

1969 Bill 111

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

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 111

An Act to amend The Milk Control Act

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Third Reading

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BILL 111

1969

An Act to amend The Milk Control Act

(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 Milk Control Act* is hereby amended.

2. Section 2 is struck out and the following sections are substituted:

2. In this Act,

- (a) "Milk Board" means the Alberta Milk Control Board constituted pursuant to this Act;
- (b) "milk" means milk or cream as defined by regulation and any product manufactured therefrom as so defined;

2a. (1) There shall be a board to be known as the Alberta Milk Control Board, consisting of not more than three members, with the powers and duties herein specified.

(2) The Lieutenant Governor in Council

- (a) shall appoint the members of the Milk Board,
- (b) shall designate one of the members to be chairman of the Milk Board,
- (c) shall fix the salaries of the members of the Milk Board, and
- (d) may appoint a person to temporarily act in the place of a member who is for the time being absent or incapacitated.

(3) The chairman of the Milk Board shall devote his whole time and attention to the business of the Milk Board and shall follow no other occupation whatsoever.

(4) Each member holds office during pleasure.

Explanatory Notes

1. These amendments to The Milk Control Act, Statutes of Alberta, 1966, chapter 55, provide for a new body, the Alberta Milk Control Board, which is given the authority to enforce all regulations and orders under the Act, and the power to make all regulations and orders except for those relating to the fixing of the various prices respecting the sale of milk and cream, a jurisdiction left with the Public Utilities Board.

2. Alberta Milk Control Board established.

(5) A person who receives a temporary appointment pursuant to this section may during the period of his appointment exercise all the powers of the member he has temporarily replaced.

2b. Subject to this Act, the Milk Board shall control and regulate the sale of milk in Alberta.

2c. (1) Any order, rule, regulation, notice or other document may be signed by any one member on behalf of the Milk Board and when so signed has the like effect as if signed by the chairman.

(2) Whenever it appears that a member not being the chairman has acted for and in the stead of the chairman, it shall be conclusively presumed that he has so acted in the absence or disability of the chairman.

2d. Pursuant to *The Public Service Act, 1968* there may be appointed a secretary and such other employees as may be required by the Milk Board.

2e. (1) Neither the members, nor the secretary of the Milk Board, nor any employee of the Milk Board, shall be personally liable for any thing done by the Milk Board or by him under the authority of this Act.

(2) No member or employee of the Milk Board shall, in any civil suit to which the Milk Board is not a party, be required to give testimony with regard to information obtained by him in the discharge of his official duty.

2f. Any rule, order, direction, decision, notice, report or other document of the Milk Board shall be deemed to be served on a person by delivering it or a copy thereof personally to an individual or to an officer or an adult employee of a firm or partnership or by mailing it or a copy thereof by ordinary mail to the last known place of abode of an individual or to the head office or chief place of business in Alberta of a corporation or a firm or partnership.

2g. Sheriffs, deputy sheriffs, constables and other peace officers shall, whenever required to do so, aid, assist and obey the Milk Board in the exercise of the jurisdiction conferred by this Act.

2h. A written or printed document purporting to have been issued or authorized by a corporation or any officer, agent or employee of a corporation, or by any other person or corporation, for or on its behalf, shall, as against the corporation, be received in evidence as *prima facie* proof of the issue of that document by the corporation, without any further proof than the mere production of the document.

3. The word "Board" is struck out wherever it occurs in the Act and the words "Milk Board" are substituted in each case.

3. References changed.

4. Section 3 is amended

- (a) as to subsection (1) by striking out the words “or cream or both”,
- (b) as to subsection (2),
 - (i) in clause (a) by striking out the word “cream” and by substituting the words “milk product”,
 - (ii) in clauses (c), (d), (l), (o), and (p) by striking out the words “or cream”,
 - (iii) by striking out clauses (j) and (k),
 - (iv) by adding at the end of clause (l) the words “and the transfer of such producers from one processor to another,”,
- (c) by striking out subsections (3) and (4).

5. The following section is added after section 3:

3a. (1) Notwithstanding anything in this Act, the Public Utilities Board may prescribe for milk the minimum prices

- (a) that are to be paid to producers by processors or distributors,
- (b) that are to be charged by distributors, processors and sellers thereof, and
- (c) that a distributor carrying on business in a controlled area is to charge when furnishing, delivering, keeping for sale or selling milk outside a controlled area.

