but
 - (iii) does not include unmanipulated animal or vegetable manures, or potting soils or peat soils.

3. (1) No person shall sell or otherwise supply to any other person an agricultural chemical that does not meet the standards prescribed by the regulations in respect of

- (a) registration, where registration is required, or
- (b) packaging and labelling, or
- (c) efficacy in relation to the purpose for which it was manufactured or made.

(2) Where an agricultural chemical is

- (a) a fertilizer or supplement within the meaning of the *Fertilizers Act* (Canada), or
- (b) a (pest) control product within the meaning of the *Pest Control Products Act* (Canada),

the regulations may adopt any or all of the requirements and standards prescribed by either of those Acts and regulations thereunder, as the case may be, as the requirements and standards in respect of the sale, supplying, handling or use of that agricultural chemical under this Act.

3. General prohibition.

4. No person shall use an agricultural chemical

- (a) for any purpose other than that for which it is represented, sold or supplied, or
- (b) in a manner other than that prescribed
 - (i) by the regulations, or
 - (ii) in the absence of regulations, on the label on the package or other written recommendation of the manufacturer.

5. (1) Every person who keeps, stores or transports an agricultural chemical shall do so in a manner that

- (a) ensures that the agricultural chemical does not come into contact with or contaminate food or drink of humans, animals or plants, and
- (b) prevents the agricultural chemical from coming directly or indirectly into contact with human, animal or plant life in any other manner that may be injurious to such life.

(2) Every person who sells or otherwise supplies an agricultural chemical to any other person shall, if the label or package thereof is marked "poison" or with the symbol of the skull and crossbones, at that time bring to the attention of the purchaser or other person supplied, as the case may be, any precautions or warnings on the label of the package or container containing the agricultural chemical.

(3) Where an agricultural chemical is sold or otherwise supplied in bulk and is not contained in packages, any information or warning respecting its handling or use that would have been required to be stated on the label had the agricultural chemical been in packaged form, shall be supplied in writing at the time of delivery by the vendor or other supplier to the person to whom the agricultural chemical is delivered.

6. No person shall

- (a) operate a business or provide a service involving the use or application of a pesticide, or
- (b) for hire or reward apply or offer to apply a pesticide,

unless he is licensed to do so pursuant to the regulations under this Act or *The Public Health Act*.

7. No person shall apply a pesticide in any open body of water unless he holds a permit to do so pursuant to the regulations under this Act or *The Public Health Act*.

4. Manner and limits of use.

5. Storing and handling.

6. Persons using pesticides.

7. Permit to use pesticide in water.

8. (1) No person shall have in his possession or keep a pesticide in a container other than

- (a) the container in which the pesticide was originally stored for sale or offered for sale after the manufacture thereof, or
- (b) a container that is of a type customarily used or approved for that purpose by the manufacturer and that bears a label meeting any requirements prescribed by this Act or the regulations.

(2) This section does not apply to the storing or keeping of pesticides in holding tanks or spray tanks.

9. No person shall

- (a) dispose of any pesticide or mixture containing a pesticide, or
- (b) bury, decontaminate, burn or otherwise dispose of any container that has been used to hold a pesticide, except at a site or in a manner, as the case may be, that is
- (c) prescribed by the regulations, or
- (d) in the absence of regulations, recommended by the manufacturer of the pesticide.

10. No person shall

- (a) wash or submerge in any open body of water any apparatus, equipment or container used in the holding or application of a pesticide, or
- (b) cause water from any open body of water to be drawn into any apparatus or equipment used for mixing or applying a pesticide unless such apparatus or equipment is equipped with a device which prevents back flow.

11. (1) The Lieutenant Governor in Council shall appoint a committee consisting of not more than seven members to be known as the Agricultural Chemicals Advisory Committee.

(2) A majority of the members of the Committee constitute a quorum.

(3) The Lieutenant Governor in Council may

- (a) designate one member of the Committee as chairman and one member as secretary, and
- (b) authorize, fix and provide for the payment of remuneration and expenses to the members of the Committee.

8. Where pesticides may be stored.

9. Disposal of pesticide and containers.

10. Pesticide equipment.

11. Advisory Committee.

(4) The Committee shall

- (a) advise the Minister with respect to the content, administration and enforcement of this Act and the regulations, and
- (b) make a recommendation to the Minister with respect to any appeal referred to it by him.

