

Bill No. 71 of 1942.

A BILL TO AMEND THE PUBLIC UTILITIES ACT, 1923

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NOTE.

This Bill amends *The Public Utilities Act, 1923*, by incorporating sections 51a and 51b as permanent portions of the Act. Section 51a has been in force since 1933 as a temporary provision, the effect of which has been continued from year to year by annual amendments. Section 51b is in a similar position, it having been first enacted by chapter 65 of 1934. The amendments to section 51a which have been made from time to time are incorporated, together with certain minor changes in the wording, which have not affected the meaning or intent of the section. Subsections (4), (6), (7) and (8) of section 51a are altered by the addition of a minimum penalty of twenty-five dollars to apply in the case of a first offence, and a maximum penalty of five hundred dollars to apply in the case of a second or subsequent offence. These new penalties are very desirable and will greatly facilitate the enforcement of the provisions relating to milk control.

W. S. GRAY,  
*Acting Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 71 of 1942.

An Act to amend The Public Utilities Act, 1923

(Assented to \_\_\_\_\_, 1942.)

**H**IS 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 Public Utilities Act, 1923, Amendment Act, 1942.*"

**2.** *The Public Utilities Act, 1923*, being chapter 53 of the Statutes of Alberta, 1923, is hereby amended as to Part II by adding immediately after section 51 thereof the following new sections:

"**51a.**—(1) The Board shall have jurisdiction upon its own initiative or upon complaint in writing to inquire into any matter relating to the production, supply, distribution or sale of milk.

"(2) If by such inquiry it is found that the milk supply in any part of the Province is likely to be interrupted or impaired in quality to an extent affecting the public health or convenience or that the distribution, sale or disposal is subject to discriminatory, unfair or unwarranted competition, the Board shall have power to make regulations and orders deemed necessary in the public interest, and without derogating from the generality of the foregoing,—

"(a) to prescribe the area or areas, whether bounded municipally or otherwise, in which any such regulations or orders shall have effect;

"(b) to supervise the production, furnishing, delivery, keeping for sale and the sale of milk, within the area or areas prescribed as aforesaid, including the licensing, if deemed expedient, of any of the respective classes of persons referred to therein, and the fixing and collection of a reasonable fee therefor with power to refuse to license, and in its discretion to suspend or cancel any license previously issued;

"(c) to prohibit any person or any class or classes of persons which may be designated by the Board from engaging in the production, distribution, selling or keeping for sale of milk and milk products or such of them as may be designated by the Board unless authorized so to do by the Board, and to suspend or cancel any authorization previously given;

- “(d) to prescribe the terms and conditions upon which milk may be produced, received, handled, stored, delivered, kept for sale or sold in any such area;
- “(e) to classify milk producers and distributors or other persons keeping milk for sale or selling milk;
- “(f) notwithstanding anything herein contained, to approve or establish from time to time schedules of minimum rates at which milk shall be supplied by the respective classes having regard primarily to the interests of the public and to the continuity and quality of supply, and in so proceeding the Board shall not be bound by any rule of law or public utility practice to see that any rate of return is provided on any plant, equipment or investment in excess of the actual value thereof for the time being.

“(3) Upon it being made to appear to the Lieutenant Governor in Council that any food product grown, produced, processed or manufactured in Alberta is being offered for sale by retail in Alberta at a price so low as to be calculated to jeopardize the continuity or sufficiency of the supply thereof, or to embarrass the legitimate operations of persons engaged in the production, processing, manufacture or distribution thereof, or to dislocate the prices to the producer ordinarily prevailing for any product in the ordinary markets therefor, the Lieutenant Governor in Council may direct the Board to inquire into the circumstances of the production, marketing, processing, manufacture and distribution of any such product for the purpose of fixing a minimum price at which such product may be retailed, and thereupon the Board, after making such inquiry, shall have the same powers in respect to the plant, premises, equipment, service or organization for the distribution and sale by wholesale or retail of that product as are by this section conferred upon the Board in respect of milk, and as are by this Act conferred upon the Board in the case of a public utility.

