

1980 BILL 32

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 32

**THE LIVESTOCK AND LIVESTOCK PRODUCTS
AMENDMENT ACT, 1980**

MR. STEWART

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 32
Mr. Stewart

BILL 32

1980

THE LIVESTOCK AND LIVESTOCK PRODUCTS AMENDMENT ACT, 1980

(Assented to , 1980)

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

*1 The Livestock and Livestock Products Act is amended by this
Act.*

2 Section 5 is amended

*(a) in subsection 1(a) by striking out “engaged in the busi-
ness of”,*

(b) by repealing subsection (2) and substituting the following:

(2) Subject to subsection (7), no person shall deal in
livestock or livestock products unless he holds a valid
and subsisting licence authorizing him to do so.

(2.1) Subject to subsection (7), a person who buys or
sells livestock on at least one occasion is deemed to
deal in livestock.

(c) in subsection (5)(b)

(i) by striking out “his business of”,

(ii) by adding “or livestock” after “livestock”,

*(iii) by striking out “such business” and substituting
“such dealing”,*

(d) by repealing subsection (6),

*(e) in subsection (7) by adding “, if he maintains the live-
stock he buys for a period of not less than 30 days before he
sells it” after “operations”.*

Explanatory Notes

1 This Bill will amend chapter 215 of the Revised Statutes of Alberta 1970.

2 Section 5 presently reads in part:

5(1) The Lieutenant Governor in Council may by regulation

(a) require all persons engaged in the business of dealing in livestock or livestock products or both, or in a specified kind or kinds thereof, whether as a principal or an agent, including the operator of any stock yard, to be licensed, and for that purpose, prescribe different classes of licences for different classes of persons,

(2) No person who is required to be licensed shall engage in the business of dealing in any kind of livestock or livestock products for the dealing in which a licence is required, unless he is the holder of a subsisting licence authorizing him to deal in such livestock or livestock products.

(5) The Minister may in his discretion

(a) refuse an application for a licence, and

(b) cancel or suspend for a specified period or indefinitely a licence previously issued in any case in which he is satisfied that the holder of the licence has, in relation to his business of dealing in livestock products, contravened the regulations in relation to such business.

(6) A person who, at a time when he is not the holder of a valid and subsisting licence authorizing him to do so, deals in any livestock or livestock products for the dealing in which he is required to be licensed pursuant to this Act, is guilty of an offence and liable on summary conviction,

(a) when the offender is a body corporate, to a fine of not more than \$1,000, and

3 The following is added after section 5:

5.1(1) A person who has been refused a licence, or whose licence has been suspended or cancelled pursuant to section 5(5), may appeal the refusal, cancellation or suspension by serving the Minister with a notice of appeal within 30 days of being notified in writing of the refusal, cancellation or suspension.

(2) The Minister shall, within 30 days of being served with a notice of appeal under subsection (1), appoint an appeal board to hear the appeal.

(3) An appeal board appointed pursuant to subsection (2) shall consist of not less than 3 nor more than 5 persons, one of whom shall be designated as chairman by the Minister.

(4) The Minister may prescribe the time within which an appeal board is to hear an appeal and render a decision and he may extend that time.

(5) An appeal board that hears an appeal under this section may, by order,

(a) confirm the refusal to issue a licence or the cancellation or suspension of a licence,

(b) direct that the application for a licence be approved,

(c) reinstate a cancelled licence, or

(d) remove or vary a suspension.

(6) The Minister may pay reasonable fees and living expenses to the members of an appeal board.

(7) The Minister or a person whose appeal is heard by an appeal board may appeal the decision of the appeal board by filing an originating notice with the Court of Queen's Bench within 30 days of being notified in writing of the decision of the appeal board, and the Court may make any order that an appeal board may make pursuant to subsection (5).

5.2(1) A person

(a) who has been refused a licence or whose licence has been cancelled or suspended under section 5, and

(b) who has in respect of that cancellation or suspension commenced an appeal under section 5.1,

may by filing an originating notice with the Court apply for an order reinstating the cancelled licence or removing the

(b) when the offender is not a body corporate, to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding three months.

(7) Nothing in this section applies to a person who is a farmer, rancher or feeder in the Province and who buys and sells livestock in the ordinary course of his farming, ranching or feeding operations.

3 Appeal procedure and reinstatement pending appeal.

suspension, as the case may be, pending the determination of the appeal.

(2) The Court shall hear an application made under this section not less than 2 days after the originating notice has been served upon the Minister.

(3) Upon hearing an application made under this section, the Court may, subject to such conditions as it considers proper, if any, reinstate the cancelled licence or remove the suspension, as the case may be, pending the determination of the appeal under section 5.1.

