

1973 Bill 46

Second Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 46

The Farm Implement Amendment Act, 1973

MR. MOORE

First Reading

Second Reading

Third Reading

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Bill 46
Mr. Moore

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THE FARM IMPLEMENT AMENDMENT ACT, 1973

(Assented to , 1973)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. The Farm Implement Act is hereby amended.

2. Section 2 is amended

- (a) as to clause (a), by striking out the words “, repair parts and implement services” and by substituting therefor the words “and includes a person who leases farm implements to farmers”,*
- (b) as to clause (b), by striking out the figure “\$200” and by substituting therefor the figure “\$1,000”,*
- (c) as to clause (e), by striking out the words “or who sells or leases farm implements”.*

3. Section 4 is amended

(a) as to subsection (1), by adding after clause (d) the following:

(d1) shall contain such other information as required by the Minister,

(b) by adding after subsection (1) the following:

(1.1) Where

- (a) a new tractor is sold, the sale agreement shall state the drawbar horsepower or the power takeoff horsepower, and*
- (b) a new farm implement, other than a tractor, is sold which has as a composite part of it a new engine or motor, the sale agreement shall state the belt horsepower,*

and that tractor, or the engine or motor in that farm implement, shall be deemed to be warranted as being capable of developing the horsepower as stated in the sales agreement if that tractor or farm

Explanatory Notes

1. This Bill amends chapter 136 of the Revised Statutes of Alberta 1970.

2. Section 2, clauses (a), (b) and (e) presently read:

2. In this Act,

- (a) "dealer" means a person operating in the ordinary course of business a retail establishment for the sale or resale of farm implements, repair parts and implement services;
- (b) "farm implement" means any implement or machine having the retail sale price of \$200 or more and used or intended for use in farming operations, but does not include a motor vehicle as defined in The Highway Traffic Act;
- (e) "vendor" means a manufacturer or supplier of farm implements who sells, consigns or delivers farm implements to a dealer for sale or resale in the ordinary course of business or who sells or leases farm implements.

- 3.** (a) This amendment will require such further information as required by the Minister to be set out in sale agreements.
- (b) This amendment will require the amount of horsepower to be warranted.
- (c) This amendment will allow a warranty to be stated in a document other than a sale agreement.

implement is properly operated and maintained and used under reasonable operating conditions.

- (c) *as to subsection (2), by adding after the words "subsection (1), clause (c)" the words "or subsection (1.1)".*

4. Section 5 is amended

- (a) *by renumbering the section as subsection (1),*
- (b) *as to the renumbered subsection (1), by adding after the words "an agreement" the words "or other document", and*
- (c) *by adding after the renumbered subsection (1) the following subsection:*

(2) The warranties provided for by this section shall be deemed to apply for a period of time of not less than one year from the date that the new farm implement is first used within the first normal season of use by the purchaser for its intended purpose and not from any earlier date.

5. The following section is added after section 7:

7.1 (1) Notwithstanding anything in this Act, the Lieutenant Governor in Council may make regulations

- (a) imposing duties and obligations upon
 - (i) vendors respecting the selling and supplying of parts to dealers in an emergency, and
 - (ii) other persons respecting the purchasing and acquiring of parts for farm implements in an emergency,
- (b) defining the term "emergency" for the purpose of the regulations, and
- (c) generally, governing the selling, purchasing, supplying and acquiring of parts for farm implements in an emergency.

(2) A person who has suffered loss or damage has a cause of action for damages against a person who does not comply with the regulations or fulfil his duties or obligations imposed by the regulations, if that loss or damage is attributable to that person's non-compliance with the regulations or the non-fulfilment of his duties or obligations imposed by the regulations.