“(4) Any person who sells or otherwise disposes of any commodity in respect of which a minimum price has been prescribed by any order of the Board under this section at a price lower than the minimum price so prescribed shall be guilty of an offence and liable upon summary conviction, for a first offence, to a penalty of not less than twenty-five dollars, nor more than two hundred and fifty dollars and costs per day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than three months, and for a second or subsequent offence to a penalty of not less than fifty dollars nor more than five hundred dollars and costs per day for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than six months.

“(5) Where a minimum price has been fixed in respect of a commodity and upon the sale thereof any discount or rebate, either in money or in kind, is allowed, or any plan, system or device is used whereby any advantage of any kind, whether in money, goods, services or otherwise, accrues to the purchaser either directly or indirectly and whether as a term of the sale or collaterally or incidentally which has the effect of reducing the price paid for that commodity to a price less than the minimum price fixed in respect of it, the sale so made shall be deemed to be a sale at less than the minimum price.

“(6) Any person who contravenes any order of the Board made pursuant to this section by producing or distributing or keeping for sale or selling any commodity without being the holder of a subsisting license from the Board shall be guilty of an offence and liable upon summary conviction for a first offence, to a penalty of not less than twenty-five dollars, nor more than two hundred and fifty dollars and costs per day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than three months, and for a second or subsequent offence to a penalty of not less than fifty dollars nor more than five hundred dollars and costs per day for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than six months.

“(7) Any person who contravenes any order of the Board made pursuant to this section by producing or distributing or keeping for sale or selling any commodity without being authorized by the Board so to do, shall be guilty of an offence and liable upon summary conviction for a first offence, to a penalty of not less than twenty-five dollars, nor more than two hundred and fifty dollars and costs per day during which any product has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than three months, and for a second or subsequent offence to a penalty of not less than fifty dollars nor more than five hundred dollars and costs per day for every day during which any commodity has been so produced or distributed or kept for sale or sold by him, and in default of payment to imprisonment for a term of not more than six months.

“(8) Every person who contravenes any provision of any order or regulation made by the Board pursuant to this section for the contravention whereof no penalty is by this section expressly provided, shall be guilty of an offence and liable upon summary conviction for a first offence to a penalty of not less than twenty-five dollars nor more than two hundred and fifty dollars and costs, and in default of payment to imprisonment for a term of not more than three months; and for a second or subsequent offence to a penalty of not less than fifty dollars nor more than five hundred

dollars and costs, or in default of payment to imprisonment for a term of not more than six months, and in any case, either in lieu of or in addition to a pecuniary penalty, to imprisonment for a term of not more than six months.

“(9) The remedies provided by this section for the enforcement of orders of the Board shall be in addition to any other remedy which is provided for that purpose in any other provision of this Act.

“(10) Every order made pursuant to this section shall take effect and have force from and after the publication thereof in *The Alberta Gazette*.

“(11) Any order for the suspension or cancellation of any license issued under the provisions of this section may be served upon the person or corporation affected in the manner set out in section 82 of this Act and shall, notwithstanding any other provisions of this Act, take effect as at the time specified in the order for that purpose.

“(12) The costs incurred or to be incurred in enforcing any orders or regulations made by the Board pursuant to this section or to section 51*b* or in the administration of both or either of these sections in any area prescribed as an area in which any of such regulations shall have effect, shall be borne and paid as to twenty-five per cent thereof by the Crown and as to seventy-five per cent thereof by persons who are licensed by the Board as milk or table cream producers in such areas and by persons licensed as aforesaid who market, distribute, process, keep for sale or sell in such areas milk and table cream or either of them in liquid form.

