

2010 Bill 4

Third Session, 27th Legislature, 59 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 4

DANGEROUS GOODS TRANSPORTATION AND HANDLING AMENDMENT ACT, 2010

MR. OLSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 4
Mr. Olson

BILL 4

2010

DANGEROUS GOODS TRANSPORTATION AND HANDLING AMENDMENT ACT, 2010

(Assented to , 2010)

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

Amends RSA 2000 cD-4

1 The *Dangerous Goods Transportation and Handling Act* is amended by this Act.

2 Section 1 is amended

(a) by repealing clause (a) and substituting the following:

- (a.1) “Board” means the Alberta Transportation Safety Board constituted by section 22 of the *Traffic Safety Act*;
- (a.2) “compliance mark” means a symbol, device, sign, label, placard, letter, word, number or abbreviation, or any combination of those things, that is or is to be affixed or displayed on a means of containment used or intended to be used in offering for transport, handling or transporting dangerous goods to indicate compliance with a safety standard that applies under the regulations;

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

- (c.1) “dangerous goods mark” means a symbol, device, sign, label, placard, letter, word, number or abbreviation, or any combination of those things, that is or is to be

Explanatory Notes

1 Amends chapter D-4 of the Revised Statutes of Alberta 2000.

2 Section 1 presently reads in part:

1 In this Act,

(a) “accidental release” means

(i) an unplanned or accidental discharge, emission, explosion, outgassing or other escape of dangerous goods or of any component or compound evolving from dangerous goods, or

(ii) an unplanned or accidental emission from dangerous goods of ionizing radiation that exceeds a level established under the Nuclear Safety and Control Act (Canada);

(i) “means of containment” means a container or packaging, or any part of a means of transport, that is or may be used to contain dangerous goods;

affixed or displayed, to indicate the presence or nature of danger, on dangerous goods or on a means of containment or means of transport used in offering for transport, handling or transporting dangerous goods;

(c.2) “Director” means the Director of the Dangerous Goods and Rail Safety Branch of Alberta Transportation;

(c) in clause (i) by striking out “may” and substituting “can”;

(d) by adding the following after clause (n):

(n.1) “release” means

(i) a discharge, emission, explosion, outgassing or other escape of dangerous goods, or of any component or compound evolving from dangerous goods, from a means of containment being used to handle or transport the dangerous goods, or

(ii) an emission, from a means of containment being used to handle or transport dangerous goods, of ionizing radiation that exceeds a level or limit established under the *Nuclear Safety and Control Act* (Canada);

(e) in clause (o) by striking out “design or other thing prescribed under section 31(1)(i)” and substituting “dangerous goods mark or a compliance mark, or both, as the case may be”;

(f) in clause (q) by striking out “transportation” and substituting “transport”;

(g) by adding the following after clause (q):

(q.1) “security requirements” means requirements prescribed under section 31(1)(u.2);

(h) in clause (r) by striking out “transportation” and substituting “transport”.

- (o) *“safety mark” means a design or other thing prescribed under section 31(1)(i);*
- (q) *“safety standards” means the standards prescribed under section 31(1)(k) or under the federal Act regulating the design, construction, equipping, functioning or performance of means of containment or facilities used or intended to be used in handling, offering for transportation or transporting dangerous goods;*
- (r) *“shipping record” means a record, including an electronic one, that relates to dangerous goods being handled, offered for transportation or transported and that describes or contains information about the goods;*

3 Section 3 is amended by striking out “or the *Financial Administration Act*” **and substituting** “, the *Financial Administration Act* or the *Freedom of Information and Protection of Privacy Act*”.

4 Section 7(1) is amended

(a) in clause (a)

(i) in subclause (i) by striking out “transportation” **and substituting** “transport”;

(ii) by adding the following after subclause (ii):

(ii.1) any means of containment being manufactured, modified, repaired or tested on which a compliance mark is or will be affixed or displayed,

(iii) in subclause (iii) by adding “, prescribed security plans” **after** “plans”;

(iv) in subclause (iv)

(A) by adding “, data processing systems or any other electronic devices or media” **before** “that may”;

(B) by striking out “the computer systems and” **and substituting** “them, being information that”;

(b) in clause (b) by striking out “transportation” **and substituting** “transport”;

(c) in clause (d) by striking out “or other documents, or in any computer systems” **and substituting** “, prescribed security plans or other documents, or in any computer systems, data processing systems or any other electronic devices or media”.

