

2001 BILL 3

First Session, 25th Legislature, 50 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 3

FISHERIES (ALBERTA) AMENDMENT ACT, 2001

THE MINISTER OF SUSTAINABLE
RESOURCE DEVELOPMENT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 3

2001

FISHERIES (ALBERTA) AMENDMENT ACT, 2001

(Assented to _____, 2001)

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

Amends SA
1992 cF-12.2

1 The *Fisheries (Alberta) Act* is amended by this Act.

2 Section 1(1) is amended

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

- (b.1) “competitive fishing” means competitive fishing as defined in the regulations for the purposes of this Act;
- (b.2) “competitive fishing event” means a competitive fishing event as defined in the regulations for the purposes of this Act;
- (b.3) “competitive fishing event participant” means a competitive fishing event participant as defined in the regulations for the purpose of this Act;

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

- (f.1) “fish handling facility” means a fish handling facility as defined in the regulations for the purposes of this Act;

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

- (j.1) “game fish” means game fish as defined in the regulations for the purposes of this Act;

Explanatory Notes

- 1** Amends chapter F-12.2 of the Statutes of Alberta, 1992.
- 2** Definitions.

(d) in clause (k) by adding “, except in section 35(4)(b),” after “means”;

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

(q) “sportfishing” means angling or fishing with a bow and arrow, a spear, a dip net, a seine net or a minnow trap;

(r) “sportfishing guide” means a person who assists another person to sportfish.

3 Section 11(2)(b) is amended by striking out “fish, in contained waters,” and substituting “fish or game fish, that are placed or kept in contained waters in accordance with the regulations,”.

4 The following is added after section 11:

Competitive
fishing event

11.1(1) Subject to subsection (2), no person shall advertise, organize, hold or operate a competitive fishing event without holding a licence that authorizes the event.

(2) Subsection (1) does not apply to

(a) a category of competitive fishing event exempted by the regulations from requiring a licence, or

(b) a person who assists the holder of a competitive fishing event licence in carrying out the licence holder’s duties and powers under the licence.

(3) A competitive fishing event participant in a competitive fishing event for which a licence is required is subject to the terms and conditions of that licence insofar as they are applicable to the participant.

3 Section 11(2) presently reads:

(2) Subsection (1) does not apply

(a) to lawfully kept cultured fish,

(b) to fish, other than cultured fish, in contained waters,

(c) if the activity is authorized by the regulations, or

(d) if the fish is released back into the water from which they were taken.

4 Competitive fishing events.

5 Section 18 is amended

- (a) by renumbering it as section 18(1);**
- (b) in subsection (1) by striking out “A licence holder” and substituting “Subject to subsection (2), a licence holder”;**
- (c) by adding the following after subsection (1):**

(2) Subsection (1) does not apply to a person who assists the holder of a competitive fishing event licence to carry out activities pursuant to that licence.

(3) The holder of a competitive fishing event licence must give notice, as provided for in the regulations, to each competitive fishing event participant of the terms and conditions of the licence that apply to the participant.

6 Section 28(1) is amended by adding “or was used in the commission of an offence under this Act” after “under this Act”.

7 The following is added after section 28:

Warrants

28.1 Without limiting section 3 of the *Provincial Offences Procedure Act*, the following apply in respect of offences and related proceedings under this Act: sections 184.2, 487.01, 487.091, 487.1, 492.1 and 492.2 of the *Criminal Code* (Canada) and all the other provisions of the *Criminal Code* (Canada) that pertain to those sections, except for any provision that restricts the type of offence to which the section relates.

8 Section 34 is amended

- (a) by adding the following after subsection (3):**

(3.1) A competitive fishing event participant who does not comply with a term or condition of the licence applicable to the participant is guilty of an offence.

(3.2) It is a defence to a charge under subsection (3.1) for the accused to establish that the accused was not notified of the terms and conditions of the licence.

5 Section 18 presently reads:

18 A licence holder or a person authorized by or under a licence to conduct activities pursuant to a licence shall, while carrying out those activities, carry with him

(a) the licence, if the person is the licence holder, or

(b) if the person is a person other than the licence holder, an instrument, as provided for in the regulations, indicating that the person is authorized by or under a licence to conduct the activities pursuant to a licence.

6 Section 28(1) presently reads:

28(1) A fishery officer or fishery guardian may seize anything that he believes on reasonable and probable grounds may afford evidence of the commission of an offence under this Act.

7 Warrants and authorization.

8 Section 34 presently reads:

34(1) A person who hinders, obstructs or impedes a fishery officer or fishery guardian in the performance of his duties is guilty of an offence.

