

2018 Bill 7

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 7

SUPPORTING ALBERTA'S LOCAL FOOD SECTOR ACT

THE MINISTER OF AGRICULTURE AND FORESTRY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 7

2018

SUPPORTING ALBERTA'S LOCAL FOOD SECTOR ACT

(Assented to , 2018)

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Preamble

WHEREAS local food providers are important and valued contributors to the provincial economy and to Albertans' quality of life;

WHEREAS Alberta producers, processors and other members of the Province's supply chain are instrumental to meeting consumer demand for fresh and healthy local food and beverages that are grown, harvested or made in Alberta;

WHEREAS a thriving local food sector continues to build on the strengths of the Province's agriculture and food industry, which includes a highly productive land base, diversity of crops, livestock and agricultural products, innovative and dedicated producers and processors of all sizes and an effective network of distributors, retailers, restaurateurs and other sales venues;

WHEREAS the success of the local food sector is supported by increased consumer awareness and effective assurance systems;

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

Definitions

1 In this Act,

(a) "agricultural product" means

(i) an animal, a plant or an animal and plant product,

- (ii) a product, including any food or drink, wholly or partly derived from an animal or a plant, or
- (iii) a product prescribed for the purpose of this Act as an agricultural product;
- (b) “Council” means a Local Food Council established under section 5;
- (c) “inspector” means a person designated as an inspector under section 12;
- (d) “local food” means
 - (i) agricultural products produced in Alberta, including forest or freshwater food, and
 - (ii) subject to any limitations in the regulations, agricultural products processed in Alberta;
- (e) “Minister” means the Minister of Agriculture and Forestry;
- (f) “*Organic Products Regulations*” means the *Organic Products Regulations, 2009* (SOR 176/2009) made under the *Canada Agricultural Products Act* (Canada);
- (g) “process” has the meaning provided in the regulations;
- (h) “processor” means a person who processes agricultural products;
- (i) “produce” means to rear, grow or harvest;
- (j) “producer” means a person who is engaged in the production of an agricultural product.

Purposes

2 The purposes of this Act are

- (a) to encourage the development and success of a local food sector throughout the Province, and
- (b) to regulate agricultural products that are produced or processed in the Province and marketed and sold as organic products within the Province.

Application

3 This Act applies to

- (a) agricultural products produced or processed in the Province, and
- (b) agricultural products produced or processed in the Province that are intended to be marketed and sold within the Province as organic products.

Part 1 Local Food

Alberta Local Food Week

4 The week preceding the 3rd weekend in August in each year is proclaimed as Alberta Local Food Week.

Local Food Council

5(1) The Minister shall, in accordance with section 7 of the *Government Organization Act*, establish a Local Food Council to provide a report containing advice and recommendations regarding provincial policies, programs, pilot projects or initiatives to support the continued growth and sustainability of Alberta's local food sector, including the following matters:

- (a) potential barriers and challenges for local food producers and local food processors, including specific challenges faced by small producers and processors;
- (b) local food aggregation and distribution;
- (c) risk management tools for local food producers and processors;
- (d) increasing access to local food;
- (e) consumer awareness of local food;
- (f) certification opportunities for local food producers and local food processors.

(2) The Minister shall ensure that the members appointed to the Council are representative of Alberta's local food sector, including small producers and processors.

(3) The Minister shall designate a chair of the Council.

(4) Not later than 12 months after a Council is established under subsection (1), the Council must submit a final report to the Minister providing the advice and recommendations of the Council on the matters referred to in subsection (1).

(5) The Council is dissolved on the date the Minister accepts the Council's report or such later date determined by the Minister.

Certification program

6 The Minister may make regulations

- (a) establishing a certification program for agricultural products other than those certified as organic products under Part 2;
- (b) respecting the creation of a protected label, the use of which may be restricted or prohibited.

