

1978 BILL 30

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 30

THE AGRICULTURAL CHEMICALS AMENDMENT ACT, 1978

MR. MILLER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 30
Mr. Miller

BILL 30

1978

THE AGRICULTURAL CHEMICALS AMENDMENT ACT, 1978

(Assented to , 1978)

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

1 *The Agricultural Chemicals Act is amended by this Act.*

2 *Section 2 is amended*

(a) *in clause (a) by adding* “and includes any substance defined in the regulations as an agricultural chemical” *after* “medicines intended for human or veterinary use”,

(b) *by adding the following after clause (a):*

(a.1) “agricultural operation” means the production or any step in the production of livestock, grain, forage crops, poultry, furs, honey or any other agricultural product, but does not include any other type of business operation carried on by a farmer;

(c) *by adding the following after clause (c):*

(c.1) “Committee” means the Agricultural Chemicals Advisory Committee;

(c.2) “Department” means the Department of the Environment;

(c.3) “Director” means the Director of Pollution Control;

(c.4) “extermination” means the destruction, prevention or control of a pest by means of a pesticide;

(d) *by adding the following after clause (d):*

(d.1) “government agency” means

(i) a corporation that is an agent of the Crown in right of Alberta, or

Explanatory Notes

- 1** This Bill will amend chapter 4 of the Revised Statutes of Alberta 1970.
- 2** Additional and amended definitions.

(ii) any corporation, commission, board or other body empowered to exercise quasi-judicial or governmental functions and whose members are appointed by an Act of Legislature, the Lieutenant Governor in Council or a Minister of the Crown or any combination thereof;

(e) by repealing clause (e) and substituting the following:

(e) “inspector” means an inspector appointed under this Act by the Minister or by a local authority;

(f) by adding the following after clause (e):

(e.1) “licence” means a licence issued under this Act or the regulations;

(e.2) “licensee” means the holder of a licence;

(e.3) “local authority” means

(i) the corporation of a city, town, new town, village, municipal district or county, or

(ii) the Minister of Municipal Affairs, in the case of an improvement district or special area;

(g) by repealing clause (g) and substituting the following:

(g) “municipality” means the area of a city, town, new town, village, county, municipal district, improvement district or special area;

(h) by adding the following after clause (g):

(g.1) “natural environment” means all or any part or combination of the air, land and water of Alberta;

(i) by repealing clause (h) and substituting the following:

(h) “open body of water” means the bed and shore of a river, stream, watercourse, lake or other body of water including an irrigation canal owned by the board of directors of an irrigation district, whether it contains water continuously or intermittently, but does not include

(i) municipal reservoirs,

(ii) reservoirs and dugouts on private lands, or

(iii) lakes or sloughs

(A) having an area of less than 10 acres,

(B) being completely surrounded by private lands, and

(C) having no drainage of water from them through the private lands;

and

(j) by adding the following after clause (h):

(h.1) “permit” means a permit issued under this Act or the regulations;

(h.2) “permittee” means the holder of a permit;

(h.3) “person” includes a municipal corporation and a government agency;

(h.4) “pest” means any injurious, noxious or troublesome plant or animal life and includes any injurious, noxious or troublesome organic function of a plant or animal;

3 The following is added after section 2:

2.1 The Crown is bound by this Act.

2.2(1) The Minister may by order in writing appoint any employee of the Government or of a government agency as an inspector for any part of Alberta to carry out the provisions of this Act.

(2) An order under subsection (1) may direct that the authority of an inspector be exercised in any manner that the Minister may prescribe in the appointment.

4 Section 6 is amended

(a) in clause (a) by adding “sale,” after “involving the ”, and

(b) in clause (b) by adding “or sell” after “apply” wherever it occurs.

5 Section 7 is repealed and the following is substituted:

7(1) No person shall apply, deposit, add, emit, discharge or cause or permit the application, deposit, addition, emission or discharge of a pesticide or any substance or thing containing a pesticide

(a) into, upon or over an open body of water, or

(b) within

3 The new sections will bind the Crown in right of Alberta and empower the Minister to appoint inspectors.

4 Section 6 presently reads:

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.

5 Section 7 presently reads:

7 No person shall apply a pesticide

(a) to, on or in any open body of water, or

(b) within the distance of an open body of water prescribed in the regulations,

unless he holds a permit to do so pursuant to the regulations under this Act.

(i) 30 horizontal metres, or

(ii) any other distance prescribed in the regulations,

of an open body of water.

(2) Subsection (1) does not apply to a person who

(a) holds a licence or permit in accordance with the regulations to so act, or

(b) is exempted by the regulations from the requirement to hold a licence or permit.

