

1978 BILL 31

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 31

THE HAZARDOUS CHEMICALS ACT

MR. LYSONS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 31
Mr. Lysons

BILL 31

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THE HAZARDOUS CHEMICALS ACT

(Assented to , 1978)

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

1 In this Act,

(a) "animal"

(i) means any animal other than man, and

(ii) includes mammals, birds, fish, amphibians, reptiles, invertebrates, insects and animals similar to insects, wild or domestic, living or dead;

(b) "class of substance" means any 2 or more substances that

(i) contain the same chemical moiety, or

(ii) have similar chemical properties and the same type of chemical structure;

(c) "Committee" means the Hazardous Chemicals Advisory Committee;

(d) "Department" means the Department of the Environment;

(e) "Director" means the Director of Pollution Control;

(f) "hazardous chemical" means any substance, class of substance or mixture of substances that is entering or is likely to enter the environment in a quantity or concentration or under conditions that may constitute a danger to

(i) the natural environment,

(ii) plant or animal life, or

Explanatory Notes

GENERAL This Act is designed to protect the environment and human health from substances that are, or are capable of, contaminating the environment. It will complement the *Environmental Contaminants Act* (Canada) and extend similar protection within Alberta from environment contaminants not covered by federal legislation.

1 Definitions.

(iii) human health;

(g) “inspector” means an inspector appointed under this Act by the Minister;

(h) “Minister” means the Minister of the Environment;

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

(j) “person responsible”, when used with reference to a hazardous chemical or a substance or thing containing a hazardous chemical, means

(i) its owner,

(ii) the person having the charge, management or control of it, and

(iii) the person having the charge, management or control of the handling, storage, use, disposal, transportation, or display of it;

(k) “Schedule” means the schedule of hazardous chemicals established pursuant to this Act;

(l) “substance” means any distinguishable kind of inanimate matter

(i) capable of becoming dispersed in the natural environment, or

(ii) capable of becoming transformed in the natural environment into matter described in subclause (i).

2 The Crown is bound by this Act.

3(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(1) The Minister may by order

(a) establish a Schedule of hazardous chemicals and the restrictions governing them;

2 Self-explanatory.

3 Appointment of inspectors.

4 Powers of the Minister.

(b) add to or delete any substance or class of substances to or from the Schedule.

(2) *The Regulations Act* does not apply to a regulation made under subsection (1).

(3) An order made under subsection (1) shall, as soon as possible thereafter, be published in the Alberta Gazette.

(4) The Minister may by order

(a) direct any person engaged in the manufacture, use, sale, transfer or storage of a hazardous chemical listed in the Schedule to furnish all information specified in the order that he has in his possession or may reasonably be expected to have access to relating to that hazardous chemical;

(b) prohibit or restrict, either permanently or for such length of time as he considers necessary, the sale, handling, use or distribution of any crop, food, feed, plant, water, produce, or other matter which may have been exposed to a hazardous chemical listed in the Schedule;

(c) cause the crop, food, feed, animal, plant, water, open body of water, produce, product or other matter which may have been exposed to a hazardous chemical listed in the Schedule to be destroyed or to be decontaminated or otherwise rendered harmless.

(5) Any information received pursuant to subsection (1)(c) that relates to a formula or process by which anything is processed or manufactured, whether patented or not, or to trade secrets or that is sales or production information that has been specified in writing as information that is given in confidence, may not be disclosed except as necessary for the purpose of this Act.

(6) No person affected by an order of the Minister under subsection (1)(d) or (e) shall be entitled to compensation from the Crown for any loss resulting from or attributable to an order made by the Minister under this section.

5(1) The Minister shall appoint a Hazardous Chemicals Advisory Committee.

(2) A majority of the members of the Committee constitutes a quorum.

(3) The Minister may

(a) designate one member of the Committee as chairman and one member as secretary, and

5 Appointment of Hazardous Chemicals Advisory Committee.

(b) authorize, fix and provide for the payment of remuneration and expenses to the members of the Committee who are not officers or employees of the Crown or of any agency of the Crown.