6. Section 8 is struck out and the following section is substituted therefor:

8. (1) Where a sale agreement or other document pro-

4. The amendment will provide a minimum warranty period for those items set out in the present section which presently reads:

5. Notwithstanding anything contained in an agreement, every new farm implement sold shall be deemed to be warranted to be

- (a) made of good material,**
- (b) properly constructed, both as to design and workmanship,**
- (c) in good working order,**
- (d) capable of performing in a satisfactory manner the work for which it is intended, subject to reasonable operating conditions and proper use and maintenance, and**
- (e) designed and constructed in every way so as with proper care and use, to ensure reasonable durability.**

5. Self-explanatory.

6. Section 8 presently reads:

8. Where a sale agreement of a new farm implement sets a time limit on the duration of any warranty given therein, that time shall be deemed to run from the date the implement is first used within the first normal season of use by the purchaser for its intended purpose and not from any earlier date, notwithstanding anything contained in the sale agreement.

vides a warranty with respect to a new farm implement, that warranty shall be deemed to apply for a period of not less than one year from the date that the new farm implement is first used within the first normal season of use by the purchaser for its intended purpose and not from an earlier date notwithstanding anything contained in the sale agreement or other document.

(2) Nothing in subsection (1) shall be deemed to prevent a vendor or a dealer from providing for and binding himself to a warranty period of more than one year.

7. Section 9 is amended by striking out subsection (2) and by substituting therefor the following:

(2) Subsection (1) does not apply to any statement in so far as it limits the duration of any warranty to a period of time of not less than one year if the limitation is clearly set forth in the document setting out the warranty.

8. Section 19 is amended by striking out clauses (e), (f) and (g).

9. The following section is added after section 23:

23.1 (1) A dealer shall not sell or offer for sale a farm implement unless the farm implement was obtained by the dealer from or through a vendor licensed pursuant to this Act.

(2) A vendor shall not

- (a) sell a farm implement to any person except a dealer licensed pursuant to this Act, or
- (b) supply a farm implement to any person except a dealer licensed pursuant to this Act or other person authorized by a dealer to take delivery of a farm implement.

(3) Subsection (1) does not apply with respect to the sale of used farm implements.

10. Section 24 is struck out and the following section is substituted therefor:

24. (1) No person shall

- (a) carry on the business of a dealer unless he is the holder of a dealer's licence, and
- (b) after December 31, 1973, carry on the business of a vendor unless he is the holder of a vendor's licence issued to him by or on behalf of the Minister under this Act and the regulations.

7. Section 9 presently reads:

9. (1) Any statement in a sale agreement, order, security instrument or statement of warranties made, taken or given in connection with the sale of a farm implement to the effect that the liability of the vendor as provided in this Act is limited or modified in any way is void.

(2) Subsection (1) does not apply to any statement in so far as it

(a) limits the duration of any warranty, or

(b) limits the liability of the vendor or dealer for consequential damages arising out of a breach of warranty, if the limitation is clearly set out in the document setting out the warranty.

(3) Subsection (1) does not affect the validity of the remaining provisions of the agreement, order, instrument or statement.

8. These clauses presently provide for enacting regulations governing vendors. These matters will now be provided for under section 24.

9. Self-explanatory.

(2) A licence shall not be issued under this Act unless the applicant furnishes to the Minister security in favor of the Crown in right of Alberta

- (a) in a form acceptable to the Minister, and
- (b) in the amount of \$10,000 or such greater amount as the regulations require or as the Minister may in any particular case require.

(3) The Minister may at any time require a licensee to furnish security in a greater amount than that already furnished.

(4) Where a security furnished under this section is forfeited, the proceeds from the security may be used to the benefit of persons who have claims against the licensee for the payment of money owing to them by the licensee under this Act, the regulations or any agreement entered into pursuant to this Act or the regulations.

(5) The Lieutenant Governor in Council may make regulations:

- (a) governing applications for dealers' licences and vendors' licences or renewals thereof and the requirements to be met by the applicants therefor;
- (b) prescribing the fees to be paid upon applications for, or for the issue of, a licence or a renewal thereof;
- (c) designating the persons who may issue licences on behalf of the Minister;
- (d) governing the issue of licences and the duration of licences or renewals thereof;
- (e) prescribing the duties of and services to be performed by holders of licences;
- (f) prescribing the circumstances under which a licence may be suspended or cancelled by the Minister or under which a renewal of a licence may be refused;
- (g) prescribing the duties of the holder of a licence that has been suspended or cancelled or has terminated and not been renewed;
- (h) providing for the reinstatement of a licence that has been suspended or cancelled;
- (i) prescribing conditions upon which security will be forfeited;
- (j) setting forth the rights of the Crown in right of Alberta with respect to security furnished under this section;
- (k) providing for
 - (i) the filing of claims by claimants against the

10. Section 24 presently reads:

24. (1) No person shall after December 31, 1971 carry on the business of a dealer unless he is the holder of a licence issued to him by or on behalf of the Minister under this Act.