12. (1) For the purpose of carrying out the provisions of this Act and the regulations the Minister may issue, renew, suspend, cancel or reinstate any licence or permit.

(2) The Minister may

- (a) suspend or cancel any permit or licence, or
- (b) refuse to issue or renew a licence or permit

where he is of the opinion that the holder thereof or applicant therefor, as the case may be, has contravened this Act or the regulations.

13. Where the Minister is of the opinion, based upon such evidence as he considers adequate, that any crop, food, feed, animal, plant, water, produce, product or other matter is contaminated by an agricultural chemical, the Minister may by order

- (a) prohibit or restrict the sale, handling, use or distribution of the crop, food, feed, animal, plant, water, produce, product, or other matter permanently or for such length of time as he considers necessary, or
- (b) cause the crop, food, feed, animal, plant, water, produce, product or other matter to be destroyed or rendered harmless,

and no person shall be entitled to compensation therefor.

14. (1) Every municipality

- (a) shall appoint a sufficient number of inspectors to carry out this Act and the regulations within the municipality, and
- (b) is responsible for the administration of this Act and the regulations within the municipality.

(2) Where in the opinion of the Minister a municipality is not properly enforcing this Act he may, after serving notice upon the municipality, cause one or more inspectors appointed by himself to carry out any provision of this Act within the municipality.

(3) Any expenses incurred by the Government pursuant to subsection (2)

- (a) shall be paid by the municipality to the Minister on demand, and

12. Minister's powers re licences and permits.

13. Where substance contaminated.

14. Municipal responsibility — inspectors.

- (b) are recoverable by the Minister by suit as if they were a debt due to the Crown.

15. Where an inspector is of the opinion, based upon such evidence as he considers adequate, that the use of or method of application of an agricultural chemical is or may be dangerous to the health of persons or any animal, or harmful to crops or other plant life, he may by order in writing suspend or terminate the use of or the method of application of the agricultural chemical.

16. (1) Where the Minister, acting under section 12 or 13, does or refuses to do an act, to the direct adverse interest of any person, the Minister shall in writing at the time notify that person, giving reasons therefor.

(2) Where an inspector suspends or terminates the use of or method of application of an agricultural chemical by a particular person under section 15, the inspector shall in writing at the time notify that person, giving reasons therefor.

17. (1) Any person aggrieved by

(a) an act or refusal to act by the Minister under section 12 or 13, or

(b) an act of an inspector under section 15,
may appeal as hereinafter provided.

(2) A person appealing under this section shall, within 60 days of the date of the written notice informing him of the act or refusal in respect of which he is aggrieved, serve in the prescribed form a notice of appeal upon the Minister and the chairman of the Agricultural Chemicals Advisory Committee.

(3) The Agricultural Chemicals Advisory Committee shall, upon receiving a notice of appeal, provide all interested parties with an opportunity of appearing before it at a hearing and presenting evidence in person or by counsel and making representations.

(4) After hearing the evidence and representations of all parties to the appeal the Agricultural Chemicals Advisory Committee shall make a recommendation in respect thereof to the Minister.

(5) The Minister, after considering the recommendation of the Agricultural Chemicals Advisory Committee, may confirm, alter or reverse the matter appealed from and his decision is final.

18. (1) For the purposes of carrying out the provisions of this Act and the regulations an inspector may

15. Inspector's power.

16. Notice of action.

17. Appeal.

18. Inspector's right to examine.

- (a) at any reasonable time enter upon and inspect any land, premises, vehicle, equipment, record, document or other property,
- (b) inspect and take samples of or extracts from anything referred to in clause (a) or of any soil, water, food, feed, crop, animal, agricultural chemical or other substance, and
- (c) subject anything referred to in clause (b) to laboratory analysis or other examination for the purpose of determining whether or not the article or substance in question is or has been contaminated by an agricultural chemical.

(2) In this section "premises" does not include a private dwelling house.

(3) The authority appointing an inspector shall furnish him with a certificate of his appointment or designation and the inspector shall, if required, produce the certificate to any person owning or in charge of anything affected by the inspector's activities under this Act or the regulations.

