

2008 Bill 18

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 18

FILM AND VIDEO CLASSIFICATION ACT

THE MINISTER OF CULTURE AND COMMUNITY SPIRIT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 18

2008

FILM AND VIDEO CLASSIFICATION ACT

(Assented to , 2008)

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

Definitions

1 In this Act,

- (a) “applicant” means an applicant for a distribution licence;
- (b) “associate” means a person, including an officer and a director, who performs services related to the management of the business of a distributor;
- (c) “classification agency” means a person or body designated under the regulations that classifies video films;
- (d) “distribution licence” means a licence issued under section 6;
- (e) “distributor” means a person who distributes films to theatres;
- (f) “Executive Director” means the Executive Director appointed under section 3;
- (g) “film” means a cinematographic film, video film or any other medium specified in the regulations from which moving visual images may be produced;
- (h) “former Act” means the *Amusements Act*, RSA 2000 cA-40;
- (i) “inspector” means
 - (i) the Executive Director,
 - (ii) a member of a municipal police force,
 - (iii) a member of the Royal Canadian Mounted Police, or
 - (iv) a person appointed by the Minister under section 14 as an inspector for the purposes of this Act;

- (j) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (k) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;
- (l) “theatre” means a building or hall or any other place, including an open-air place, where films are exhibited to members of the public who have paid an admission fee;
- (m) “video exchange” means a retail establishment of any kind where video films are sold, rented or otherwise made available to the public;
- (n) “video exchange operator” means a person who owns, operates, manages or works in a video exchange;
- (o) “video film” includes a videotape, videocassette, videodisc and video game;
- (p) “video game” means an object or device that
 - (i) stores recorded data or instructions,
 - (ii) receives data or instructions generated by a user, and
 - (iii) by processing the data or instructions, creates an interactive game capable of being played, viewed or experienced through a computer, gaming system or other technology.

Purposes of Act

2 The purposes of this Act are

- (a) to provide for a comprehensive procedure for the classification and regulation of films, and
- (b) to provide for the dissemination of information concerning the nature and content of films.

Appointment of Executive Director

3 There shall be appointed, in accordance with the *Public Service Act*, an Executive Director and any other employees that the Minister considers necessary to carry out the purposes of this Act.

Powers and duties of Executive Director

4(1) The Executive Director may

- (a) administer this Act and the regulations,
- (b) provide any services, disseminate any information and undertake any projects and programs that the Executive Director considers advisable to carry out the purposes of this Act,
- (c) in accordance with the regulations, classify films to be exhibited in a theatre by doing one or more of the following:
 - (i) viewing each film;
 - (ii) reviewing documentation or other information describing the content of each film;
 - (iii) adopting a classification of a film or type of film established by another person or body,
- (d) in accordance with the regulations, exempt a film or type of film from the requirement for classification, and
- (e) perform any duties, in addition to those described in clauses (a) to (d), that are prescribed by this Act, the regulations or the Lieutenant Governor in Council.

(2) The Executive Director's power to classify films includes the power to reclassify films.

Delegation of Executive Director's powers and duties

5 The Executive Director may in writing delegate any of the Executive Director's powers, duties or functions under this Act or the regulations to any employee of the Government of Alberta.

Distribution licence required

6(1) No person shall distribute a film for the purposes of exhibition in a theatre unless the person holds a distribution licence issued by the Executive Director.

(2) An application for a distribution licence must be made to the Executive Director on an application form approved by the Executive Director accompanied with a licence fee in the amount prescribed by the regulations.

(3) The Executive Director may refuse to grant a distribution licence if

- (a) the applicant fails to pay the licence fee,
- (b) the applicant includes false information on the application form, or
- (c) the applicant or an associate of the applicant has contravened this Act or the former Act or a regulation under this Act or the former Act.

(4) A distribution licence expires on the December 31 next following the date of issue of the licence.

(5) A distribution licence is non-transferable.

Collection of personal information

7 The Executive Director may collect and disclose personal information about an applicant or an associate of an applicant for the purposes of determining the eligibility of the applicant to hold a distribution licence.

Suspension or cancellation of licence

8 After providing the licence holder with an opportunity to be heard, the Executive Director may suspend or cancel a distribution licence on any ground on which the Executive Director may refuse to issue a distribution licence.

Distribution of unclassified film prohibited

9 No distributor shall distribute a film for the purposes of exhibition in a theatre unless

- (a) the film has been classified by the Executive Director and the classification of the film is indicated as prescribed by the regulations, or
- (b) the film has been exempted by the Executive Director from the requirement to be classified.

Exhibition of unclassified film prohibited

10 No person shall exhibit a film in a theatre unless

- (a) the film has been classified by the Executive Director and the classification of the film is indicated as prescribed by the regulations, or
- (b) the film has been exempted by the Executive Director from the requirement to be classified.

Admission of persons prohibited

11 No person shall admit into a theatre where a film is exhibited any person who is of a class of persons that is prohibited from viewing a film of that classification.

Sale, etc., of unclassified video film prohibited

12 No video exchange operator shall sell, rent or otherwise make available to the public a video film unless

- (a) the video film has been classified by a classification agency and the classification of the video film is indicated as prescribed by the regulations, or
- (b) the video film has been exempted by the Executive Director from the requirement to be classified.

Access by minors to adult video films prohibited

13(1) No video exchange operator shall sell, rent or otherwise make available to a minor an adult video film.