“(13) For the purpose of defraying the portion of such costs required to be paid as aforesaid by persons engaged in the production, marketing, distribution, processing, keeping for sale and selling in such areas milk and cream in liquid form and who are so licensed by the Board and for the purpose of defraying the cost of such other activities as the Board may deem necessary or expedient for the proper conduct of the milk trade in any of such areas as aforesaid and without in any way limiting the generality of the foregoing, including a sum or sums sufficient to cover the cost of general advertising for the milk trade, cost surveys and special investigations, the Board is empowered from time to time as occasion may require to raise a sum or sums sufficient therefor by means of assessment and levy upon the said persons in such areas in such manner and in such amounts as may be fixed by the Board and every such person shall on demand pay to the Board on behalf of the Crown the amount of the sum or sums so assessed and levied and the Board may recover any sum so assessed and levied by action brought by the Board in the name of the Crown as a debt due to the Crown; and all sums so levied and collected shall be paid to the Provincial Treasurer and shall be kept by him in a special

trust account subject to the provisions of the next two following subsections and shall be used for the purposes above mentioned.

“(14) The Board shall have power to determine whether any expenditure made from the funds in such account shall be classified as an expense of administration or enforcement as set out in subsection (12) or as an expense for purposes other than enforcement or administration.

“(15) Any moneys raised by the Board by assessment and levy as aforesaid not required for the purpose of administration or enforcement as determined by the Board shall on the 31st day of March in each year be transferred by the Provincial Treasurer to a reserve trust account and such funds, together with accumulated reserves from year to year, may be used for any purpose which the Board may deem necessary or expedient in any matter relative to the proper conduct of the milk trade in any area aforesaid.

“(16) All funds now held by the Provincial Treasurer, whether the same were contributed voluntarily by persons engaged in the milk trade aforesaid or whether raised by assessment and levy under any of the provisions of this Act not required for administration or enforcement as determined by the Board, shall be transferred to the reserve trust account referred to in subsection (15) and may be used for the same purposes as are provided in the said subsection with respect to the funds in the said reserve trust account.

“**51b.**—(1) The Board shall have jurisdiction upon its own initiative or upon complaint in writing to inquire into any matter relating to the production, supply, distribution or sale of cream produced in the Province and the Board shall have power to make regulations and orders deemed necessary in the public interest and without derogating from the generality of the foregoing shall have power,—

“(a) to define milk and cream;

“(b) to prescribe the area or areas, whether bounded municipally or otherwise, in which any such regulations or orders shall have effect;

“(c) to supervise the production, furnishing, delivery, keeping for sale and the sale of cream, within the area or areas prescribed as aforesaid, including the licensing, if deemed expedient, of any of the respective classes of persons referred to therein, and the fixing and collection of a reasonable fee therefor with power to refuse to license and in its discretion to suspend or cancel any license previously issued;

“(d) to prohibit any person or any class or classes of persons which may be designated by the Board from engaging in the production, distribution, selling or keeping for sale of cream unless specifically authorized so to do by the Board, and to suspend or cancel any authorization previously given;

- “(e) to prescribe the terms and conditions upon which cream may be produced, received, handled, stored, delivered, kept for sale or sold in any area ;
- “(f) to classify cream producers and distributors or other persons keeping cream for sale or selling cream ;
- “(g) notwithstanding anything herein contained, to approve or establish from time to time schedules of minimum rates at which cream shall be supplied by the respective classes having regard primarily to the interests of the public and to the continuity and quality of supply, and in so proceeding the Board shall not be bound by any rule of law or public utility practice to see that any rate of return is provided on any plant, equipment or investment in excess of the actual value thereof for the time being.”

**3.** This Act shall come into force on the day upon which it is assented to.

SECOND SESSION  
NINTH LEGISLATURE  
6 GEORGE VI  
1942

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**BILL**

An Act to amend The Public Utilities  
Act, 1923

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Received and read the

First time .....

Second time.....

Third time.....

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HON. MR. MAYNARD.

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