Part 2 Organic Agricultural Products

Definitions

7 In this Part,

- (a) "advertise" means to directly or indirectly promote the sale of an agricultural product;
- (b) "certification body" means a body that is accredited by the Canadian Food Inspection Agency that is responsible for the certification of agricultural products under the *Organic Products Regulations*;
- (c) "certification record" means a record of certification obtained in accordance with section 8;
- (d) "organic product" means an agricultural product that is certified by a certification body as meeting the *Organic Products Regulations*;
- (e) "vendor" means a person who offers for sale agricultural products.

Certification

8 A producer or processor who advertises, labels or offers for sale an agricultural product that is produced or processed in the Province for sale in the Province as an organic product must hold the appropriate certification for that product in accordance with the *Organic Products Regulations*.

Prohibition

9 No person shall advertise, label or offer for sale an agricultural product produced or processed in the Province for sale in the Province using the term “organic”, “biologique”, “organically grown”, “organically raised”, “organically produced” or similar words, including abbreviations of, symbols for and phonetic renderings of those words, or any other term prescribed in the regulations unless the producer of the agricultural product holds the appropriate certification for that product in accordance with section 8.

Complaints

Complaint

10 A person may, in accordance with the regulations, make a complaint to the Minister regarding the advertising, labelling or offering for sale of an agricultural product that the person suspects is not certified in accordance with section 8.

Verification of certification status

11(1) On receipt of a complaint under section 10, an inspector must verify that the producer or processor of the agricultural product that is the subject of the complaint holds the appropriate certification in accordance with section 8.

(2) If the producer or processor of the agricultural product holds the appropriate certification, the inspector must notify the complainant of the producer’s or processor’s certification status and conclude the inspection.

(3) If the producer or processor of the agricultural product does not hold the appropriate certification, the inspector must conduct an investigation.

Inspections and Investigations

Designation of inspectors

12 The Minister may, on terms and conditions specified by the Minister, designate any person or class of persons to act as an inspector for the purposes of this Act.

Inspections, investigations

13(1) On receipt of a complaint under section 10, an inspector may conduct an inspection or investigation to determine whether a person is complying with this Act, the regulations or an enforcement instrument.

(2) In conducting an inspection or investigation, an inspector may do one or more of the following:

- (a) subject to subsection (4), enter, at any reasonable time, any place, including any means of conveyance or transport, where an inspector has reason to believe that
 - (i) agricultural products are sold,
 - (ii) advertising materials, packaging or labels for an agricultural product are created or kept,
 - (iii) a certification record is kept, or
 - (iv) a record related to the sale of an agricultural product is kept;
- (b) examine a certification record, a record related to the sale of an agricultural product, any other relevant record or advertising material, packaging or label of an agricultural product;
- (c) by written notice, require a person to provide, at a time, date and place specified in the notice, a certification record, a record related to the sale of an agricultural product, any other relevant record or advertising material, packaging or label of an agricultural product;
- (d) subject to subsection (3), remove for review and copying a certification record, a record related to the sale of an agricultural product, any other relevant record or advertising material, packaging or label of an agricultural product;

- (e) use data storage, information processing or retrieval devices or systems that are used by a processor, producer or vendor in order to examine a certification record or other record in readable form;
- (f) question any person on matters the inspector believes may be relevant;
- (g) require a person to provide oral or written statements, whether under oath or otherwise, at a specified time, date and place.

(3) An inspector who removes a record or advertising material, packaging or label under subsection (2)(d) must provide a receipt and return the record or advertising material, packaging or label to the person who provided it within a reasonable time.

(4) An inspector may enter a private dwelling under subsection (2)(a) only with the consent of the occupant of the private dwelling or pursuant to an order under subsection (5).

(5) If the consent required under subsection (4) is refused or cannot reasonably be obtained, the inspector may apply to a justice as defined in the *Provincial Offences Procedure Act* for an order directing the occupant to permit the inspector to enter the private dwelling to exercise the inspector's powers and perform the inspector's duties and functions.

No obstruction

14 No person shall obstruct or hinder, or make a false or misleading statement either orally or in writing to, an inspector who is carrying out duties or functions under this Act.