(2) In this section, “adult video film” means

- (a) a video film that is classified by a classification agency as a video film that is to be viewed by adults only, or

- (b) a video film that depicts explicit sexual activity or any other activity or conduct prescribed by the regulations.

Appointment of inspectors

14 The Minister may appoint any person as an inspector for the purposes of this Act, subject to any terms or conditions the Minister considers necessary.

Authority to enter and inspect

15 For the purposes of administering and enforcing this Act and the regulations, an inspector, at any reasonable time and without a warrant, may

- (a) enter and inspect any theatre, video exchange or other premises, other than a private dwelling, where a film is or is to be distributed, exhibited, sold, rented or otherwise made available to the public,
 - (b) require the owner of a film or the owner, operator or person in charge of the theatre, video exchange or other premises
 - (i) to make available for inspection a film and any documents associated with a film, and
 - (ii) to give the inspector all reasonable assistance requested by the inspector,
- and
- (c) on giving a receipt, remove a film and any documents associated with a film that the inspector considers necessary for the purpose of viewing the film and making copies of the documents.

Offences

16 A person who

- (a) gives false information in an application for a distribution licence,

- (b) interferes with or obstructs any person in the exercise of any power or the performance of any duty conferred or imposed by this Act or the regulations, or
- (c) contravenes this Act or the regulations

is guilty of an offence.

Penalties

17(1) A person who is guilty of an offence under this Act is liable

- (a) in the case of an individual, to a fine of not more than \$10 000 or to imprisonment for a term of not more than 2 years less a day, or both, and
- (b) in the case of a corporation, to a fine of not more than \$100 000.

(2) Where a corporation is convicted of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, participated in or acquiesced in the commission of the offence is guilty of an offence and liable to the penalty set out in subsection (1)(a).

Classification reports

18 The Executive Director shall publish, in accordance with the regulations, a classification report for each film that is classified by the Executive Director.

Regulations

19(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the licensing of distributors;
- (b) prescribing licence fees;
- (c) exempting a person, class of person, film or type of film from all or a portion of this Act or the regulations;
- (d) establishing a classification scheme for films, including
 - (i) the establishment of different classification schemes for different types of films, and

- (ii) the adoption by reference, with any changes the Lieutenant Governor in Council considers appropriate, of a classification scheme for films established by another person or body;
- (e) respecting the submission of films to the Executive Director for classification;
- (f) respecting the fees to be paid for the classification of films;
- (g) designating classification agencies for the purposes of this Act;
- (h) providing for applications to the Executive Director for a film or type of film to be exempted from the requirement to be classified;
- (i) prescribing the criteria to be used by the Executive Director in exempting a film or type of film from the requirement to be classified;
- (j) prescribing the manner and location in which the classification of a film is to be indicated, including, without limitation, how and where the classification is to be indicated on film packaging;
- (k) respecting the signs that must be posted in theatres setting out classifications of films that are being exhibited;
- (l) respecting the physical and visual segregation of adult video films in a video exchange;
- (m) providing for appeals from any decision of the Executive Director regarding the classification of a film or an exemption from the requirement to be classified;
- (n) respecting the publication of classification reports by the Executive Director under section 18;
- (o) authorizing the Minister to enter into an agreement with the government of a province or territory or an agency of the government of a province or territory or any other body or person for any matter related to this Act, including, without limitation,

- (i) an agreement for the collection, use and disclosure of personal information for the purposes of this Act;
- (ii) an agreement for the recognition of
 - (A) a distribution licence or a similar licence issued in another province or territory as a distribution licence issued under this Act, and
 - (B) a distribution licence issued under this Act as a licence issued under similar legislation in another province or territory,

including that a suspension or cancellation of a licence referred to in paragraph (A) or (B) in the province or territory in which the licence was issued operates as a suspension or cancellation of the licence in the other province or territory;

- (p) authorizing the Executive Director to enter into an agreement with a person or body for the purpose of adopting or approving classification of films for distribution or exhibition in Alberta;
- (q) for the purpose of section 13(2)(b), prescribing an activity or conduct;
- (r) for the purpose of section 1(g), specifying that any medium from which moving visual images may be produced is a film for the purposes of this Act;
- (s) defining, broadening or restricting the meaning of any word used in this Act but not defined in this Act;
- (t) respecting any other matter the Lieutenant Governor in Council considers necessary for carrying out the purposes of this Act.

(2) Where the Executive Director enters into an agreement with a person or body pursuant to subsection (1)(p) that provides that the classification of films for distribution or exhibition in Alberta is to be done by that person or body, that person's or body's classification of films is deemed to have been done by the Executive Director pursuant to this Act.

Transitional

20(1) A film that was classified under the former Act is deemed to have been classified under this Act.

(2) A licence to distribute a film that was issued under the former Act is deemed to be a distribution licence under this Act and expires in accordance with this Act.

Consequential amendments

21(1) The *Conflicts of Interest Act* is amended in Part 3 of the Schedule by striking out “Board of Censors under the Amusements Act”.

(2) The *Fair Trading Act* is amended in section 103(2)(a) by striking out “*Amusements Act*” and substituting “*Film and Video Classification Act*”.

Repeal

22 The *Amusements Act*, RSA 2000 cA-40, is repealed.

Coming into force

23 This Act comes into force on Proclamation.

Explanatory Notes

21 Consequential amendments.

22 Repeal.

23 Coming into force.

