

1982 BILL 16

Fourth Session, 19th Legislature, 31 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 16

HAZARDOUS CHEMICALS AMENDMENT ACT, 1982

MR. BATIUK

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 16
Mr. Batiuk

BILL 16

1982

HAZARDOUS CHEMICALS AMENDMENT ACT, 1982

(Assented to _____, 1982)

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

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

2 *Section 1 is amended*

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

(e.1) "environment" means all or any part or combination of the air, land and water of Alberta;

(b) *in clause (f)*

(i) *by striking out "likely to enter" and substituting "capable of entering", and*

(ii) *in subclause (i) by striking out "natural";*

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

(g) "hazardous waste" means a hazardous chemical disposed of or to be disposed of as waste;

(g.1) "manifest" means the document designed to identify the quantity, composition, origin and destination of hazardous waste during transportation and the persons consigning, transporting and accepting that waste;

(d) *by repealing clause (i);*

(e) *in clause (k) by striking out "4" and substituting "16(1)(f)";*

(f) *in clause (l)(i) and (ii) by striking out "natural".*

Explanatory Notes

1 This Bill will amend chapter H-3 of the Revised Statutes of Alberta 1980.

2 Section 1 presently reads in part:

1 *In this Act,*

(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*

(iii) *human health;*

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

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

(k) *“Schedule” means the schedule of hazardous chemicals established pursuant to section 4;*

(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).*

3 Section 3 is repealed and the following is substituted:

3(1) The Minister may in writing appoint an employee of the Government or of a government agency to carry out all or any of the provisions of this Act and the regulations in the whole or any part of Alberta.

(2) An instrument of appointment under subsection (1) may direct that the authority of the employee be exercised in any manner that the Minister prescribes in the appointment.

4 Section 4 is amended

(a) by repealing subsections (1), (2) and (3);

(b) in subsection (4)(a) by striking out “any person engaged in the manufacture, use, sale, transfer or storage of” and substituting “a person responsible for”;

(c) in subsection (4)(a), (b) and (c) by adding “or specified in the order” after “Schedule”.

5 Section 6 is amended by striking out “natural environment” and substituting “environment”, wherever it occurs.

6 The following is added after section 7:

7.1(1) Without limiting the application of section 6, where an unlawful or accidental discharge, emission, escape or spill of hazardous chemical occurs at a facility for the storage, treatment or disposal of hazardous chemical, the person responsible for

3 Section 3 presently reads:

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 Section 4 presently reads in part:

4(1) The Minister may by order

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

(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 after it is made, 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 any length of time 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 Substituting “environment” for “natural environment”.

6 Confinement and removal of spills, and hazardous waste.

the hazardous chemical shall, immediately on becoming aware of the occurrence, take all reasonable emergency measures consistent with public safety to repair, remedy and confine the effects of and remove the hazardous chemical in such a manner as to effect maximum protection to human life and health and the environment.

(2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$5000.

(3) Notwithstanding subsections (1) and (2), where a discharge, emission, escape or spill referred to in subsection (1) occurs, the Director may take whatever action he considers necessary to protect human life or health or the environment, and may in writing charge the cost of that action to any one or more of the persons responsible for the hazardous chemical.

(4) The cost incurred under subsection (3)

(a) shall be paid on demand by the person or persons charged under that subsection, and

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

7.2 No person shall

(a) generate hazardous waste and permit that waste to leave the premises where it was generated,

(b) collect from the premises referred to in clause (a), or consign or transport, hazardous waste, or

(c) accept for transportation, treatment or disposal, or store or provide storage facilities for, hazardous waste generated by another person,

unless, on application, he or his employer has been allocated a personal identification number by the Director.

7.3(1) No person shall consign, transport or accept for transportation, storage, treatment or disposal any hazardous waste unless the waste is accompanied by a manifest which

(a) is duly completed in accordance with the regulations,

(b) accurately identifies the quantity, composition and points of origin and destination of the hazardous waste, and

(c) contains the personal identification number of each person consigning, transporting or accepting the waste.

(2) A person who contravenes subsection (1) is guilty of an offence and liable to a fine of not more than \$10 000.

7.4(1) No person shall

- (a) consign or transport hazardous waste to, or
- (b) store, treat or dispose of, or accept for storage, treatment or disposal, hazardous waste in,

any place except a facility operating in accordance with the law and with the terms, conditions and requirements of a licence, certificate of variance or approval issued pursuant to the *Clean Air Act* or *Clean Water Act* or the regulations under either Act.

(2) A person who contravenes this section is guilty of an offence and liable to a fine of not more than \$10 000.

7 Section 10 is amended

(a) in subsection (1) by striking out “inspector or any” and “inspector or”;

(b) in subsection (2) by striking out “inspector or”;

(c) by repealing subsections (3), (4) and (5) and substituting the following:

(3) If an employee of the Department authorized by the Minister wishes to enter any land or premises under subsection (1) or (2) and is prevented from so entering, the Minister may apply to the Court of Queen’s Bench by way of originating notice for an order permitting the employee to enter the land or premises, or to obtain the records or other information for the purposes specified in the order.

(4) An order made under subsection (3) may be enforced by a peace officer.

7 Section 10 presently reads:

10(1) An inspector or any employee of the Department authorized by the Minister may, on reasonable notice to the owner or occupant, enter 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), when 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 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) If an inspector or an employee of the Department authorized by the Minister

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

(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 Court of Queen's Bench by way of originating notice for an order permitting the inspector or employee of the Department to enter the land 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.

8 *Section 11 is amended*

(a) *by striking out “an inspector or” and “inspector or” wherever they occur;*

(b) *in subsection (3)(b) by striking out “10(4)” and substituting “10(3)”.*

9 *Section 12 is amended*

(a) *in subsection (1) by striking out “an inspector or”;*

(b) *in subsection (4) by striking out “inspector or”.*

10 *The following is added after section 13:*

13.1 The Minister may enter into agreements with the Governments of Canada and of other provinces respecting the implementation of the manifest system.

8 Section 11 presently reads:

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 to the carrying out of those duties and functions 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 section 10(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 to a fine of not more than \$1000 for each day that the offence continues.

9 Section 12 presently reads in part:

12(1) When 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

(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.

(4) If 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.

10 Inter-governmental agreements.

11 *Section 14 is amended*

- (a) *by striking out “fine or” and substituting “fine of”;*
- (b) *by striking out “for 90” and substituting “for a term not exceeding 90”.*

12 *Section 16 is amended*

- (a) *by renumbering it as section 16(1);*
- (b) *by adding the following after subsection (1)(e):*
 - (f) **establishing a Schedule of hazardous chemicals and classifying those hazardous chemicals into such classes and subclasses as he thinks fit;**
 - (g) **governing the completion, retention, use, disposition and filing of manifests and copies of manifests and prescribing the form of the manifest;**
 - (h) **governing the storage or disposal of hazardous chemicals;**
 - (i) **exempting a hazardous chemical or type of hazardous chemical from all or any of the provisions of this Act or the regulations and specifying the conditions for the exemption.**
- (2) **Regulations under subsection (1)(d) or (h) may be made to apply to hazardous chemicals in general or to particular hazardous chemicals or types of hazardous chemical only.**

13 *This Act comes into force on Proclamation.*

11 Section 14 presently reads:

14 A 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 liable to a fine or not more than \$1000 or to imprisonment for 90 days, or to both fine and imprisonment.

12 Additional regulation making powers of the Lieutenant Governor in Council.

13 Coming into force.