6 *Section 9(d) is amended by adding “or the Minister” after “manufacturer of the pesticide”.*

7 *The following is added after section 9:*

9.1 Subject to *The Clean Air Act* and *The Clean Water Act*, every person who deposits, adds, emits or discharges an agricultural chemical or a substance or thing containing an agricultural chemical on or into the natural environment in a manner not prescribed by the regulations or, if there are no regulations, in a manner not recommended by the manufacturer and thereby

(a) causes or is likely to cause injury or damage to, or impairment of, the quality of the natural environment, or

(b) causes or is likely to cause injury or damage to plant or animal life,

shall forthwith notify the Minister and shall take all measures that the Director by order may prescribe with respect to the cleaning and decontamination of the natural environment or any plant or animal life, substance or thing that has come into contact with an agricultural chemical by any

6 Section 9 presently reads:

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.

7 Prohibits “dumping” of agricultural chemicals and environmental contamination containing agricultural chemicals.

means other than in accordance with this Act and the regulations or a licence, permit or order under this Act.

8 *Section 10 is repealed and the following is substituted:*

10 Except as otherwise provided in the regulations, no person may

(a) wash or submerge any apparatus, equipment or container used to hold, mix or apply a pesticide in

(i) an open body of water, or

(ii) a well, cistern, dugout or reservoir controlled by a local authority,

(b) wash or clean an aircraft, watercraft, vehicle, machine, apparatus, equipment or container used to hold, mix or apply a pesticide within 30 horizontal metres of

(i) an open body of water, or

(ii) a well, cistern, dugout or reservoir controlled by a local authority,

or

(c) cause water to be drawn from or pumped into an aircraft, watercraft, vehicle, machine, apparatus, equipment or container used to hold, mix or apply a pesticide, from

(i) a reservoir, well, cistern or dugout controlled by a local authority whether the aircraft, watercraft, machine, apparatus, equipment or container is equipped with a device to prevent back flow or not, or

(ii) an open body of water, unless the aircraft, watercraft, vehicle, machine, apparatus, equipment or container is equipped with a device that prevents back flow.

9 *Section 11 is amended*

(a) *by repealing subsection (1) and substituting the following:*

11(1) The Minister shall appoint an Agricultural Chemicals Advisory Committee.

8 This section is rewritten to protect municipal domestic water supplies. Section 10 presently reads:

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.

9 This amendment will provide for appointment of the Committee by the Minister rather than the Lieutenant Governor in Council. Section 11(1) and (3) presently read:

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.

and

(b) in subsection (3) by striking out “The Lieutenant Governor in Council” and substituting “The Minister”.

10 Section 12(2) is repealed and the following is substituted:

(2) The Minister may delegate to any employee of the Department his power to issue, renew or reinstate permits or licences under subsection (1).

(2.1) A licence or permit is not transferable.

11 Section 14 is repealed and the following is substituted:

14(1) Each local authority shall appoint a sufficient number of inspectors to carry out the provisions of this Act within the boundaries of its municipality.

(2) When an inspector is appointed, the local authority shall forthwith advise the Minister in writing of the appointment.

(3) Where in the opinion of the Minister a local authority is not properly enforcing this Act, the Minister may, after serving notice on the local authority, cause one or more inspectors appointed by the Minister to carry out the provisions of this Act within the boundaries of the municipality.

(4) Any expenses incurred by the Government when an inspector appointed under subsection (3) carries out the provisions of this Act

(a) shall be paid by the local authority to the Minister on demand,

(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.

10 Section 12 presently reads in part:

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 appoint

(a) the Director of Pollution Control of the Department of the Environment, or

(b) the person responsible for the administration of this Act in the Department of the Environment, or

(c) any other employee of the Department,

to issue, renew or reinstate any permit or licence.

11 This amendment will revise the present section 14 which presently reads:

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

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

(b) are recoverable by the Minister as if they were a debt due to the Crown, and

(c) may be recovered by the Government by deducting and withholding from any grant, rent or other sum of money that would otherwise have been due or payable by the Government to the local authority an amount equal to the amount of the expenses incurred.

12 Section 15 is repealed and the following is substituted:

15(1) Where an inspector is of the opinion that

(a) the use, handling, storage, sale, disposal or display, or

(b) the method of application or transportation,

of an agricultural chemical is or may be either dangerous to the health of persons or of any animal or contrary to the specifications in the relevant certificate of registration under the *Pest Control Act* (Canada), he may in writing order the suspension of

(c) the use, handling, storage, sale, disposal or display, or

(d) the method of application or of transportation,

of the agricultural chemical for a period not exceeding 7 days from the issuance of the order.

(2) Each order under subsection (1) shall contain the reason for making it and shall forthwith be reported to the Director.

13 The following is added after section 15:

15.1(1) In this section, “person responsible”, when used with reference to an agricultural chemical or a substance or thing containing an agricultural chemical, means

(a) the owner of the agricultural chemical, and

(b) the person having the charge, management or control of

(i) the use, handling, storage, sale, disposal or display, or

(ii) the method of application or of transportation,

12 The new section will widen the area of application of the present section 15 which reads:

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.

13 This section will authorize the Director of Pollution Control to issue chemical control orders.

of the agricultural chemical or the substance or thing containing an agricultural chemical.