3 Section 3 presently reads:

3 In case of conflict with any other Act, except the Alberta Bill of Rights, the Alberta Human Rights Act or the Financial Administration Act, or with any regulations under any other Act, this Act prevails over that Act or those regulations unless the contrary is expressly declared in this Act or in another Act.

4 Section 7(1) presently reads:

7(1) For the purpose of ensuring compliance with this Act, an inspector may

- (a) subject to section 8, at any reasonable time, stop, enter and inspect any means of transport and enter and inspect any facility if the inspector believes on reasonable grounds that on or in the means of transport or facility there are
 - (i) dangerous goods being handled, offered for transportation or transported,*
 - (ii) standardized means of containment,*
 - (iii) books, shipping records, emergency response assistance plans or other documents that contain any information relevant to the administration or enforcement of this Act, or*
 - (iv) computer systems that may be used to examine any information that is contained in or available to the computer systems and is relevant to the administration or enforcement of this Act,**
- (b) open and inspect, or request the opening and inspection of, any means of containment if the inspector believes on reasonable grounds that it is being used to handle or transport dangerous goods or to contain dangerous goods offered for transportation,*
- (c) for the purpose of analysis, take a reasonable quantity of anything the inspector believes on reasonable grounds to be dangerous goods, and*
- (d) examine and make copies of any information contained in any books, shipping records, emergency response assistance*

5 Section 9(1) is amended by striking out “transportation” wherever it occurs and substituting “transport”.

6 Section 12(1) is amended

(a) in clause (a) by striking out “accidental”;

(b) in clause (b) by striking out “an accidental” and substituting “a”.

7 Sections 13(1) and 16(1) are amended by striking out “an accidental” and substituting “a”.

plans or other documents, or in any computer systems, that the inspector believes on reasonable grounds contain any information relevant to the administration or enforcement of this Act.

5 Section 9(1) presently reads:

9(1) Where an inspector believes on reasonable grounds that any dangerous goods are being handled, offered for transportation or transported in a manner that does not comply with this Act, the inspector may detain the dangerous goods until satisfied that they will be handled, offered for transportation or transported in compliance with this Act.

6 Section 12(1) presently reads:

12(1) An inspector may take any measure referred to in subsection (2) where the inspector believes on reasonable grounds that it is necessary

- (a) to prevent an imminent accidental release of dangerous goods from a means of containment being used to handle or transport the dangerous goods, or*
- (b) to reduce any danger to public safety resulting from an accidental release.*

7 Sections 13(1) and 16(1) presently read:

13(1) Where an accidental release of dangerous goods in excess of a prescribed quantity or concentration occurs or is imminent from a means of containment being used to handle or transport dangerous goods, any person who at the time has the charge, management or control of the means of containment shall make a report of the occurrence or imminence of the release in the prescribed manner and containing the prescribed information to a prescribed person.

16(1) Where an accidental release of dangerous goods from a means of containment being used to handle or transport dangerous goods has resulted in death of or injury to any person, danger to health or public safety or damage to any property or to the environment, the Minister may direct that a public inquiry be

8 Section 18 is amended by striking out “transportation” and substituting “transport”.

9 Section 19 is amended

- (a) by striking out “transportation” and substituting “transport”;**
- (b) in clause (a) by adding “and security requirements” after “requirements”;**
- (c) by striking out “and” at the end of clause (b) and adding the following after clause (b):**
 - (b.1) a means of containment that is prescribed to be required or permitted for the goods is used, and

10 Section 20 is repealed and the following is substituted:

Design, etc., of means of containment

19.1 A person shall not design, manufacture, modify, repair, test or equip a means of containment used or intended to be used in offering for transport, handling or transporting dangerous goods unless the person complies with all the applicable safety requirements.

Prohibitions as to affixation and display of marks

20(1) A person shall not affix or display on a means of containment a compliance mark, or another mark that is likely to be mistaken for a compliance mark, that relates to the manufacture, modification, repair or testing of the means of

conducted in a manner indicated in the direction and may appoint any person the Minister considers qualified to conduct the inquiry.

8 Section 18 presently reads:

18 The Minister may order a person engaged in handling, offering for transportation or transporting dangerous goods or supplying standardized means of containment to cease that activity or to conduct other activities to reduce or eliminate any danger to public safety if satisfied that the order is necessary to deal with an emergency that involves danger to the environment or to public safety and cannot be effectively dealt with under any other provision of this Act.