4 Section 6 is amended

(a) in subsection (2)

(i) in clause (a) by adding “financial institutions, credit unions, trust companies,” before “chartered”,

(ii) by striking out “and” at the end of clause (b) and by adding the following after clause (b):

(b.1) respecting when payments from trust accounts for livestock and livestock products are to be made, and

(b) in subsection (3)

(i) by adding “financial institution, credit union, trust company,” before “chartered”,

(ii) by striking out “subsection (1), clause (a)” and substituting “subsection (2)(a)”.

5 Section 7 is amended by adding “excluding any miscellaneous expense, sales commission, branding charge, check off fee or handling charge” before “, as evidenced”.

6 Section 9(1) is amended

(a) by striking out “the Alberta Gazette and in a newspaper circulating” and substituting “as many publications that he considers appropriate, that circulate”, and

(b) by striking out “business” and substituting “dealing”.

4 Section 6 presently reads in part:

(2) The Lieutenant Governor in Council may make regulations

(a) respecting the opening and keeping of trust accounts under this section in chartered banks or treasury branches by licensed livestock dealers,

(b) requiring licensed livestock dealers to keep books of account and records containing particulars and information as to money received, held or paid for or on account of patrons, and

(c) respecting any other matter necessary to give effect to the intent of this section.

(3) Every licensed livestock dealer shall permit a person authorized by the Minister for the purpose to enter his premises at any reasonable times to examine and audit his books and accounts and every chartered bank and treasury branch shall permit a person so authorized to examine its records pertaining to trust accounts referred to in subsection (1), clause (a).

5 Section 7 presently reads:

7 In sections 8, 9 and 11 "value" means the amount of money, representing the full purchase price paid or to be paid in respect of the sale of any livestock or livestock products, as evidenced by any cheque, statement, invoice, promissory note or other memorandum issued at the time of sale in respect of the particular livestock or livestock products in question.

6 Section 9(1) presently reads:

9(1) If the Minister finds that a person to whom a licence has been issued has failed to account or make settlement faithfully to or with patrons according to the value of livestock or livestock products supplied, the Minister may publish a notice in the Alberta Gazette and in a newspaper circulating in the district in which the business in livestock or livestock products is carried on, requiring patrons who by reason of such failure have claims against the licensee, to furnish the Minister, by a date to be specified, with particulars of their claims verified by statutory declaration or such other manner as the Minister may require.

7 *Section 9.1(2) is repealed and the following is substituted:*

(2) Notice under subsection (1) shall be given by registered mail within 60 days after the date that livestock or livestock products other than hatching eggs were supplied to the person licensed and 90 days after the date that hatching eggs were supplied to the person licensed.

8 *Section 10(5) is amended by striking out “\$500,000” and substituting “\$1 000 000”.*

9 *Section 11 is amended*

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

11(1) The Minister may make payment to a patron out of the Fund and on any conditions that are prescribed by the regulations if

(a) a licensed livestock dealer has failed to account or make settlement to or with a patron in accordance with the value of the livestock or livestock products supplied,

(b) section 9 has been complied with, and

(c) the claim of the patron against the licensed livestock dealer is not satisfied.

(b) *by repealing subsection (2).*

10 *Section 13 is amended*

(a) *in clause (a3) by striking out “, not exceeding \$250,”,*

(b) *by striking out “and” at the end of clause (c) and by adding the following after clause (c):*

(c.1) respecting the terms and conditions of a payment from the Fund, and

7 Section 9.1(2) presently reads:

(2) Notice under subsection (1) shall be given by registered mail within 60 days after the date that the livestock or livestock products were supplied to the person licensed.

8 Section 10(5) presently reads:

(5) The amount of the Fund shall not exceed \$500,000.

9 Section 11 presently reads:

11(1) Where a licensed livestock dealer has failed to account or make settlement faithfully to or with a patron according to the value of the livestock or livestock products supplied and after section 9 has been complied with the claim of the patron against the livestock dealer is still not fully satisfied, the Minister,

(a) out of the Fund, and

(b) upon such conditions as may be prescribed by the regulations,

may pay to the patron such amount as, together with any amounts already paid by the dealer and recovered on the bond or otherwise, will provide to the patron an 80 per cent recovery on the amount originally due to the patron from the dealer.

(2) Notwithstanding subsection (1), no more than \$25,000 may be paid out of the Fund to a patron with respect to his claim against the livestock dealer.

(3) Notwithstanding subsection (1), where

(a) a licensed livestock dealer has given a patron a cheque in payment of all or part of the moneys due from the livestock dealer to the patron, and

(b) upon presentation for payment the cheque is dishonoured,

then, unless the patron presented the cheque for payment within 60 days of the date of the cheque, he is not entitled to payment from the Fund in respect thereof and an amount equal to the amount of the cheque shall be deducted from the amount otherwise payable to the patron under subsection (1).

