

2017 Bill 3

Third Session, 29th Legislature, 66 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 3

VOLUNTARY BLOOD DONATIONS ACT

THE MINISTER OF HEALTH

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 3

2017

VOLUNTARY BLOOD DONATIONS ACT

(Assented to , 2017)

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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) “analyst” means an analyst appointed under section 3;
- (b) “blood” means human blood, and includes whole blood and blood components;
- (c) “blood collection facility” means a place where blood is collected from the human body;

- (d) “blood components” means, subject to the regulations, if any, red blood cells, platelets and plasma;
- (e) “Canadian Blood Services” means the not-for-profit corporation incorporated under the laws of Canada as Canadian Blood Services that manages the blood supply in all the provinces and territories of Canada, except Quebec, and includes any agents and successors of Canadian Blood Services;
- (f) “compliance order” means an order made under section 5;
- (g) “individually identifying health information” means individually identifying health information within the meaning of the *Health Information Act*;
- (h) “inspector” means an inspector appointed under section 3;
- (i) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (j) “offer to provide”, without restricting the ordinary meaning of the expression, includes to offer by means of advertising in any media;
- (k) “payment” means, subject to the regulations, if any, remuneration, compensation or consideration of any value and of any kind, and includes reimbursement for time, travel, commitment or expenditures of any kind;
- (l) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;
- (m) “record” means a record of information in any form, including notes, images, audiovisual recordings, books, documents, maps, drawings, photographs, letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, and includes a record that contains personal information or individually identifying health information;
- (n) “substance”, without restricting the ordinary meaning of the term, includes blood.

Prohibitions and exemptions

- 2(1)** No person shall, either directly or indirectly,
- (a) provide payment to any individual in return for the collection of blood from that individual, or
 - (b) offer to provide payment to any individual in return for the collection of blood from that individual.
- (2)** Canadian Blood Services is exempt from subsection (1).
- (3)** Subsection (1) does not apply
- (a) with respect to blood that is collected solely for the purpose of research, or
 - (b) with respect to a person exempted by regulation.

Inspectors and analysts

- 3(1)** The Minister may, by order, appoint persons or classes of persons to act as inspectors for the purposes of this Act.
- (2)** The Minister may, by order, appoint persons or classes of persons to conduct a type of analysis required for the purposes of this Act.

Inspections

- 4(1)** Except as provided in subsection (10), an inspector may conduct an inspection at one or more of the following premises for the purpose of ensuring compliance with this Act or any order issued under this Act:
- (a) a blood collection facility or any place that the inspector reasonably believes is or has been used as a blood collection facility or may contain a blood collection facility;
 - (b) any business premises of a person that owns or operates one or more blood collection facilities.
- (2)** An inspector may, for the purpose set out in subsection (1),

- (a) enter and inspect any premises referred to in subsection (1), other than a private dwelling, during the regular business hours of the premises, and
- (b) enter and inspect a private dwelling if the owner or occupant of the private dwelling consents.

(3) An inspector who enters any premises or private dwelling under the authority of this Act shall, on request,

- (a) produce a document that identifies the person as an inspector under this Act, and
- (b) explain the inspector's reason for entering the premises or private dwelling.

(4) An inspector may, for the purposes of an inspection, do the following:

- (a) examine a record or any substance or other thing that is relevant to the inspection;
- (b) take samples of any substance or thing that is relevant to the inspection;
- (c) demand the production of a record or any substance or other thing that is relevant to the inspection;
- (d) photograph, record or copy, by any method, any record or any substance or other thing that is relevant to the inspection;
- (e) remove for review, examination or testing a record or any substance or other thing that is relevant to the inspection;
- (f) remove a record or any other thing that is relevant to the inspection for copying;
- (g) use any materials and any data storage, processing or retrieval devices or systems that are normally used in carrying on business in the premises or private dwelling as necessary to produce a record in a readable form;
- (h) question any person on matters relevant to the inspection;

- (i) exercise the additional powers or perform the additional duties of inspectors, if any, that are prescribed by regulation.
- (5)** If an inspector demands that a record or any substance or other thing be produced for the purposes of an inspection, any person who has custody or control of the record, substance or other thing shall
 - (a) produce it, and
 - (b) in the case of a record, on request
 - (i) provide any assistance that is reasonably necessary to interpret the record, and
 - (ii) use or assist the inspector with the use of any materials and any data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the premises or private dwelling as necessary to produce the record in a readable form.
- (6)** A record, substance or other thing, other than a sample referred to in subsection (4)(b), that has been removed for review, examination, testing or copying,
 - (a) shall be made available to the person from whom it was removed on request and at a time and place that are convenient for the person and for the inspector, and
 - (b) shall be returned to the person within a reasonable time unless, in the case of a substance or thing that has been subjected to testing, the substance or thing is unsuitable for return as a result of the testing.
- (7)** A copy of a record or other thing that purports to be certified by an inspector as being a true copy of the original is admissible in evidence
 - (a) without proof of the signature or appointment of the inspector who signed the certificate, and
 - (b) to the same extent as the original and, in the absence of evidence to the contrary, has the same probative value.
- (8)** No person shall

- (a) hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with an inspector conducting an inspection,
- (b) refuse to answer questions on matters relevant to an inspection, or
- (c) provide an inspector with false information on matters relevant to an inspection.