(4) The Committee shall

(a) advise the Minister with respect to the content, administration, application and enforcement of this Act and the regulations, and

(b) hear appeals pursuant to section 7.

6(1) Where, in the opinion of the Director, the use, handling, storage, sale, manufacture, disposal or display, or the method of application or of transportation of a hazardous chemical or of a substance or thing containing a hazardous chemical

(a) causes or is likely to cause impairment of the quality of the natural environment for any use that is being or is likely to be made of it,

(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,

(d) impairs or is likely to impair the safety of any person, or

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

the Director may, whether or not the chemical, substance or thing is named in the Schedule, make an order called a "chemical control order" directed to the person responsible for the hazardous chemical or the substance or thing containing the hazardous chemical, and shall cause a copy of the order to be served on the person to whom the order is directed.

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

(a) limit or control the rate of application, deposit, addition, emission or discharge of a hazardous chemical or a substance or thing containing a hazardous 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 a hazardous chemical or a sub-

6 Chemical Control Orders.

stance or thing containing a hazardous 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 a hazardous chemical or a substance or thing containing a hazardous chemical or any container of either of them may be handled, stored, used, disposed of, transported, displayed or manufactured.

(3) 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.

(4) Where the person to whom a chemical control order is directed fails to comply with the order, the Director may take whatever action he considers necessary to effect compliance with the chemical control order and may charge the cost of that action to the person to whom the chemical control order is directed.

(5) The cost incurred under subsection (4) in effecting compliance with a chemical control order

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

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

7(1) Any person aggrieved by an order of the Director under section 6 may appeal in accordance with this section.

(2) A person appealing under this section shall, within 60 days of the date of the written notice informing him of the act or refusal in respect of which he is aggrieved, serve a notice of appeal in the prescribed form on the Minister and the chairman of the Committee.

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

(4) Within 60 days of being served with the notice of appeal the Committee shall hold a hearing into the matters raised by the notice of appeal.

7 Appeals.

(5) After the hearing the Committee may confirm, vary or reverse the order appealed from and shall notify the appellant accordingly.

8 For the purposes of this Act and the regulations every person is, with respect to any matter under this Act and the regulations, responsible for

(a) the acts or omissions of his employees and agents within the scope of their actual or apparent authority, and

(b) the use or operation of any aircraft, vehicle, equipment or machinery used for or in connection with any matter under this Act with his knowledge or consent, whether express or implied.

9 Every person engaged in the use, transfer, manufacture, production or importation of a hazardous chemical shall maintain all records prescribed by the regulations.

10(1) An inspector or any employee of the Department authorized by the Minister may, upon reasonable notice to the owner or occupant, enter onto any land or premises for the purpose of

(a) investigating, inspecting or carrying out tests necessary or desirable under this Act or the regulations,

(b) examining and making copies of or taking extracts from any records of a person during the course of an investigation, inspection or test under clause (a), or

(c) carrying out any powers or duties conferred or imposed on the inspector or employee by this Act or the regulations.

(2) Notwithstanding subsection (1), where an investigation or inspection is carried out for the purpose of enforcing a chemical control order under this Act, the inspector or authorized employee is not required to give any notice before entering onto any land or premises.

(3) The Minister may direct a licensee or permittee to provide to the Minister any records or other information specified in the direction within the time stated in the direction, if the records or other information relate to any matter to which this Act or the regulations apply.

(4) Where an inspector or an employee of the Department authorized by the Minister

(a) wishes to enter onto any lands or premises under subsection (1) or (2) and is prevented from so entering, or

8 Responsibility of persons for acts of employees and agents.

9 Records.

10 Right of entry with notice for routine inspections and without notice for enforcement of chemical control orders.

(b) has directed a licensee or permittee to provide to the Minister any records or other information under subsection (3), and the licensee or permittee refuses or fails to provide the records or other information,

the Minister may apply to the Supreme Court of Alberta by way of originating notice for an order permitting the inspector or employee of the Department to enter the lands or premises, or to obtain the records or other information for the purposes specified in the order.