10 Section 13 presently reads:

13 The Lieutenant Governor in Council may make regulations

(a) respecting the management of the Fund,

(a1) designating the classes of licences issued pursuant to section 5 in respect of which a portion of the licence fee shall be deposited in the Fund,

(a2) prescribing the portion of the licence fee that shall be paid into the Fund,

11 Section 14(1) is amended by striking out “with the approval of the Lieutenant Governor in Council, and”.

12 Section 15(2) is amended

(a) by striking out “\$100” and substituting “\$1000”, and

(b) by striking out “60 days” and substituting “6 months”.

13 Sections 16, 18 and 19 are repealed.

(a3) prescribing the amount of the annual licence fee, not exceeding \$250, that shall be payable for those classes of licences designated pursuant to clause (a1),

(b) prescribing the proof that a patron must provide to establish his claim for payment out of the Fund and the amount of that payment,

(c) prescribing what efforts a patron may be required to take to recover the amount of his claim from the livestock dealer before he is entitled to payment out of the Fund, and

(d) respecting any other matter necessary to give effect to sections 10, 11 and 12 in accordance with their intent or to supply any deficiency therein.

11 Section 14(1) presently reads:

14(1) The Minister may with the approval of the Lieutenant Governor in Council, and subject to the provisions of The Public Service Act, appoint such persons as he deems necessary as inspectors for the purposes set out in this section, prescribe their duties and fix their remuneration.

12 Section 15(2) presently reads:

(2) A person who contravenes a provision of this section is guilty of an offence and liable on summary conviction to a fine of not more than \$100 and in default of payment to imprisonment for a term of not more than 60 days.

13 Sections 16, 18 and 19 presently read:

16(1) With the approval of the Lieutenant Governor in Council the Minister may from time to time appoint duly qualified veterinary surgeons to be veterinary inspectors of such packing plants, slaughter houses and stock yards

(a) as the Minister may from time to time designate, and

(b) as are not for the time being under inspection by virtue of the Live Stock and Live Stock Products Act (Canada),

and fix their remuneration and prescribe their duties.

(2) A veterinary inspector appointed under this section

(a) shall have free and unrestricted access to every packing plant, slaughter house and stock yard that he is authorized by the Minister to inspect, and

(b) may examine livestock and livestock products therein.

18(1) Any livestock product marked pursuant to this Act shall be sold without restriction in every part of the Province.

(2) A city, town, village, county or municipal district by-law is void and of no effect if it prevents, restricts or interferes with the sale of any livestock product so marked.

14 Section 23(1) is repealed and the following is substituted:

23(1) A person who contravenes this Act or a regulation is guilty of an offence and liable on summary conviction

(a) if the person is a corporation, to a fine of not more than \$1000, or

(b) if the person is an individual, to a fine of not more than \$1000 and in default of payment to imprisonment for a term not exceeding 6 months.

15 Section 24 is amended

(a) *by striking out “\$50” and substituting “\$500”, and*

(b) *by striking out “one month” and substituting “3 months”.*

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

19(1) The Minister may assess

(a) each owner of a packing plant or slaughter house for which an inspector is appointed pursuant to section 14, and

(b) each owner of a packing plant or slaughter house for which a veterinary inspector is appointed pursuant to section 16,

with a reasonable proportion of the total cost of the services of inspectors and veterinary inspectors appointed pursuant to this Act, and the Minister shall fix and determine the time when the cash amount so assessed is payable and the method by which it is to be paid.

(2) The amount of each such assessment is a debt due to the Crown from the owner.

(3) When received the amount of each such assessment shall be deposited in a special trust fund to be called "The Livestock Products Inspection Account" out of which the Minister shall pay proper expenses in relation to the appointment of inspectors and veterinary inspectors and to the performance by them of their respective functions.

14 Section 23(1) presently reads:

23(1) A person contravening a provision of this Act or of a regulation is guilty of an offence and liable on summary conviction where no other penalty is prescribed to a fine of not more than \$1,000 or to imprisonment for a term not exceeding three months.

15 Section 24 presently reads:

24 A person who

(a) assaults, obstructs or interferes with an inspector or veterinary inspector in the performance of his duty under this Act, or

(b) refuses to allow an inspector or veterinary inspector to enter a building or other premises that the inspector or veterinary inspector finds it necessary to enter in the performance of his duties under this Act,

is guilty of an offence and liable on summary conviction to a fine of not more than \$50 or to imprisonment for a term not exceeding one month, or to both fine and imprisonment.