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

(3) For the purpose of carrying out its functions under this section, the Public Utilities Board may

- (a) act upon its own initiative or at the written request of either the Milk Board or of one or more persons in the milk business, and
- (b) exercise all the powers it could have exercised in relation to conducting hearings and doing any other act preliminary to the making of a pricing order before the commencement of this section.

(4) Part 1 of *The Public Utilities Board Act* applies to the Public Utilities Board while it purports to be acting within the jurisdiction conferred upon it by this Act.

6. Section 4 is amended by striking out the words “or cream”.

4. Section 3 (2) (j) and (k), and (3) and (4) read:

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

.....

(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,

(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.

5. Public Utilities Board to continue setting prices.

6. Reference removed.

7. Section 7 is amended

- (a) by striking out the words “or officer”,
- (b) by striking out the words “or cream” in clause (b),
- (c) by adding the following clause after clause (d) :
 - (e) seize and dispose of any milk held or disposed of by any person where in the opinion of the inspector such holding or disposal by the person is or was in breach of this Act or the regulations.

8. Section 8 is amended

- (a) by striking out subsection (1) and by substituting the following:

8. (1) The Milk 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 Milk Board continues to direct the management.
- (b) by adding the following subsection after subsection (4) :
 - (5) The Milk Board may in writing designate any of its employees as inspectors for the purposes of this Act and any person so designated shall upon request produce the written designation to anyone who owns or has the custody or control of anything dealt with by the inspector under section 7.

9. Section 11 is amended by striking out the words preceding clause (a) and by substituting the following:

11. A person who contravenes any provision of any order or regulation made by the Milk Board or the Public Utilities Board pursuant to this Act is guilty of an offence and liable upon summary conviction

7. Section 7 presently reads:

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. Section 8(1) presently reads:

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.

9. Section 11 reads in part:

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

10. Section 12, subsection (1) is amended by striking out the words "or cream" wherever they occur.

11. Section 14 is struck out and the following is substituted:

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 25 per cent thereof by the Crown and as to 75 per cent thereof by persons who are licensed by the Milk Board as milk producers in those areas and by persons licensed as milk distributors who market, distribute, process, keep for sale or sell milk in those areas.

(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 milk in controlled areas and who are so licensed by the Milk Board,
- (b) the cost of such other activities as the Milk Board considers necessary or expedient for the proper conduct of the milk trade in any controlled area, and
- (c) without in any way limiting the generality of the foregoing, sums sufficient to cover the cost of general advertising for the milk trade, cost surveys and special investigations,

the Milk 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 Milk Board.

12. Section 16 is amended by striking out the words "or cream".

13. Sections 17 to 20 are struck out and the following sections are substituted:

17. (1) The owner or person in charge of anything referred to in section 7 with respect to which that section gives an inspector power to do anything, shall give an inspector all reasonable assistance to enable the inspector to carry out his duties and functions thereunder and shall furnish an inspector with such information relative thereto as the inspector may reasonably require.

10. Reference removed.

11. Section 14 is revised to remove references to cream.

12. Reference removed.

13. Obstruction evidence. Administration.

(2) Every person who obstructs or hinders an inspector in the carrying out of his duties or functions under this Act or the regulations is guilty of an offence and liable upon summary conviction to a fine of not more than \$500 and in default of payment to a term of imprisonment of not more than six months.

18. In any prosecution or other proceeding under this Act or the regulations, a certificate purporting to be signed by the secretary to the Milk Board and stating that a named person or business was or was not, on a specified day or during a specified period, licensed as a producer, processor, supplier, distributor or seller, as the case may be, of milk, according to the records kept by the secretary of such licensing, shall be admitted in evidence as *prima facie* proof of the facts stated therein without proof of the secretary's appointment or signature.

19. The Minister of Agriculture is charged with the administration of this Act.

14. Any regulations and orders of the Public Utilities Board relating to matters respecting milk and cream that are by this Act placed under the jurisdiction of the Milk Board and that are in force at the commencement of this Act shall be deemed to be the regulations and orders of the Milk Board.

15. This Act comes into force on July 1, 1969.

14. Applicability of Public Utilities Board Act regulations and orders.