(2) A licence shall not be issued under this Act unless the applicant furnishes to the Minister a bond in favour of the Crown in right of Alberta

(a) in a form acceptable to the Minister,

(b) in the amount of \$10,000 or such greater amount as the regulations require or as the Minister may in any particular case require, and

(c) conditioned on the payment by the dealer of all moneys which the dealer becomes liable to pay to his purchasers under this Act or any sale agreements.

(3) The Minister may at any time require a licensee to furnish a bond in a greater amount than the bond already furnished.

(4) Where a bond under this section is forfeited by reason of a breach of the condition of the bond, the proceeds of the bond may be used for the benefit of purchasers who have claims against the dealer for the payment of money owing to them by the dealer under this Act.

(5) Notwithstanding that the Crown in right of Alberta has not suffered any loss or damages, a bond furnished under this section shall be considered as a penal bond and upon forfeiture the amount owing to the Crown by a person bound thereby shall be determined as if the Crown suffered such damages as would entitle the Crown to be indemnified to the maximum amount of liability prescribed by the bond.

(6) Any moneys remaining unexpended after the payment of all claims pursuant to the regulations shall be refunded to the surety or obligor under the bond.

(7) The Lieutenant Governor in Council may make regulations

(a) governing applications for dealer's licences or renewals thereof and the requirements to be met by applicants therefor;

(b) prescribing the fees to be paid upon applications for, or for the issue of, a licence or a renewal thereof;

(c) designating the officers of the Department of Agriculture who may issue a licence on behalf of the Minister;

(d) governing the issue of licences and the duration of licences or renewals thereof;

(e) prescribing the duties of holders of licences;

(f) prescribing the circumstances under which a licence may be suspended or cancelled by the Minister or under which a renewal of a licence may be refused;

(g) prescribing the duties of the holder of a licence that has been suspended or cancelled or has terminated and not been renewed;

(h) providing for the reinstatement of a licence that has been suspended or cancelled;

(i) providing for

(i) the filing of claims by claimants against the bond furnished by a licensee,

(ii) the manner of proving the claims,

(iii) the conditions on which the proceeds of the bond are to be used to satisfy the claims filed, and

(iv) the pro rata payment of claims where the proceeds of the bond are insufficient to meet all claims;

(j) providing for any other matter or procedure pertaining to the licensing or bonding of dealers or the claims of purchasers against bonds furnished by dealers.

(8) An application for a licence under this section may not be made until October 1, 1971.

- security furnished by a licensee,
- (ii) the manner of proving the claims,
 - (iii) the conditions on which the proceeds of the security are to be used to satisfy the claims filed, and
 - (iv) the pro rata payment of claims where the proceeds of the security are insufficient to meet all claims;
- (l) requiring vendors to file with the Minister, or persons designated by him, statements showing the dealers who obtain, or are likely to obtain, farm implements or parts from or through the vendor;
 - (m) authorizing the Minister to require any vendor to furnish to the Minister on request
 - (i) information relating to the farm implements manufactured or supplied by the vendor,
 - (ii) lists, by category or group, of parts maintained in stock in Alberta for the vendor's farm implements,
 - (iii) a statement or true copy of the current published suggested retail prices for its implements and parts,
 - (iv) copies of specific sale agreements of farm implements, and
 - (v) any other specified information pertaining to the vendor's business in Alberta;and
 - (n) generally, for carrying out the purposes and intent of this Act.

11. This Act comes into force on a date or dates to be fixed by Proclamation.