

Bill No. 84 of 1936.

A BILL TO PROVIDE FOR THE LICENSING OF
DEALERS IN FUEL OIL.

NOTE.

This Bill provides for the licensing of all dealers in fuel oil, whether by wholesale or by retail. The administration of the Act is placed in the hands of the Board of Public Utility Commissioners.

The Lieutenant Governor in Council is given power to classify licensees and to prescribe and regulate the amount of license fees and the methods of calculating them.

Section 9 provides that licenses are not to be issued unless in the judgment of the Board public convenience and necessity so require.

By section 19 the Board is empowered to fix prices of fuel oil if, after inquiry, it is found that prices are either higher or lower than circumstances and conditions justify.

By section 33 power is given to the Lieutenant Governor in Council to authorize any Minister so designated to engage in the business of wholesale and retail distribution of fuel oil and lubricating oil and grease.

The Fuel Oil Tax Act, chapter 44 of the Statutes of Alberta, 1932, is repealed.

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 84 of 1936.

An Act to provide for the Licensing of Dealers in Fuel Oil.

(Assented to _____, 1936.)

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

1. This Act may be cited as "*The Fuel Oil Licensing Act.*"

2. In this Act, unless the context requires a contrary meaning,—

- (a) "Board" means the Board of Public Utility Commissioners for the Province of Alberta;
- (b) "Fuel oil" means every liquid which is capable of being used for the generation of power in an internal combustion engine and, without derogating from the generality of the foregoing, includes all liquid products obtained, whether by distillation or condensation or absorption, or any other process, from petroleum, natural gas, casing head or natural gasoline, benzol, benzine, naphtha, coal, coal tar, oil shales, kerosene, gas oil and any combination of any such products, prepared, advertised, offered for sale, sold for use as or used for or capable of being used for the generation of power in an internal combustion engine, including any product obtained by blending any such product with any other product if the resultant product so obtained is capable of use for the generation of power in an internal combustion engine;
- (c) "Regulations" means regulations made under the authority of this Act.

3. The Board shall be charged with the duty of administering this Act and subject to the other provisions of this Act for the discharge of such duty shall have all the powers which are conferred upon the Board by *The Public Utilities Act, 1923*.

4. Every person who at the time of the coming into force of this Act is carrying on the business of a jobber or wholesale dealer, or wholesale distributor or refiner of fuel oil within the Province shall, within thirty days thereafter, obtain a license from the Board in respect of such business.

5. From, on and after the coming into force of this Act no person shall commence or enter into the business of a

jobber, or wholesale dealer, or wholesale distributor or refiner of fuel oil within the Province unless and until he has obtained a license from the Board in respect of such business.

6. Every person who at the time of the coming into force of this Act is engaged in the business of a retail dealer in fuel oil within the Province shall, within thirty days thereafter, obtain a license from the Board in respect of each separate filling station, service station, garage, building, store or place of business within the Province at which fuel oil is kept for sale by retail or is sold by retail by such person, and in the case of a person who sells fuel oil by retail from any vehicle, wagon or truck, then in respect of each separate vehicle, wagon or truck from which fuel oil is so sold.

7. From and after the thirtieth day after the coming into force of this Act no person shall carry on the business of a retail dealer in fuel oil at any service station, filling station, garage, building, store or place of business or on or from any vehicle, wagon or truck within the Province unless and until he has obtained a license from the Board in respect thereof.

8. Every license shall expire at midnight on the thirty-first day of March of the calendar year following the year in which it is issued, or at such other time as the Board may by regulation determine.

9. No license shall be issued under this Act unless in the judgment of the Board public convenience and necessity so require.

10. Every license shall be given a distinctive number and shall be in such form as the Board may from time to time prescribe.

11. No license issued pursuant to this Act shall be transferable.

12. The Board may at any time or from time to time suspend, or for any cause which in the opinion of the Board is sufficient may revoke or cancel any license.

13. Upon the granting of a license to a retail dealer in fuel oil, the Board shall deliver to the applicant a license plate made of durable materials of such size and design as the Board may from time to time prescribe, bearing upon it the words "Fuel Oil Retailer, License No." and the number assigned by the Board to the license.

14. Every retail dealer in fuel oil shall affix, and at all times keep affixed, in a conspicuous place on that part of the premises in respect of which he is licensed to carry on business in or on which fuel oil is ordinarily delivered to purchasers, the license plate issued by the Board in such

manner that the same may be at all times seen by any purchaser obtaining the delivery of any fuel oil, and in the case of a person who sells fuel oil by retail from any vehicle, wagon or truck, the license plate issued in respect thereof shall be conspicuously affixed thereto.

15. Every person being a licensed retail dealer in fuel oil who carries on the business of a retail fuel oil dealer in, on or from any service station, filling station, garage, store, building, place of business, vehicle, wagon or truck without having affixed thereon, in accordance with the provisions of this Act, the license plate issued to him in respect thereof, shall be guilty of an offence, and shall be liable to a penalty of not more than fifty dollars for every day during which or during any part of which such license plate is not affixed as aforesaid.