(2) Where in the opinion of the Director the use, handling, storage, sale, disposal or display of, or the method of application or of transportation of, an agricultural chemical or of a substance or thing containing an agricultural chemical

(a) causes or is likely to cause injury or damage to or impairment of the quality of the natural environment,

(b) causes or is likely to cause injury or damage to property or to plant or animal life,

(c) adversely affects or is likely to adversely affect the health or safety of any person, or

(d) renders or is likely to render, directly or indirectly, any property or plant or animal life unfit for use by man,

the Director may make an order called a “chemical control order” directed to the person responsible for the agricultural chemical or the substance or thing containing an agricultural chemical, and shall cause a copy of the order to be served on the person to whom the order is directed.

(3) The Director, in a chemical control order, may order the person responsible for the agricultural chemical or the substance or thing containing the agricultural chemical to do all or any of the following:

(a) limit or control the rate of application, deposit, addition, emission or discharge of an agricultural chemical or a substance or thing containing an agricultural chemical into the natural environment in accordance with the directions set out in the order;

(b) stop the application, deposit, addition, manufacture, emission or discharge of an agricultural chemical or a substance or thing containing an agricultural chemical into the natural environment,

(i) permanently,

(ii) for a specified period of time, or

(iii) in the circumstances set out in the order;

(c) comply with any directions set out in the order relating to the manner in which an agricultural chemical or a substance or thing containing an agricultural chemical or any container of either of them may be handled,

stored, used, disposed of, transported, displayed or manufactured.

(4) The Director, under any of the circumstances set out in subsection (2), may by a further order amend, vary or rescind a chemical control order and in that case shall cause a copy of the amending, varying or rescinding order to be served on the person to whom the chemical control order was directed.

14 Section 16(2) is repealed.

15 The following is added after section 16:

16.1(1) Where the person to whom an order is directed under section 9.1, 15 or 15.1 fails to comply with the order, the Director may take whatever action he considers necessary to effect compliance with the order and may charge the cost of that action to the person to whom the order is directed.

(2) The cost incurred under subsection (2) in effecting compliance with an order

(a) shall be paid on demand by the person to whom the order was directed, and

(b) are recoverable by the Minister as a debt due to the Crown.

16 Section 17 is amended

(a) in subsection (1) by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following after clause (b):

(c) a chemical control order under section 15.1,

(b) by adding the following after subsection (2):

(3) An appeal under this section does not operate as a stay of the order appealed from.

(c) in subsection (4) by striking out “shall make a recommendation in respect thereof to the Minister” and substituting “may confirm, vary or reverse the order appealed from and shall notify the appellant accordingly”.

14 The matter will be covered in the proposed new section 15(2).
Section 16(2) presently reads:

(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.

15 Cost of compliance with orders.

16 These amendments will provide for an appeal from a chemical control order and will bring the appeal provisions into conformity with those in the proposed Hazardous Chemicals Act.

and

(d) by repealing subsection (5).

17 Section 21 is amended

(a) in clause (a) by striking out “apply a pesticide or” and substituting “apply or sell a pesticide or be”,

(b) by adding the following after clause (d):

(d.1) prescribing

(i) classes of licences and permits,

(ii) the chemicals or other substances to which each class of licence or permit relates, and

(iii) the nature and extent of the authority granted by each class of licence or permit;

(d.2) prescribing forms of notices to be given, the procedures to be followed and the conditions for exterminations to be carried out in relation to any structure and for the airing out of buildings, structures and vehicles;

(c) by adding the following after clause (e):

(e.1) exempting any device, machine, apparatus, equipment or class thereof, or any type or class of building, vehicle or structure, from all or any part of this Act or the regulations;

(e.2) excluding any land or water from the operation of this Act or the regulations or any provision thereof;

(d) by adding the following after clause (g):

(g.1) restricting or prohibiting the application of an agricultural chemical to any class or type of land;

(g.2) subdividing agricultural chemicals into various classes and restricting the use, application, handling, storage, sale or transport of any class of agricultural chemical;

(e) by adding the following after clause (j):

(j.1) governing the signs, marking or other identification of vehicles and machines used in pesticide application, exterminations, transportation or storage facilities;

17 This amendment authorizes the making of regulations for additional matters.

(f) by adding the following after clause (o):

(o.1) regulating the construction of any enclosed space in which movable property may be placed during the period of pesticide applications and exterminations and airing out;

(o.2) respecting premises on, in or from which an agricultural chemical or any class or type of agricultural chemical may be sold, offered for sale, transferred or stored;

(o.3) prescribing the records to be kept by persons responsible for the transportation of any designated agricultural chemical or class of agricultural chemicals by a vehicle operated on a highway or road;

and

(g) by repealing clause (p).

18 The following is added after section 22:

22.1 A prosecution under this Act or the regulations may be commenced within 2 years of the commission of the alleged offence, but not afterwards.

19 This Act comes into force on the day upon which it is assented to.

18 This amendment will provide a 2-year period for commencement of prosecutions.