9 Section 19 presently reads:

19 A person shall not handle, offer for transportation or transport any dangerous goods unless

- (a) the person complies with all applicable safety requirements,*
- (b) the goods are accompanied with all applicable documents prescribed under section 31(1)(l), and*
- (c) the means of containment and of transport comply with all applicable safety standards and display all applicable safety marks.*

10 Section 20 presently reads:

20 A person shall not display a safety mark on a means of containment or of transport, or at a facility,

- (a) if the mark is misleading as to the presence of danger, the nature of any danger or compliance with a safety standard, or*
- (b) if the mark is in conflict with the shipping record or shipping document describing or containing information relating to the goods.*

containment, unless the manufacture, modification, repair or testing was done in compliance with all safety requirements and safety standards applicable to that compliance mark.

(2) A person shall not affix or display on dangerous goods, on a means of containment or on a means of transport a dangerous goods mark or another mark that is likely to be mistaken for a dangerous goods mark, if the mark is misleading as to the presence or nature of any danger.

Improper means of containment

20.1 A person shall not sell, offer for sale, deliver, distribute or use a means of containment unless it displays all applicable safety marks in accordance with the regulations.

Supply records and notices

20.2(1) A manufacturer of means of containment shall keep records of the persons to whom the manufacturer supplies it.

(2) If the Minister believes on reasonable grounds that any means of containment is unsafe, as supplied by the manufacturer, for handling or transporting dangerous goods, the Minister may direct the manufacturer to issue a notice of defective construction or recall to the person to whom it was supplied.

(3) The Minister may direct a person who repaired or tested a means of containment to issue a notice of defective repair or defective testing, as the case may be, to the person for whom it was repaired or tested, or to publish the notice in a manner such that the notice is likely to come to that person's attention, if the Minister believes on reasonable grounds that the person who repaired or tested the means of containment failed to comply with an applicable safety requirement or safety standard.

(4) A person to whom a direction is issued under this section shall comply with it.

11 Section 21(1) is amended by striking out “transportation” and substituting “transport”.

11 Section 21(1) presently reads:

21(1) Before offering for transportation any prescribed quantity or concentration of dangerous goods, a person shall have an emergency response assistance plan that is approved under this

12 The following is added after section 21:

Security plans

21.1(1) A prescribed person shall not handle, offer for transport or transport dangerous goods that are in a prescribed quantity or concentration or within a prescribed range of quantities or concentrations before the person has undergone the prescribed security training, has a prescribed security plan that meets the requirements of subsection (2) and has implemented that plan.

(2) The security plan must, in accordance with the prescribed criteria, set out measures to prevent the dangerous goods from being stolen or otherwise unlawfully interfered with in the course of the handling, offering for transport or transporting.

13 Section 22(1) and (2) are amended by striking out “transportation” and substituting “transport”.

14 Section 23 is repealed and the following is substituted:

Time limit for prosecution

23 A prosecution under this Act may not be instituted more than 2 years after the later of

- (a) the day the offence is alleged to have been committed or, in the case of an offence of a continuing nature, the day when the last occurrence of the alleged offence is alleged to have happened, and
- (b) the day on which evidence of the alleged offence first came to the attention of the Director.

section and that outlines what is to be done if there is an accident in transporting the dangerous goods.

12 Security plans.

13 Section 22 presently reads in part:

22(1) A person shall not handle, offer for transportation or transport dangerous goods unless the person is financially responsible to the extent and in the manner prescribed.

(2) A person who handles, offers for transportation or transports dangerous goods shall provide the prescribed proof of financial responsibility to an inspector who requests the proof.

14 Section 23 presently reads:

23 Proceedings under this Act may not be instituted later than 2 years after the day the offence is alleged to have been committed or, in the case of an offence of a continuing nature, after the day when the last occurrence of the offence is alleged to have happened.

15 The following is added after section 30:

Administrative penalties

30.1(1) Where the Director is of the opinion that a person has contravened this Act, the Director may, subject to the regulations, order that person to pay to the Government an administrative penalty in the amount, not exceeding \$10 000, set out in the order.

(2) Notwithstanding subsection (1), where the Director considers that a contravention of a continuing nature continued beyond a single calendar day, the person held to have committed it is additionally liable to the applicable penalty under subsection (1) for each calendar day after the first one on which the contravention is so held to have continued.