16. All fees for licenses shall be paid to the Board and shall when received be paid by the Board into the Provincial Treasury.

17. All costs, charges and expenses incurred for the purposes of carrying out the provisions of this Act shall be paid by the Provincial Treasurer out of the General Revenue Fund of the Province.

18. The Board may refuse to issue a license to any person for any cause which in the opinion of the Board is sufficient, and without derogating from the generality of the foregoing, may refuse to issue a license to any person who has been convicted of an offence under this Act or *The Fuel Oil Tax Act, 1936*, and to any person who refuses to undertake any duty in relation to the collection of the tax payable pursuant to *The Fuel Oil Tax Act, 1936*, or to comply with any of the provisions of *The Fuel Oil Tax Act, 1936*, or the regulations made thereunder with respect to the collection of the said tax, the accounting for any sums collected and the payment over thereof, and to any partnership or body corporate in case any person whose license has been cancelled, or to whom a license has been refused, is a member of the partnership or a director or manager of the Body Corporate, as the case may be.

19.—(1) The Board is hereby empowered upon its own initiative or otherwise to inquire into any matter relating to the production, manufacture, supply, distribution or sale of fuel oil, lubricating oil and grease or any of them.

(2) If upon any such inquiry it appears to the Board that the price at which any fuel oil, or lubricating oil or grease is being sold, whether by wholesale, or retail, or otherwise, is higher or lower than is justified by prevailing circumstances and conditions, the Board is empowered by order to do all or any of the things following, namely, to prescribe the maximum price at which any fuel oil or lubricating oil or grease or any of them may be sold by wholesale, retail or otherwise, and to prescribe the minimum price at which the same may be so sold.

(3) Any person who sells or otherwise disposes of fuel oil, or lubricating oil, or grease in contravention of any provision of any order of the Board made pursuant to this section shall be guilty of an offence and shall be liable upon summary conviction therefor to a penalty of not more than one thousand dollars and costs per day for every day during which any fuel oil or lubricating oil or grease has been so sold by him.

20. Every licensee shall make such returns and otherwise render available to the Board all such information in respect to his business and affairs as the Board may from time to time order.

21. Every licensee shall furnish to the Board whenever required in connection with any investigation by the Board, in such form and at such times as the Board shall require, such accounts, reports and information as the Board may require in order to show completely and in detail the entire operation of the licensee in furnishing his product and service to the public.

22. The Board or any member thereof, or any person or persons employed by the Board for that purpose, shall upon demand, have the right to inspect the books, accounts, papers, records and memoranda, of any licensee and the Board or any member thereof shall have the power to examine, under oath, any officer, agent or employee of such licensee in relation to the business and affairs of such licensee. Any person other than the member of the Board who shall make such demand shall produce his authority to make such inspection or examination.

23. The Board or any member of the Board shall have the power of summoning before them or him any persons as witnesses and of requiring them to give evidence on oath orally or in writing (or on solemn affirmation if they are entitled to affirm in civil matters) and to produce such documents and things as the Board or any member thereof deem requisite to the full investigation of the matters into which they or he are authorized to inquire.

24. The Board may appoint or engage and define the duties of such experts, inspectors, officers, agents or employees as it deems necessary for the purpose of assisting the Board to carry out the provisions of this Act.

25. Whenever the Board shall believe that an investigation of any matter relating to any licensee should for any reason be made, it may on its own motion summarily investigate the same with or without notice.

26. Any officer, agent or employee of any licensee who shall fail or refuse to fill out and return any blanks or forms as required by this Act, or shall fail or refuse to answer any question, or shall evade the answer to any such question where he had the means of ascertaining the fact inquired of,

er who shall, upon proper demand, fail or refuse to exhibit to the Board or any member thereof, or any person authorized to examine the same, any book, paper, account, record or memorandum of such licensee which is in his possession or under his control, shall, upon summary conviction therefor, be liable to a penalty of not more than two hundred dollars for each offence, and a penalty of not more than five hundred dollars, shall, on summary conviction therefor, be imposed on the licensee for each such offence when such officer, agent or employee acted in obedience to the direction, instruction or request of such licensee or any general officer thereof.

27. If any licensee shall violate any provision of this Act or the regulations, or shall do any act by this Act prohibited or shall fail or refuse to perform any duty enjoined upon him for which a penalty has not been provided, or shall fail, neglect or refuse to obey any lawful requirement or order made by the Board or any judgment or decree made by any court upon its application, for every such violation, failure or refusal such licensee shall be liable to a penalty of not more than five hundred dollars for each such offence. In construing and enforcing the provisions of this section, the neglect, omission or failure of any officer, agent or other person acting for or employed by any licensee, acting within the scope of his employment and instructions shall in every case be deemed to be the act, omission or failure of such licensee.

28. Every person who deals in fuel oil as a jobber, wholesaler, or retailer without being then the holder of a valid and subsisting license under this Act shall be guilty of an offence and shall be liable on summary conviction herefor, in the case of a corporation, to a fine of not less than one thousand dollars and not more than two thousand dollars and costs, and in the case of a continuing offence, to a further fine of one hundred dollars per day for every day after the first day during which the offence continues, and in the case of all other persons, to a fine of not more than one thousand dollars and costs, and in default of payment, to imprisonment for a term of not more than six months.