Order

15(1) Where an inspector is of the opinion that

- (a) a person is advertising or offering for sale an agricultural product as an organic product, and
- (b) the agricultural product is not certified in accordance with section 8,

the inspector may issue an order to the person to stop selling the agricultural product as an organic product.

(2) An order under this section may order the person to whom it is directed to take any or all of the following measures:

- (a) take any action specified by the inspector to prevent the further advertising or offering for sale of the agricultural product as an organic product;
- (b) destroy or otherwise dispose of all advertising materials, packaging or labels that indicate that the agricultural product is an organic product or that reference a prescribed term;
- (c) take any other action the inspector considers to be necessary;
- (d) report to an inspector on any matter ordered to be done in accordance with the order.

(3) The person to whom an order is directed in this section shall comply with the order.

Recovery of fees, charges and costs

16(1) The Crown may recover from a producer, processor or vendor any prescribed fees or charges and any costs incurred by the Crown in relation to anything required or authorized under this Act, including, but not limited to,

- (a) the inspection of a place, advertising materials, packaging or labels, or the storage, removal, disposal or return of advertising materials, packaging or labels required or authorized under this Act, and
- (b) the forfeiture, disposal, seizure or detention of advertising materials, packaging or labels under this Act.

(2) Any fees, charges or costs that are recoverable by the Crown may be recovered as a debt due to the Crown.

Sharing information

17(1) For the purpose of administering and enforcing this Act, and to generate information for statistical purposes, the Minister may disclose to a certification body, the Canadian Food Inspection Agency or other prescribed persons or government agencies information collected under this Act, including personal

information as defined in the *Freedom of Information and Protection of Privacy Act*.

(2) The Minister may disclose to a complainant under section 10 information collected in the course of an inspection or investigation under this Act.

Offences

Offences

18(1) A person who contravenes section 9, 14 or 15(3) or the regulations is guilty of an offence and is liable

- (a) in the case of an individual, to a fine of not more than \$5000, and
- (b) in the case of a corporation, to a fine of not more than \$20 000.

(2) Where a corporation is guilty of an offence under this Act, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and is liable to the fines provided for the offence, whether or not the corporation has been prosecuted for or convicted of the offence.

Limitation period

19 A prosecution in respect of an offence under this Act or the regulations may not be commenced later than 2 years after the date on which evidence of the offence first came to the attention of the Minister.

Regulations

Regulations

20 The Minister may make regulations

- (a) prescribing a product as an agricultural product for the purpose of section 1(a)(iii);
- (b) limiting what constitutes local food for the purpose of the definition of “local food” in section 1(d);
- (c) defining terms for the purposes of this Act;

- (d) prescribing terms for the purposes of section 9;
- (e) respecting the records to be kept in respect of organic products;
- (f) respecting labelling for organic products;
- (g) respecting the process for making and responding to complaints under section 10;
- (h) providing for measures to be taken respecting organic products or other things that do not meet, or are suspected on reasonable grounds of not meeting, the requirements of this Act;
- (i) regulating or prohibiting the advertising of any organic product, and establishing terms and conditions governing that advertising;
- (j) respecting the collection, use and disclosure of market information and statistics, the publication of studies dealing with the advertising of organic products and the conduct of surveys on any matter related to this Act;
- (k) prescribing any fees or charges for the purposes of section 16, including penalties and interest for the late payment of amounts owing;
- (l) prescribing persons or classes of persons and government agencies for the purpose of section 17(1);
- (m) exempting an agricultural product or a class of agricultural product from the application of this Act or any part of it;
- (n) respecting the collection, use and disclosure of information and records, including personal information as defined by the *Freedom of Information and Protection of Privacy Act*, for the purposes of this Act;
- (o) respecting any matter the Minister considers advisable for carrying out the intent and purposes of this Act.

Coming into Force

Coming into force

21 Sections 7 to 19 come into force on April 1, 2019.