19. (1) Where it appears to a justice of the peace, on information laid before him on oath, that there are reasonable and probable grounds for believing that a private dwelling house within his territorial jurisdiction contains

- (a) any crop, food, feed, animal, plant, water, produce, product or other matter that is contaminated by an agricultural chemical, or
- (b) any record, document, vehicle, equipment or other thing that affords evidence of a contravention of this Act,

the justice may issue a warrant authorizing a peace officer, with or without an inspector, to enter the private dwelling house by force if necessary for the purpose of searching therefor.

(2) Before entering a private dwelling house pursuant to this section, a peace officer shall take reasonable steps to find the owner or person in charge thereof and shall endeavour to obtain the co-operation of that person.

(3) Where a peace officer uses force in entering or searching a private dwelling house he shall use no more force than is reasonably required under the circumstances.

(4) Where anything referred to in subsection (1) is found pursuant to the execution of a warrant issued under this section, it may be dealt with by an inspector in the same manner as a like item found at any other place may be dealt with under this Act.

20. (1) The owner or person in charge of any land, premises, thing or substance that an inspector is authorized to enter, inspect or take samples of or extracts from shall give an inspector all reasonable assistance to enable the inspector to carry out his duties and functions under this

19. Warrant.

20. Duty of owner or occupier.

Act and the regulations and shall furnish an inspector with such information relative thereto as the inspector may reasonably require.

(2) No person shall obstruct or hinder an inspector in the carrying out of his duties or functions under this Act or the regulations.

21. The Lieutenant Governor in Council may make regulations

- (a) prescribing the qualifications and conditions that must be met before a person may be licensed to apply a pesticide or eligible to receive a permit to apply an agricultural chemical in any open body of water,
- (b) requiring persons licensed or holding a permit to keep such records and to make such returns and in such manner as the regulations may prescribe,
- (c) prescribing the fees for the issue, renewal or reinstatement of licences or permits and the manner and form of making applications therefor,
- (d) prescribing the duration of any licence or permit, and requiring applicants for licences or renewals of licences to take medical examinations,
- (e) exempting any person or class of persons and any agricultural chemical or any part of the Province from the application of this Act or the regulations or any part thereof, and may, in doing so, state reasons therefor, which reasons may be expressed to have general or particular application,
- (f) requiring applicants for licences to apply pesticides to furnish a bond or carry insurance, of a type and in an amount that the regulations may specify, and providing that where a bond or policy of insurance expires or is cancelled the licence shall automatically be cancelled,
- (g) defining substances as agricultural chemicals for the purpose of this Act,
- (h) subdividing substances defined pursuant to clause (g) as pesticides, fertilizers, soil supplements or otherwise,
- (i) requiring that any agricultural chemical be registered in such manner and by such persons as the regulations may require, before being sold, supplied or used,
- (j) prescribing or restricting the manner in which an agricultural chemical may be stored, transported, packaged, labelled, handled or sold or otherwise distributed,
- (k) prohibiting or restricting the sale or supply in bulk of an agricultural chemical or of any substance treated by or mixed with an agricultural chemical,

21. Regulation making power.

- (l) prohibiting or restricting the use in general or in a particular way of an agricultural chemical,
- (m) prohibiting or restricting the use of any machine or other equipment in connection with the storage, use, application or transportation of an agricultural chemical,
- (n) prohibiting or restricting
 - (i) the storing or transportation of an agricultural chemical in any package or container other than that in which it was originally sold or distributed,
 - (ii) the disposal of or the manner in which an agricultural chemical or a package, container or other apparatus used in connection with an agricultural chemical may be disposed of, and
 - (iii) the washing in any open body of water of any equipment or apparatus used to hold an agricultural chemical or the drawing up of water from any open body of water into any such equipment or apparatus,
- (o) requiring that an agricultural chemical be labelled so as to clearly specify the manner of use recommended by the manufacturer, and clearly indicate the degree of effectiveness that it will have if so used,
- (p) defining the words "open body of water" for the purposes of this Act and the regulations,
- (q) prescribing forms and other matters, including matters of procedure, to be used in respect of appeals under this Act, and
- (r) respecting any other matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

22. Everyone who contravenes a provision of this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for 90 days without the option of a fine, or to both.

23. In any proceedings under this Act or the regulations, a certificate of analysis of any substance, purporting to be signed by an analyst appointed under this Act, shall be admitted in evidence as *prima facie* proof of the facts stated therein without proof of the signature or appointment of the person making the certificate.

24. This Act comes into force on a day to be fixed by proclamation.

22. Offence — penalty.

23. Certificate of analysis.