

1969 Bill 92

Second Session, 16th Legislature, 18 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 92

An Act to amend The Fuel Oil Tax Act, 1968

THE PROVINCIAL SECRETARY

First Reading

Second Reading

Third Reading

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1969

An Act to amend The Fuel Oil Tax Act, 1968

(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. *The Fuel Oil Tax Act, 1968*, is hereby amended.

2. Section 2 is amended by striking out clause (a) and by substituting the following:

(a) "fuel oil" means any petroleum product whether in gas or liquid form that is capable of being used for the generation of power in an internal combustion engine, other than natural gas;

3. Section 3 is amended

(a) as to subsection (1) by striking out the words "for use in Alberta",

(b) as to subsection (2) by striking out clauses (e) to (h) and by substituting the following:

(e) fuel oil in the fuel system of a railway locomotive that is not consumed inside Alberta;

(f) fuel oil purchased in accordance with the regulations for use in domestic appliances and for lighting and heating;

(g) fuel oil purchased for an industrial purpose (other than for the generation of power in an internal combustion engine) and in respect of which the Minister has issued a permit providing for the purchase of that fuel oil without payment of tax.

(c) by adding the following subsections after subsection (2);

Explanatory Notes

1. This Bill amends chapter 33 of the Statutes of Alberta, 1968.

2. Change of definition which limits the application of the fuel oil tax.

3. Section 3 presently reads:

3. (1) Except as provided in this section every person shall pay to the Minister for the use of the Crown in right of Alberta a tax on all fuel oil purchased by him for use in Alberta at the rate of 3 cents a gallon.

(2) A tax is not payable pursuant to this section on:

- (a) fuel oil brought into Alberta in the fuel system of a motor vehicle if a tax has been paid or is payable on that fuel oil in the jurisdiction in which the fuel oil was purchased;
- (b) fuel oil purchased by Her Majesty in right of Canada;
- (c) fuel oil purchased by consuls, vice-consuls, trade commissioners, assistant trade commissioners and other accredited representatives of other countries in Canada;
- (d) fuel oil purchased for export from Alberta;
- (e) fuel oil purchased for use within the petroleum industry for oil well or gas well servicing and drilling purposes (other than in an internal combustion engine) and in respect of which the Minister has issued a permit providing for the purchase of that fuel oil without payment of tax;
- (f) fuel oil purchased for use as a raw material in a manufacturing process and in respect of which the Minister has issued a permit providing for the purchase of that fuel oil without payment of tax;
- (g) fuel oil purchased in accordance with the regulations for use in domestic appliances and for lighting and heating;
- (h) fuel oil purchased for use as a material in the preparation or improvement of road surfaces and sub-grades and in respect of which the Minister has issued a permit providing for the purchase of that fuel oil without payment of tax.

(3) fuel oil purchased for any of the purposes listed in subsection (2) shall not be used for any purpose not listed therein unless the tax prescribed in subsection (1) is paid thereon.

(2a) Except as provided in subsection (2b), where fuel oil is brought into Alberta in the fuel system of a motor vehicle (other than a railway locomotive) from a jurisdiction where no tax is payable on that fuel oil at the time it is bought, then tax is payable under this section on the fuel oil that is consumed in Alberta.

(2b) Where a motor vehicle (other than a railway locomotive)

- (a) operates on diesel fuel or liquefied petroleum gas,
 - (b) operates into or from a jurisdiction where no tax is payable on diesel fuel or liquefied petroleum gas at the time it is bought, and
 - (c) the Minister has issued a permit with respect to the motor vehicle authorizing the payment of the tax on the basis of the actual consumption of fuel by that vehicle in Alberta,
- then tax is payable in accordance with the amount of diesel fuel or liquefied petroleum gas consumed in Alberta, at the time and in the manner specified in the regulations.

4. The following section is added after section 3:

3a. When marked fuel, in respect of which tax has been paid pursuant to section 3, is used by a farmer

- (a) in his farming operations, or
- (b) in the fuel system of a farm truck
 - (i) that is owned or operated by the farmer (or an employee of the farmer),
 - (ii) in respect of which an "F" Licence or a special farm truck licence pursuant to *The Highway Traffic Act* or *The Public Service Vehicles Act* (but no licence of any other class) has been issued, and
 - (iii) when it is used in connection with his farming operations but not in connection with any other business in which the farmer (or his employee) may be engaged, and not for personal reasons,

then, upon production of proof satisfactory to the Minister of the amount of fuel used in or in connection with his farming operations, the amount of fuel used in connection with any other business in which the owner or his employee may be engaged and the amount of fuel used for personal

4. Refund of tax to farmers.

reasons, the Minister may make a refund at the rate of 3 cents per gallon on the fuel used by the farmer in or in connection with his farming operations.

5. Section 4 is amended

- (a) as to subsection (1) by striking out the words "for use in Alberta",
- (b) by adding the following subsections after subsection (2) :

(2*a*) Except as provided in subsection (2*b*), where fuel oil is brought into Alberta in the fuel system of a motor vehicle (other than a railway locomotive) from a jurisdiction where no tax is payable on that fuel oil at the time it is bought, then tax is payable under this section on the fuel oil that is consumed in Alberta.

