

1969 Bill 86

Second Session, 16th Legislature, ~~18~~ Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 86

**An Act to Provide for the Imposition of a Tax on
Purchasers and Users of Tobacco**

THE PROVINCIAL TREASURER

First Reading

Second Reading

Third Reading

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BILL 86

1969

An Act to Provide for the Imposition of a Tax on
Purchasers and Users of Tobacco

(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 Tobacco Tax Act*.
2. In this Act,
 - (a) "consumer" means any person who,
 - (i) in Alberta, purchases or receives delivery of tobacco, or
 - (ii) in the case of a person ordinarily resident in Alberta or carrying on business in Alberta, brings into Alberta tobacco acquired outside Alberta,
for his own use or consumption or for the use or consumption by others at his expense, or on behalf of, or as the agent for, a principal who desires to acquire the tobacco for use or consumption by him or other persons at his expense;
 - (b) "dealer" means any person who in Alberta sells tobacco or offers or keeps tobacco for sale, either at wholesale or at retail;
 - (c) "Minister" means the Provincial Treasurer;
 - (d) "package" includes a box, tin or other container in which tobacco is sold at retail;
 - (e) "peace officer" means a peace officer as defined in the *Criminal Code*;
 - (f) "retail dealer" means any person who sells tobacco to a consumer;
 - (g) "retail sale" means a sale to a consumer;
 - (h) "tobacco" means tobacco in any form in which it is used or consumed, and includes snuff;
 - (i) "wholesale dealer" means any person who sells in Alberta tobacco for the purpose of resale.

Explanatory Notes

- 1.** This Bill will impose a direct tax on tobacco users.
- 2.** Definitions.

3. Every consumer shall pay to Her Majesty in right of Alberta tax computed at the rate of

- (a) eight twenty-fifths of one cent on every cigarette purchased by him;
- (b) one cent on every cigar purchased by him for a price at retail of not more than seven cents;
- (c) two cents on every cigar purchased by him for a price at retail of more than seven cents and not more than 15 cents;
- (d) three cents on every cigar purchased by him for a price at retail of more than 15 cents and not more than 22 cents;
- (e) five cents on every cigar purchased by him for a price at retail of more than 22 cents and not more than 32 cents;
- (f) seven cents on every cigar purchased by him for a price at retail of more than 32 cents and not more than 42 cents;
- (g) nine cents on every cigar purchased by him for a price at retail of more than 42 cents;
- (h) two cents on every half of one ounce or part of half of one ounce, of any tobacco purchased by him other than cigarettes or cigars.

4. (1) The tax imposed by this Act

- (a) shall be collected from the consumer by the retail dealer as agent of the Minister at the time of the sale to the consumer, and
- (b) shall be remitted by the retail dealer to the Minister at the time and in the manner prescribed by the regulations.

(2) A person acting as agent under subsection (1) is not thereby made ineligible as a member of the Legislative Assembly.

5. (1) No person shall sell tobacco in Alberta for resale unless he holds a subsisting wholesale dealer's permit issued to him under this Act.

(2) No person shall sell tobacco in Alberta to a consumer unless that person holds a subsisting retail dealer's permit issued to him under this Act.

(3) No wholesale dealer shall sell tobacco in Alberta to a person who does not hold a subsisting retail dealer's permit issued to him under this Act.

6. The Minister may refuse to issue a permit to or suspend or cancel the permit of a person who

3. Tax on consumer.

4. Collection of tax.

5. Dealer's permit required.

6. Refusal, suspension or cancellation of permit.

- (a) refuses or neglects to account for and pay as required under the regulations moneys received by him as proceeds of the tax, or
- (b) refuses or neglects to furnish a surety bond when so required under the regulations,

but, before a refusal, suspension or cancellation is made, the person shall be afforded an opportunity to appear before the Minister to show cause why the issuance of a permit should not be refused or why the permit should not be suspended or cancelled, as the case may be.

7. Every person ordinarily resident in Alberta or carrying on business in Alberta who brings into Alberta or who receives delivery in Alberta of tobacco acquired for value by him

- (a) for his own consumption or use or for the consumption or use by other persons at his expense, or
- (b) on behalf of, or as agent for, a principal who desires to acquire the tobacco for the consumption or use by the principal or other persons at the principal's expense,

shall immediately report the matter in writing to the Minister and shall supply the Minister with the invoice and all other pertinent information required from him by the Minister in respect of the consumption or use of the tobacco, and shall pay to Her Majesty in right of Alberta the same tax in respect of the consumption and use of the tobacco as would have been payable if the tobacco had been purchased in Alberta.

8. No retail dealer shall advertise or hold out or state to the public or to any consumer directly or indirectly that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retail dealer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded.

9. (1) Every person who collects any tax imposed by this Act shall be deemed to hold it in trust for Her Majesty in right of Alberta and shall pay it over to the Minister at the time and in the manner prescribed by the regulations or by agreement made under the regulations.