29. Any person who acquires or receives delivery of any fuel oil within the Province for resale within the Province from any person who is not the holder of a valid and subsisting license issued in pursuance of this Act shall be guilty of an offence and shall be liable on summary conviction to a penalty of not more than five hundred dollars and costs, and in default of payment, to imprisonment for not more than three months.

30. In any prosecution under this Act,—

- (a) a certificate purporting to be under the hand of the secretary of the Board or any person lawfully acting on his behalf as to whether or not the defendant is licensed pursuant to this Act at any time or during

any period of time specified therein, or was so licensed at any time or during any period of time specified therein; and

- (b) every certificate of the Provincial Analyst as to whether or not any substance referred to therein is fuel oil within the meaning of this Act or of *The Fuel Oil Tax Act, 1936*,—

shall be received in evidence without any proof that the same was signed by the person purporting to sign the same or as to the official position of the person signing the same, and shall be *prima facie* evidence of the matters set forth therein.

31.—(1) Every person who sells fuel oil by weight shall state on every invoice issued by him the specific gravity of the fuel oil and the table number shown on the consolidated filling weight table prescribed by the Board and approved by the Lieutenant Governor in Council, and every person who fails to comply with this subsection shall be guilty of an offence and liable on summary conviction to a penalty of not less than ten dollars and not more than fifty dollars for each offence.

(2) Every person who disposes of fuel oil by weight shall keep posted in a conspicuous position over his weight scales in his warehouse a copy of the weight table referred to in subsection (1) of this section, and in addition shall display over the weight table the invoice covering the last tank car received by him, and every person who fails to comply with this subsection shall be guilty of an offence and liable on summary conviction to a penalty of not less than five dollars for each day during which such failure continues.

32. In order to verify the quantity of fuel oil dealt in or handled by any person who is a producer, manufacturer or refiner of fuel oil or any person who deals therein as a wholesaler, jobber or distributor, the Board may require any such person to install at his own cost automatic meters or other apparatus approved by the Board, and the use of such meters or other apparatus shall be subject to the control of the Board which may also for the said purpose at any time require the use of such other means or other methods as it may deem advisable.

33. The Lieutenant Governor in Council may authorize and empower any Minister designated for the purpose to engage in and carry on, in the name of and on behalf of the Province, the business of the wholesale and retail distribution of fuel oil and lubricating oils and greases and to do any and all acts requisite for engaging in and carrying on such business, and the Lieutenant Governor in Council may authorize and empower the Provincial Treasurer from time to time to advance from the General Revenue Fund such sums of money as may be required for the carrying on of the said business.

34. Any licensee who contravenes any of the provisions of this Act or of the regulations in respect of which no penalty is expressly provided elsewhere in this Act shall be guilty of an offence and shall be liable on summary conviction therefor to a penalty of not more than five hundred dollars and costs and in default of payment to imprisonment for a term of not more than three months.

35. Every person guilty of an offence under this Act shall, in addition to all other penalties, be liable, on summary conviction, to a fine of not more than five hundred dollars.

36. The Lieutenant Governor in Council may make regulations,—

- (a) prescribing the rules of procedure to govern proceedings before the Board;
- (b) prescribing the form and manner of an application for a license;
- (c) classifying licenses and licensees and prescribing and regulating the fees including methods of ascertaining or calculating or determining the fees to be paid for licenses;
- (d) prescribing the privileges, terms, conditions, limitations and restrictions to be granted to or observed by any licensee;
- (e) prescribing the conditions upon which licenses may be issued and providing for the revocation, suspension or withholding of licenses;
- (f) prescribing the returns to be furnished under this Act and the information to be given by such returns and by whom and in what manner they shall be made;
- (g) for the collection of the license fees, designating the persons by whom the same shall be collected;
- (h) for the posting of prices by the licensee and prescribing the period during which such prices, so posted, must be maintained;
- (i) prescribing the conditions under which licensees may purchase and receive or sell and deliver fuel oil;
- (j) prescribing standard specifications for fuel oil or any specified class or classes thereof and as to the information to be furnished to any purchaser on the sale of any fuel oil in respect of which a standard specification is prescribed;
- (k) exempting any persons and classes of persons from the operation of or compliance with this Act;
- (l) generally for the better carrying out of the provisions of this Act.

37. *The Fuel Oil Tax Act*, being chapter 44 of the Statutes of Alberta, 1932, is hereby repealed.

38. This Act shall come into force upon a date to be fixed by Proclamation of the Lieutenant Governor in Council.

No. 84.

FIRST SESSION
EIGHTH LEGISLATURE
1 EDWARD VIII
1936

BILL

An Act to provide for the Licensing
of Dealers in Fuel Oil.

Received and read the

First time

Second time

Third time.....

HON. MR. MANNING.

EDMONTON:
A. Shnitka, King's Printer
1936