

Bill No. 85 of 1936.

A BILL TO PROVIDE FOR IMPOSING A TAX ON
FUEL OIL.

NOTE.

This Bill is in the main a re-enactment of those provisions of *The Fuel Oil Tax Act*, chapter 44 of the Statutes of 1932, which relates to the imposition of and collection of the fuel oil tax.

The definition of fuel oil is enlarged to include every liquid capable of being used for the generation of power in an internal combustion engine.

The charging section has been amended with a view to meeting any possible constitutional invalidity of the section as it now stands. The definition of purchaser has been amended so as to make it clear that the tax is imposed upon a person purchasing for his own use or his own consumption.

The section in the present Act dealing with refunds for agricultural purposes is left out, but provision is made that the Lieutenant Governor in Council may make regulations dealing with the matter of refunds and exemptions which will be necessitated by the enlargement of the definition.

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. 85 of 1936.

An Act to Provide for Imposing a Tax on 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 Tax Act, 1936.*"

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

- (a) "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;
- (b) "Minister" means the member of the Executive Council for the time being charged with the administration of this Act;
- (c) "Police officer" means any member of the police force for the time being charged with the duty of policing the Province;
- (d) "Purchaser" means any person purchasing or receiving delivery in Alberta of fuel oil for his own use or his own consumption;
- (e) "Regulations" means regulations made under the authority of this Act.

3.—(1) If it is made to appear to the Lieutenant Governor in Council that any substance or liquid whatsoever in the nature of fuel oil is being used for the generation of power in an internal combustion engine, the Lieutenant Governor in Council may from time to time define any such substance in any manner which may be

deemed expedient, and declare the substance so defined to be fuel oil within the meaning of that expression for all the purposes of this Act.

(2) Every Order in Council shall be published in *The Alberta Gazette*, and upon publication shall have the same force and effect as if the same had been expressly enacted by this Act.

4.—(1) Every purchaser shall pay to the Minister for the use of His Majesty, in the right of the Province of Alberta, a charge or tax at the rate of seven cents a gallon on all fuel oil which is purchased by him or delivery of which is received by him.

(2) Every person who consumes or uses any fuel oil respecting which no tax has been paid pursuant to this Act shall pay to the Minister for the use of His Majesty in the right of the Province of Alberta a charge or tax at the rate of seven cents per gallon on all such fuel oil.

(3) No person shall use or consume any fuel oil unless the tax payable in respect thereof pursuant to this Act has been paid.

(4) Except only in the case of fuel oil used or consumed in the operation of a motor vehicle or motor boat or aircraft in the fuel tank of which the fuel oil was brought into the Province, every person who uses or consumes any fuel oil in violation of the provisions of this section shall be guilty of an offence.

5. The tax hereby imposed shall be collected, accounted for and paid over to the Minister by such persons as the regulations may direct.

6.—(1) Any person having in his possession fuel oil upon which the tax payable in pursuance of this Act has not been paid shall be liable on summary conviction to a penalty of not less than one hundred dollars and costs, and not more than five hundred dollars and costs.

(2) In any prosecution for any contravention of this section, the burden of proving that the tax has been paid in respect of any fuel oil used or consumed shall be upon the defendant.

7.—(1) The tax payable hereunder shall be recoverable by the Minister as a debt due to the Crown by suit brought on behalf of the Province in the name of His Majesty.

(2) In any such suit the burden of proving that the tax has been paid shall be upon the defendant.

8. Every purchaser and every other person who,—

(a) brings any fuel oil purchased outside the Province into the Province for sale, or distribution, or use, or consumption within the Province; or

- (b) receives any fuel oil within the Province from any person outside of the Province for sale, or distribution, or use, or consumption within the Province; or
- (c) receives any fuel oil within the Province from any person within the Province who is not the holder of a valid and subsisting license under *The Fuel Oil Licensing Act*—

shall, within twenty-four hours after receiving or bringing into the Province any such fuel oil send by mail to the Minister a statement in writing setting out the name and address of the person from whom he received the same, the amount and description of such fuel oil, the place where the same is kept or stored and such other information as may be prescribed by the Minister, and shall with such statement remit to the Minister the tax payable in respect of such fuel oil pursuant to the provisions of this Act.