(3) The Director shall, forthwith after making an order under subsection (1), serve the order by registered post on the person required to pay the administrative penalty.

(4) A person on whom an administrative penalty is imposed under this section and who ultimately pays it or wins an appeal under section 30.2 is not liable to be charged under this Act with an offence in respect of the same contravention, and a person who is charged with an offence against this Act may not be charged an administrative penalty under this section arising out of the same contravention.

(5) Where a person does not pay an administrative penalty in accordance with an order under subsection (1), the Government may recover the amount owing in respect of the penalty by an action in debt.

(6) An order under subsection (1) may not be made more than one year after the later of

- (a) the day the contravention is held by the Director to have occurred or, in the case of a contravention held to be of a continuing nature, the day when the last occurrence of it is alleged to have happened, and
- (b) the day on which evidence of the contravention held to have occurred first came to the attention of the Director.

15 Administrative penalties; Application for review or hearing by Board; Regulations.

Appeal of administrative penalty order to Board

30.2(1) A person charged an administrative penalty under section 30.1(1) may appeal that charge to the Board within 30 days after the date of the service of the Director's order by filing with the Secretary of the Board a notice of appeal accompanied with the prescribed fee, if any.

(2) In determining an appeal under subsection (1), the Board may make an order confirming, varying or rescinding the Director's order.

(3) An appeal under this section does not, except as otherwise directed by the Board, operate as a stay of the Director's order.

(4) The provisions of the *Traffic Safety Act* and the regulations under it relative to an appeal to the Board under section 41(1) of that Act, including the fees payable in respect of an appeal, apply with respect to an appeal under this section and, in particular, the Board has the powers and the duties in respect of the appeal under this section that it has under that Act in respect of an appeal under that section 41.

Privative clause

30.3 An order of the Board under section 30.2 is final.

16 Section 31(1) is amended

(a) by repealing clause (i) and substituting the following:

- (i) requiring that safety marks be displayed
 - (i) on dangerous goods or on the means of containment or of transport used in handling, offering for transport or transporting dangerous goods, or at facilities used in those activities, and
 - (ii) to show the presence and the nature of the danger or to indicate compliance with the applicable safety standards for the goods, means of containment or of transport or facilities,

and respecting the manner in which they are to be displayed;

16 Section 31(1)(i) presently reads:

31(1) The Lieutenant Governor in Council may make regulations generally for carrying out the purposes and provisions of this Act, including regulations

- (i) establishing designs, symbols, devices, signs, labels, placards, letters, words, numbers or abbreviations, or any combination of those things, of general or particular application, as safety marks and requiring that they be displayed*
- (i) on dangerous goods or on the means of containment or of transport used in handling, offering for transportation or transporting dangerous goods, or at facilities used in those activities, and*
- (ii) to show the presence and the nature of the danger or to indicate compliance with the applicable safety standards*

(b) by adding the following after clause (u.1):

(u.2) prescribing requirements respecting security training, including its content and its implementation, and measures to support the enforcement of section 21.1(2);

(u.3) respecting administrative penalties;

(c) subject to clause (a), by striking out “transportation” wherever it occurs and substituting “transport”.

17 Section 32 is repealed.

18 The Schedule is amended

(a) respecting Class 7 by adding “that are radioactive” after “(Canada)”;

(b) respecting Class 9

(i) by striking out “transportation” and substituting “transport”;

(ii) by striking out “in the federal Act”.

for the goods, means of containment or of transport or facilities;

17 Section 32 presently reads:

32 Notwithstanding section 17, where, on March 1, 1999, there is in force in the geographical jurisdiction of a local authority referred to in section 17 a bylaw dealing with dangerous goods routes, the bylaw continues in force for 5 years from that time and then ceases to have force unless approved for renewal under section 17(2).

18 Section 1(c) of the Schedule presently reads in part:

Class 7 -- Nuclear substances within the meaning of the Nuclear Safety and Control Act (Canada)

Class 9 -- Miscellaneous products, substances or organisms considered by the Governor in Council under the federal Act to be dangerous to life, health, property or the environment when handled, offered for transportation or transported and prescribed under the federal Act to be included in this class in the federal Act.

RECORD OF DEBATE

Stage	Date	Member	From	To

Questions and Comments	From	To

Stage	Date	Member	From	To

Questions and Comments	From	To

Stage	Date	Member	From	To

Questions and Comments	From	To

Stage	Date	Member	From	To

Questions and Comments	From	To