(2) A person who gives false or misleading information to the Minister, to the Assistant Deputy Minister under section 15 or to a fishery officer or fishery guardian carrying out the administration of this Act is guilty of an offence.

(3) A licensee who does not comply with any term or condition of the licence is guilty of an offence.

(b) in subsection (6)

(i) by adding “11.1(1),” after “11(1),”;

(ii) by striking out “18” and substituting “18(1) or (3)”.

9 Section 35 is amended by adding the following after subsection (3):

(4) If a person is convicted of an offence under this Act and is required to pay a fine but fails to pay the amount of the fine within the time period allowed by the court,

(a) the person’s right to conduct activities under any licence issued under this Act held by that person that authorizes sportfishing is suspended until the fine is paid and, notwithstanding anything in this Act, the Minister must, in respect of that person, refuse to issue a licence under this Act that authorizes sportfishing until the fine is paid, and

(b) the person’s right to conduct activities under any licence held by that person under the *Wildlife Act* that is referred to in section 95 of the *Wildlife Act* is suspended and the Minister must, in respect of that person, refuse to issue any such licence under the *Wildlife Act* until the fine under this Act is paid.

10 The following is added after section 41:

Offence
exemption

41.1 Without limiting the immunity of the Crown, the offence provisions of this Act do not apply

(a) to an employee of the Crown who

(i) is under the administration of the Minister, and

(ii) is carrying out powers and duties involving fisheries research or management under this Act,

or

(b) to a fishery officer or a fishery guardian, or to an individual who acts on behalf of and is supervised

(4) A person who alters a licence other than in accordance with this Act is guilty of an offence.

(5) A person who does not comply with an order under section 32(1), (2) or (3) is guilty of an offence.

(6) A person who contravenes section 4, 6(1) or (3), 7(1), 8(1) or (2), 9(2), 10(1), 11(1), 15(3), 16(1) or (3), 18, 22(2), 23(2), 29(1), (2) or (3) or 30(1) or a provision of the regulations is guilty of an offence.

9 Section 35 presently reads:

35(1) A person who is guilty of an offence is liable to a fine of not more than \$100 000 or to imprisonment for a term of not more than one year or to both.

(2) If an offence is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.

(3) In addition to imposing a fine or an imprisonment term the court may suspend or cancel any licence issued to the accused, and the court may direct that an accused does not have the right to obtain or hold a licence for up to 5 years from the date of the conviction.

10 Offence exception.

by a fishery officer or fishery guardian, while carrying out powers and duties involving investigations or undercover operations related to the enforcement of this Act.

11 Section 43(1) is amended by adding the following after clause (i):

- (j) respecting sportfishing guides and activities involving assisting persons to sportfish;
- (k) respecting competitive fishing events, competitive fishing event participants and activities involving competitive fishing.

12 Section 44(d) is amended by striking out “ “bait fish” ” and substituting “ “bait fish”, “game fish”, “competitive fishing”, “competitive fishing event”, “competitive fishing event participant”, “fish handling facility” ”.

11 Section 43(1) presently reads:

43(1) The Lieutenant Governor in Council may make regulations

- (a) establishing categories of licences, activities to be authorized by licences and classifications of licences;*
- (b) respecting the terms, conditions and transferability of a licence;*
- (c) respecting the eligibility requirements and applications for and the issuing of licences;*
- (d) respecting instruments under section 18(b);*
- (e) governing the imposition and collection of royalties in respect of fish caught pursuant to a licence;*
- (f) respecting the inspection of fish, fishing equipment and fish processing facilities and of the handling, marketing, processing, storage, transportation, preservation and disposition of fish;*
- (g) establishing quality standards for fish for human consumption;*
- (h) respecting fish, fishing and the handling, marketing, processing, storage, transportation, preservation, disposition and sale of fish;*
- (i) respecting the propagation, rearing and keeping of fish.*

12 Section 44 presently reads:

44 The Minister may make regulations

- (a) establishing forms for the purpose of this Act;*
- (b) establishing restricted waters, prescribed waters and prohibited waters for the purposes of this Act;*
- (c) excluding species of fish from the definition of fish for the purposes of this Act;*

13 Sections 2(d), 4, 5, 8, 9 and 11 come into force on Proclamation.

- (d) defining “contained waters”, “bait fish” and “cultured fish” for the purposes of this Act;*
- (e) prescribing fees for licences;*
- (f) providing for the maintenance and submission of records by licensees and any person producing or handling fish;*
- (g) respecting the circumstances under which fish may be placed in, kept in or allowed to enter water;*
- (h) providing for identification of fishery officers and fishery guardians.*

13 Coming into force.