(2) If any person who has collected any tax imposed by this Act fails to pay it over to the Minister at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof

7. Tax on tobacco brought into or received in Alberta.

8. Absorption of tax prohibited.

9. Liability of collector of tax.

- (a) becomes a debt due to Her Majesty in right of Alberta,
- (b) is a lien upon the property in Alberta of the person in default and has priority over all other claims of other persons, and
- (c) shall bear interest at the rate of 8 per cent a year from the day the amount was due until it is paid.

10. (1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act or the regulations may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or any thing is done in connection with any business or any books or records are or should be kept pursuant to this Act, and may

- (a) audit or examine any books and records and any account, voucher, letter, telegram or other document that relates or may relate to the tax imposed by this Act,
- (b) examine the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or the amount of any tax imposed by this Act,
- (c) require a dealer liable to collect or pay over or considered possibly liable to collect or pay over tax imposed under this Act, or, if that dealer is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of that dealer to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require that person to attend at the premises or place with him, and
- (d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams or other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require

- (a) from any dealer, or

10. Powers on investigations.

(b) when a dealer is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof, any information or additional information or production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents within such reasonable time as is stipulated therein.

(3) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require

(a) from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any amount to a dealer, or

(b) from any partner, agent or official of any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any amount to a dealer, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein.

(4) The Minister may,

(a) for any purpose related to the administration or enforcement of this Act or the regulations, and

(b) with the approval of a judge of the Supreme Court (which may be given upon *ex parte* application),

authorize in writing any officer appointed by the Minister or any peace officer he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations, and to seize and to take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of that person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is collectible or payable under this Act by any dealer or consumer, and production thereof shall be made within such reasonable time as is stipulated in the registered letter or demand.

(6) Where a book, record or other document has been seized, examined or produced under this section,

- (a) the person by whom it is seized or examined, or
- (b) the person to whom it is produced, or
- (c) any officer of the Minister,

may make or cause to be made one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this subsection is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.

(7) No person shall hinder or molest or interfere with any person doing any thing that he is authorized by this section to do or prevent or attempt to prevent any person from doing any such thing.

11. (1) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, authorize any person to make such inquiry as he considers necessary with reference thereto.

(2) For the purpose of an inquiry under subsection (1), the person authorized to make the inquiry has all the powers conferred upon a commissioner under *The Public Inquiries Act*.

12. (1) Subject to subsection (2), no person employed by the Government of Alberta shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

(2) The Minister may

- (a) communicate or allow to be communicated information obtained under this Act, or
- (b) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada,

- (c) if the information and written statements obtained by that government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and
- (d) if the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax.

11. Inquiries.

12. Secrecy of information.

13. Any person charged with the collection of the tax imposed by this Act and any officer, agent or employee of such a person who signs any return or statement required by this Act or the regulations containing any false statement is guilty of an offence and is liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

14. Any person who contravenes any provision of this Act or the regulations for which no other penalty is provided is guilty of an offence and is liable on summary conviction,

- (a) for a first offence, to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment of not less than 10 days and not more than 30 days, or to both, and
- (b) for any subsequent offence, to a fine of not less than \$500 and not more than \$1,000 or to a term of imprisonment of not less than three months and not more than six months, or to both.

15. Any information with respect to any contravention of this Act or the regulations may be laid within three years from the time when the matter of the information arose, and not afterwards.

16. The Lieutenant Governor in Council may make regulations:

- (a) providing for the collection of the tax imposed by this Act and designating the persons by whom it is to be collected;
- (b) prescribing the remuneration to be paid to the persons who collect the tax imposed by this Act;
- (c) requiring surety bonds to be furnished by the persons who collect the tax imposed by this Act, and prescribing the form and amount of such bonds;
- (d) providing for the accounting for and paying over of the tax imposed by this Act, and regulating the time and manner of such accounting and payment;
- (e) prescribing the returns and statements to be made by importers, manufacturers and dealers of tobacco, the information to be given in the returns and statements, and by whom and in what manner they are to be made;
- (f) establishing a system of permits for wholesale and retail dealers;

13. Penalty for false returns.

14. General penalty.

15. Information may be laid within three years.

16. Regulations.

- (g) respecting agreements between the Minister and the persons who collect the tax imposed by this Act and providing for their use;
- (h) excluding any class of tobacco products from this Act;
- (i) exempting any class of persons from the payment of the tax imposed by this Act;
- (j) providing for the refund of the whole or any part of the tax paid under this Act and prescribing the records and material to be furnished upon any application for a refund;
- (k) prescribing forms and providing for their use;
- (l) defining "price at retail" and prescribing the method of determining price at retail for the purposes of section 3;
- (m) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

17. The moneys required for the purposes of this Act during the fiscal year 1969-1970 shall be paid out of the General Revenue Fund.

18. This Act comes into force on a date to be fixed by proclamation.

17. Appropriation for 1969-1970 fiscal year.