(9) An inspector may, as the inspector considers appropriate, request the assistance of a police officer when exercising powers or carrying out duties under this section.

(10) If an inspector is refused entry at a premises or private dwelling, or wishes to enter any other place for the purpose of ensuring compliance with this Act or any order issued under this Act, the inspector may apply to a justice, and if it appears to the justice, on information laid before the justice on oath, that there are reasonable and probable grounds for believing that entry is needed for the purposes of ensuring a proper inspection under this section, the justice may issue a warrant authorizing the inspector and any other person

- (a) to enter the premises, private dwelling or place, and
- (b) to perform any activity referred to in subsection (4).

Compliance orders

5(1) If there are reasonable grounds to believe that a person has contravened section 2(1) or has otherwise failed to comply with this Act, the inspector may, subject to the regulations, if any, make an order directing the person to take the measures that the inspector considers necessary to correct the contravention or failure to comply and effect service on the person.

(2) A person to whom a compliance order is directed may, within 14 days from the date when service was effected, provide the inspector with evidence that the person is in compliance with the order.

(3) Where a person has provided evidence under subsection (2), the inspector may, subject to the regulations, if any, either affirm the compliance order or rescind it, and must serve the person with the affirmed order or a notice of the rescission.

(4) A person to whom a compliance order is directed shall comply with it according to its terms.

(5) Subject to the regulations, if any, a document under this section is sufficiently served if it is served on the owner or operator of the blood collection facility or a person employed or apparently employed at the facility.

(6) A certificate of service made by the person who served a document under this section is evidence of the service of the document on the person served and its receipt by that person if, in the certificate, the person who served the document

- (a) certifies that the copy of the document is a true copy of the original document,
- (b) certifies that the document was served on the person, and
- (c) sets out the method of service used.

(7) In a prosecution for failure to comply with a compliance order, a copy of the order that purports to have been signed by or on behalf of the inspector is, in the absence of evidence to the contrary, evidence of the order without proof of the signature.

Authority to collect, use and disclose information

6 Subject to the regulations, if any, the Minister and an inspector may directly or indirectly collect, use and disclose information, including personal information and individually identifying health information, for the purpose of ensuring compliance with this Act or any order issued under this Act.

Offences

7(1) Every person who contravenes a provision of this Act is guilty of an offence and is liable on conviction,

- (a) in the case of an individual,
 - (i) for a first offence, to a fine not exceeding \$10 000 for each day or part of a day on which the offence occurs or continues, and

- (ii) for a 2nd or subsequent offence, to a fine not exceeding \$50 000 for each day or part of a day on which the offence occurs or continues,

and

- (b) in the case of a corporation,
 - (i) for a first offence, to a fine not exceeding \$100 000 for each day or part of a day on which the offence occurs or continues, and
 - (ii) for a 2nd or subsequent offence, to a fine not exceeding \$500 000 for each day or part of a day on which the offence occurs or continues.

(2) A person may be prosecuted under this section whether or not a compliance order has been previously made with respect to the subject-matter of the prosecution.

(3) In any prosecution under this section,

- (a) a certificate of an analyst stating that the analyst has analyzed a sample and stating the result of that analysis shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts alleged in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate, and
- (b) a copy of an appointment under section 3, or of a statement by the Minister as to an inspector's appointment under that section, shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the facts stated in it.

(4) If a person is convicted of an offence under this section, the court, having regard to the nature of the offence and the circumstances surrounding its commission, may, in addition to imposing a penalty under subsection (1), order the offender to comply with any conditions that the court considers appropriate to remedy the contravention or failure to comply.

(5) If a person is convicted of an offence under this section, the Minister may publish or otherwise make available to the general public the name of the person, a description of the offence, the date

of the conviction and the particulars of the penalty and any conditions imposed under this section.

Liability of directors, officers and agents of corporation

8 Where it is proved to the satisfaction of the court that a corporation has contravened a provision of this Act, whether or not the corporation has been prosecuted for the contravention, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the contravention by the corporation is also a party to and guilty of the offence relating to it and is separately liable to the penalty and any conditions that the court considers to be appropriate under section 7.

Limitation period for prosecution

9 A prosecution in respect of an offence against this Act may not be commenced later than 2 years after the date on which evidence of the alleged offence first came to the attention of an inspector.

Protection from liability

10 No action or other proceeding shall be commenced against the Minister, an inspector, or anyone acting under the authority of the Minister for anything done or omitted to be done in good faith in exercising powers or carrying out duties under this Act.

Regulations

11 The Minister may make regulations

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) further clarifying the definition of “blood components” in section 1(d) and specifying what things do or do not constitute blood components for the purposes of this Act;
- (c) further clarifying the definition of “payment” in section 1(k) and specifying what things do or do not constitute payment for the purposes of this Act;
- (d) respecting the exemption of persons from the application of section 2(1), including any application or information

requirements or conditions that may or must apply or be imposed;

- (e) exempting persons from the application of section 2(1);
- (f) clarifying the meaning of “collected solely for the purpose of research” as used in section 2;
- (g) setting out additional powers and duties of inspectors under this Act or clarifying the powers and duties of inspectors set out in section 4;
- (h) respecting compliance orders and the review and service of compliance orders referred to in section 5;
- (i) respecting the collection, use or disclosure of information, including personal information and individually identifying health information, under this Act;
- (j) generally for giving effect to this Act or any of the purposes or provisions of this 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
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