9. In any prosecution under this Act,—

- (a) a certificate purporting to be under the hand of the secretary of the Board of Public Utility Commissioners for the Province of Alberta or any person lawfully acting on his behalf as to whether or not the defendant is licensed pursuant to *The Fuel Oil Licensing 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 Licensing Act*,—

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.

10.—(1) Every police officer and every person authorized in writing, either generally or specially, by the Minister to exercise the powers of inspection under this section, may without warrant enter upon any premises except a private dwelling, on which he has cause to believe that any fuel oil is kept, or had in possession, and may inspect the premises and all fuel oil found thereon, and may make tests of any fuel oil so found and may take samples thereof, and may interrogate any person who is found on the premises or who owns, occupies, or has charge of the premises.

(2) Every person interrogated under this section who refuses to answer any question put to him respecting the fuel oil kept or had on the premises, or who fails to produce for inspection any book, record or document, or any barrel, tank or receptacle in his possession or under his control, which he is required to produce for any of the purposes of this section, shall be guilty of an offence against this Act.

11.—(1) Every person who, being charged with the collection, pursuant to this Act or any regulation, of any money in respect of any tax pursuant to this Act or the regulations, makes default in collecting the tax or in payment to the Minister of such tax or attempts to evade the payment of such tax shall be guilty of an offence and shall, in addition to any other penalty imposed by this Act in respect of such default or attempted evasion, be liable on summary conviction therefor to a penalty of treble the amount of the tax in respect of which such default was made or evasion was attempted, as the case may be, or the sum of one thousand dollars, whichever is the greater, together with costs; and in default of payment, to imprisonment for not more than six months.

(2) In addition to any other remedies which the Minister may have, if any person charged with the collection of the tax fails to pay over amounts collected to the Minister as required by the regulations, such amounts may be levied with costs by distress upon the goods and chattels, wherever found, of that person, under a warrant signed by the Minister, directed to the sheriff of the judicial district in which that person may have any goods or chattels; and in such case the sheriff shall realize the amounts unaccounted for, and all costs, by sale of the goods and chattels or so much thereof as may be necessary to satisfy the warrant and costs.

12.—(1) The Lieutenant Governor in Council may make regulations,—

- (a) as to the method of collection of the tax hereby imposed, and the persons by whom the same shall be collected, the remuneration of such persons, and the terms and conditions of their employment;
- (b) for the accounting for and paying over of any sums of money so collected, and the time and manner of such accounting and paying;
- (c) prescribing the returns and statements to be made by importers, manufacturers, vendors and purchasers of fuel oil in Alberta, and the time or times for making such returns and statements;
- (d) providing for the making of refunds of and exemptions from the said tax or any part thereof to any purchaser or class of purchaser and prescribing the proofs to be furnished upon application for exemption or refund;
- (e) for holding inquiries as to the operation of this Act and into any charge or complaint that any purchaser has evaded payment of the tax or has made any false return or statement and as to any other matter arising in the administration of this Act, and providing that the person holding such inquiry shall have all the powers which may be conferred upon a commissioner appointed under *The Public Inquiries Act* including the power to take evidence on oath;

- (f) imposing penalties for the non-payment of the said tax, or for non-compliance with the provisions of this Act or the regulations in cases in which no specific penalty is provided by this Act; and
- (g) excluding from the definition of fuel oil any oil or any classes or descriptions of oil which are in the nature of lubricants and exempting any person who deals in, uses, or consumes any oil so excluded from any liability for the payment of the tax imposed by this Act in respect thereof;
- (h) generally for the better carrying out of the provisions of this Act.

(2) The Lieutenant Governor in Council may appoint such collectors, inspectors, officials, clerks and servants as may be deemed necessary for the purposes of this Act, and prescribe their duties and fix their remuneration.

13.—(1) Any remuneration or refund payable to any person pursuant to the regulations shall without any further or other appropriation than is provided by this Act be paid out of the total revenues received and shall be shown as a deduction from such revenues in the accounts of the Province.

(2) All vouchers respecting any remuneration or refund shall be submitted to the Provincial Auditor for certification before being paid.

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

No. 85.

FIRST SESSION
EIGHTH LEGISLATURE
1 EDWARD VIII
1936

BILL

An Act to Provide for Imposing a
Tax on Fuel Oil.

Received and read the

First time

Second time

Third time

HON. MR. MANNING.

EDMONTON:
A. Shnitka, King's Printer
1936