

1981 BILL 30

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 30

THE TOBACCO TAX AMENDMENT ACT, 1981

MR. D. ANDERSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 30
Mr. D. Anderson

BILL 30

1981

THE TOBACCO TAX AMENDMENT ACT, 1981

(Assented to _____, 1981)

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

1 The Tobacco Tax Act is amended by this Act.

2 Section 7 is amended by striking out "immediately report the matter in writing to the Minister" and substituting "report the matter in writing to the Minister not later than 7 days after receiving delivery of the tobacco in Alberta or bringing the tobacco into Alberta".

3 Section 9(2)(c) is amended by striking out "of 8 per cent a year" and substituting "fixed for advances by Treasury Board pursuant to section 45 of The Financial Administration Act, 1977".

Explanatory Notes

1 This Bill will amend chapter 364 of the Revised Statutes of Alberta 1970.

2 Section 7 presently reads:

7 Every person ordinarily resident in Alberta or carrying on business in Alberta who brings into Alberta or who receives delivery in Alberta of tobacco acquired for value by him

(a) for his own consumption or use or for the consumption or use by other persons at his expense, or

(b) on behalf of, or as agent for, a principal who desires to acquire the tobacco for the consumption or use by the principal or other persons at the principal's expense,

shall immediately report the matter in writing to the Minister and shall supply the Minister with the invoice and all other pertinent information required from him by the Minister in respect of the consumption or use of the tobacco, and shall pay to Her Majesty in right of Alberta the same tax in respect of the consumption and use of the tobacco as would have been payable if the tobacco had been purchased in Alberta.

3 Section 9(2) presently reads:

(2) If any person, other than a tax collector, who has collected any tax imposed by this Act fails to pay it over to the Minister at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof

(a) becomes a debt due to Her Majesty in right of Alberta,

(b) is a lien upon the property in Alberta of the person in default and has priority over all other claims of other persons, and

4 Section 10 is amended by adding the following after subsection (6):

(6.1) For the purpose of determining if a person has attempted to evade or has evaded the tax imposed by this Act, a peace officer or any person authorized in writing by the Minister may stop and detain any public vehicle, as defined in *The Motor Transport Act*, and may examine the contents of that public vehicle and any trailer that may be attached to it, including any cargo, manifests, records, accounts, vouchers, papers or things that may afford evidence respecting the contravention of this Act or the regulations, and the peace officer or a person so authorized may seize and take away the cargo, manifests, records, accounts, vouchers, papers or things and retain them until they are produced in court proceedings.

5 The following is added after section 10:

10.1(1) Where a peace officer or a person authorized in writing by the Minister believes that an offence has been committed under this Act and where more than 10 000 cigarettes are found in the control of a person who does not hold a subsisting wholesale dealer's permit issued under this Act, or are being transported or stored by or for that person, a peace officer or a person authorized in writing by the Minister may seize, take away, hold and dispose of those cigarettes in accordance with subsections (2), (3) and (4).

(2) Subject to subsection (3), cigarettes seized under subsection (1) shall be forfeited to Her Majesty in right of Alberta to be disposed of as the Minister directs.

(3) If, within 30 days after the seizure, the person who had control over the cigarettes seized under subsection (1) furnishes security to the Minister for the collection of the tax imposed by this Act in respect of the consumption of the cigarettes, the seized cigarettes shall be returned to that person on payment by him of any costs incurred by the Minister in seizing, taking away and holding the cigarettes.

(4) If the Minister directs that the cigarettes be disposed of under subsection (2) by sale, the proceeds of that sale remaining after payment of the costs incurred by the Minister in seizing, taking away, holding and disposing of the cigarettes shall be applied first against the indebtedness under this Act of the person in whose control the cigarettes were prior to seizure, and any remaining proceeds shall be paid to the person in whose control the cigarettes were prior to the seizure.

(c) shall bear interest at the rate of 8 per cent a year from the day the amount was due until it is paid.

4 Authorized person permitted to examine contents of a public vehicle to determine if tax is being evaded.

5 Power of seizure and sale of cigarettes.

(5) No person shall hinder, molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person from doing that thing.

6 *Section 13 is repealed and the following is substituted:*

13 The Minister may assess penalties for the purposes of sections 13.1 and 13.3.

13.1 Any person appointed as a collector who fails to remit the amount of taxes collectable or payable by him with any return or statement that he is required to file under this Act shall, when so assessed by the Minister, pay a penalty of

(a) an amount equal to 5% of the tax collectable or payable for the period covered by the return, if the amount of that tax was less than \$10 000, or

(b) \$500, if the amount of the collectable or payable tax was \$10 000 or more.

13.2 Any person who has

(a) made, participated in, assented to or acquiesced in the making of false or deceptive statements in a return, certificate, statement or answer delivered or made under this Act or the regulations,

(b) destroyed, altered, mutilated or disposed of the records or books of account of a dealer or consumer to evade payment of tax imposed by this Act,

(c) made, participated in, assented to or acquiesced in the making of false or deceptive entries in the records or books of account of a dealer or consumer or omitted, assented to or acquiesced in the omission of a material particular in the records or books of account of a dealer or consumer, or

(d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or the regulations

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable to a fine of not more than \$5000 or to imprisonment for not more than 2 years or to both the fine and imprisonment.

13.3(1) Any person who sells tobacco in Alberta for resale without holding a subsisting wholesale dealer's permit issued under this Act shall, when so assessed by the Minister, pay a penalty of 1¢ for every cigarette so sold by him and 30% of the price at which each cigar was so sold by him.

6 Offences and penalties.

(2) Any person who sells tobacco in Alberta for resale without holding a subsisting wholesale dealer's permit issued under this Act is guilty of an offence and is liable to a fine of not more than \$5000 or to imprisonment for a term of not more than 2 years or to both the fine and imprisonment.

13.4 Any person who contravenes section 10(2), (3) or (5) is guilty of an offence and is liable to a fine of \$50 for each day during which the contravention continues.

In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.