(5) An order made under subsection (4) may be enforced by a peace officer.

11(1) The owner or person in charge of any land, premises, thing or substance in respect of which an inspector or an employee of the Department is authorized to enter, investigate, inspect, carry out tests, examine, make copies or take extracts, shall give the inspector or employee all reasonable assistance to enable him to carry out his duties and functions under this Act and the regulations and shall furnish him with all information relative thereto that the inspector or employee may reasonably require.

(2) No person shall obstruct or hinder an inspector or an employee of the Department authorized by the Minister in the carrying out of his duties or functions under this Act or the regulations.

(3) A person who

(a) by any act or omission interferes with or causes an interference with the entry by an inspector or an employee authorized by the Minister onto any land or premises under subsection (1) or (2),

(b) fails to comply or causes a failure to comply with a direction or with a court order under section 10(4), or

(c) fails to comply with subsection (1),

is guilty of an offence and liable on summary conviction to a fine or not more than \$1000 for each day that the offence continues.

12(1) Where it appears to a provincial judge, on information laid before him on oath, that there are reasonable and probable grounds for believing that a private dwelling house contains

(a) any crop, food, feed, animal, plant, water, produce, product or other matter that is contaminated by a hazardous chemical, or

11 Landowners and occupiers to assist in inspections.

12 Search warrants.

(b) any record, document, vehicle, equipment or other thing that affords evidence of a contravention of this Act,

the judge may issue a warrant authorizing a peace officer, with or without an inspector or an employee of the Department authorized by the Minister, to enter the private dwelling house by force if necessary for the purpose of searching therefor.

(2) Before entering a private dwelling house pursuant to this section, a peace officer shall take reasonable steps to find the owner or person in charge of it and shall endeavour to obtain the cooperation of that person.

(3) In entering or searching a private dwelling house a peace officer shall use no more force than is reasonably required under the circumstances.

(4) Where anything referred to in subsection (1) is found pursuant to the execution of a warrant issued under this section, it may be dealt with by an inspector or authorized employee in the same manner as a like item found at any other place may be dealt with under this Act.

13 In a prosecution, proceeding or hearing under this Act or the regulations, the production of

(a) a certificate or report of an analyst designated by the Minister as to the analysis, ingredients, quality, quantity or temperature of any material, whether solid, liquid or gas or any combination of them, or

(b) a notice, licence, permit, order, certificate, consent or approval purporting to be signed by the Minister or any person authorized by the Minister under this Act or the regulations, or a certified copy thereof,

shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the signature or official character of the person signing the document.

14 Any person who contravenes this Act or a regulation or order under this Act for which no specific penalty is provided is guilty of an offence and is liable on summary conviction to a fine or not more than \$1000 or to imprisonment for 90 days, or to both fine and imprisonment.

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

13 Documentary evidence.

14 Offences and penalties.

15 Time limit for prosecution.

16 The Lieutenant Governor in Council may make regulations

(a) prescribing the maximum quantity or concentration of a substance specified in the Schedule or forming part of a class of substances specified in the Schedule that may be released into the environment in the course of any commercial, manufacturing or processing activity;

(b) prescribing the conditions under which a substance specified in the Schedule or forming part of a class of substances specified in the Schedule may not be released into the environment in the course of any commercial, manufacturing or processing activity;

(c) limiting, restricting or prohibiting the sale, use, manufacture, production or importation of any hazardous chemical specified in the Schedule;

(d) specifying the records to be maintained by any person engaged in the use, transfer, manufacture, production or importation of a hazardous chemical;

(e) respecting the procedure to be followed by any committee appointed under this Act.

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

16 Regulations.