(2*b*) Where a motor vehicle (other than a railway locomotive)

- (a) operates on diesel fuel or liquefied petroleum gas,
 - (b) operates into or from a jurisdiction where no tax is payable on diesel fuel or liquefied petroleum gas at the time it is bought, and
 - (c) the Minister has issued a permit with respect to the motor vehicle authorizing the payment of the tax on the basis of the actual consumption of fuel by that vehicle in Alberta,
- then tax is payable in accordance with the amount of diesel fuel or liquefied petroleum gas consumed in Alberta, at the time and in the manner specified in the regulations.

6. The following section is added after section 10 :

10*a*. The Minister may

- (a) appoint border agents
 - (i) to collect the tax payable on fuel oil imported into Alberta,
 - (ii) to colour or identify as marked fuel, fuel oil imported into Alberta and to be used for tax exempt purposes, and
 - (iii) to issue permits in respect of motor vehicles (other than railway locomotives) that operate on diesel fuel or liquefied petroleum gas to authorize the payment of tax on the basis of the actual consumption of fuel oil in Alberta,
- and
- (b) fix the remuneration of border agents.

5. Section 4 presently reads:

4. (1) Except as provided in this section every person shall pay to the Minister for the use of the Crown in right of Alberta a tax on all fuel oil purchased by him for use in Alberta

- (a) at the rate of 12 cents a gallon for fuel oil other than diesel fuel, and
- (b) at the rate of 14 cents a gallon for diesel fuel.

(2) A tax is not payable pursuant to this section on:

- (a) fuel oil brought into Alberta in the fuel system of a motor vehicle if a tax has been paid or is payable on that fuel oil in the jurisdiction in which the fuel oil was purchased;
- (b) marked fuel purchased for use
 - (i) other than in the fuel system of a motor vehicle registered or required to be registered pursuant to The Highway Traffic Act or The Public Service Vehicles Act or an equivalent statute of another jurisdiction, or
 - (ii) in the engine of a motor vehicle when the engine is being used as a stationary engine and is receiving the fuel from a fuel tank that is not in or on the vehicle and that does not supply the engine when used to propel the motor vehicle, or
 - (iii) in the fuel system of a truck owned or operated by a farmer (or the employee of a farmer) and in respect of which an "F" licence or a special farm truck licence, but no licence of any other class, has been issued pursuant to The Highway Traffic Act or The Public Service Vehicles Act, or
 - (iv) in the fuel system of a transit bus owned, controlled and operated by a city within the city;
- (c) fuel oil purchased for use in the fuel system of an aircraft;
- (d) fuel oil purchased by Her Majesty in right of Canada;
- (e) fuel oil purchased by consuls, vice-consuls, trade commissioners, assistant trade commissioners and representatives of other countries in Canada;
- (f) fuel oil purchased for export from Alberta;
- (g) fuel oil that is not suitable for use in the fuel system of a motor vehicle and is so designated by the regulations;
- (h) fuel oil purchased by a railway company for use in the fuel system of a railway locomotive;
- (i) liquefied petroleum gas purchased in accordance with the regulations
 - (i) for any of the uses mentioned in clause (b), or
 - (ii) for use in the fuel system of a vehicle employed exclusively for the distribution of liquefied petroleum gas;
- (j) fuel oil which will be used only for an industrial purpose and in respect of which the Minister has issued a permit providing for the purchase of that fuel oil without payment of tax

(3) Fuel oil purchased for any of the purposes listed in subsection (2) shall not be used for any purpose not listed therein unless the tax prescribed in subsection (1) is paid thereon.

(4) The tax payable pursuant to this section is in addition to the fuel oil tax payable pursuant to section 3.

6. Minister may appoint border agents.

7. Section 11 is amended by striking out clause (g) and by substituting the following:

(g) governing the issuance of permits under sections 3 and 4 and prescribing the method and time of payment of the tax and the reports to be made to the Minister;

8. Section 14 is amended by adding the following subsection after subsection (4):

(4a) For the purposes of subsection (4) an offence under section 12 or section 33 of *The Fuel Oil Tax Act*, being chapter 125 of the Revised Statutes, shall be deemed to have been an offence under this section.

9. Section 15, subsection (1) is amended by striking out clause (a) and by substituting the following:

(a) shall have in his possession in that motor vehicle at all times an invoice or bill of lading covering the fuel oil cargo being carried on or by the vehicle and identifying the fuel oil as marked or unmarked fuel, as the case may be, and

10. This Act comes into force on June 1, 1969.

7. Regulation.

8. Section 14 (4) presently reads:

(4) A person who is guilty of an offence under this section is liable upon summary conviction,

(a) for a first offence to a fine of not less than \$50 and not more than \$100,

(b) for a second offence to a fine of not less than \$100 and not more than \$200, and

(c) for a third and each subsequent offence to a fine of not less than \$500 and not more than \$1,000.

Offences under old Act deemed to be offences under new Act.

9. Section 15 (1) (a) presently reads:

15. (1) The driver of a motor vehicle used in the business of transporting or delivering fuel oil

(a) shall have in his possession in that motor vehicle at all times an invoice or bill of lading covering and identifying the fuel oil cargo being carried on or by the vehicle, and