

Bill No. 39 of 1944.

A BILL RESPECTING PERSONS DEALING IN OR
WITH FISH.

NOTE.

The purpose of this Bill is to regulate and license persons dealing in fish, whether as fish dealers who are defined as persons other than retailers who buy fish for the purpose of resale, persons operating fishing stations which are defined as places where fish are received from the fishermen and packed or received and packed, and retailers.

Section 3 of the Bill deals with licenses and enumerates the different classes of licenses which may be issued, and a license may cover more than one of the classes of business mentioned. The Minister is given discretion as to the issue of licenses.

Sections 6 and 7 deal with the records which must be kept by fishing station operators, fish dealers, and others engaged in the business of processing or exporting fish. Full details of each transaction must be kept and duplicate receipts must be issued by operators of cold storage plants. Retailers are required by section 7 to keep a record of each individual purchase made by them.

Sections 8 and 9 deal with statements which are required to be forwarded each month to the Commissioner by every fishing station operator, fish dealer and other person engaged in the business of processing or exporting fish.

Section 10 provides for an officer appointed under the Act examining and taking extracts from records required to be kept by the Act, and section 11 deals with carriers and requires them to obtain from a shipper of fish a statement giving the particulars set out in the section.

Section 12 provides for regulations being made by the Lieutenant Governor in Council as to the matters mentioned in the section.

Sections 13 to 16 deal with offences and penalties, section 17 deals with the procedure in prosecuting under the Act, and sections 18 and 19 deal with the power of search given to officers appointed under the Act who may, without warrant, exercise the powers set out in these two sections.

Sections 20 and 21 deal with the powers of seizure where a violation of the Act is being committed, and section 22 deals with the forfeiture of the fish, containers, vehicles, etc., following a conviction.

Section 23 provides that a license held by a convicted person shall be automatically cancelled, but the Minister is given power to reinstate such a license. The Minister is also given power to grant relief against forfeiture in cases of undue hardship or of an injustice.

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. 39 of 1944.

On Act respecting Persons dealing in or with Fish.

(Assented to _____, 1944.)

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

SHORT TITLE.

1. This Act may be cited as "*The Fish Dealers Act.*"

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—
 - (a) "Commissioner" means the Fish and Game Commissioner appointed under the provisions of The Game Act;
 - (b) "Cold storage plant" means any cold storage plant which as part of its business receives fish for cold storage;
 - (c) "Fish" means any species of fish found in the waters of the Province;
 - (d) "Fish dealer" means any person, other than a retailer, who buys fish for the purpose of resale;
 - (e) "Fishing station" means any building or place where fish are received from fishermen, or packed, or received and packed;
 - (f) "Fishing station operator" includes any person who in any manner or place packs fish;
 - (g) "Justice" shall have the same meaning as ascribed to that word in The Summary Convictions Act;
 - (h) "Minister" means the Minister of Lands and Mines;
 - (i) "Officer" means any fishery officer, fishery inspector, fishery guardian, game guardian, or forestry officer, employed by the authority of the Minister, or any other officer or person authorized by the Minister to assist in the enforcement of The Fisheries Act (Canada) and regulations made thereunder;
 - (j) "to process" means to smoke, to fillet, to salt or otherwise to prepare fish or fish products for market;
 - (k) "Retailer" includes a pedlar and any other person who sells fish by retail sale;
 - (l) "Transaction" includes a purchase or sale of, and a contract or agreement in respect to fish.

LICENSES AND PROHIBITIONS.

3.—(1) Unless he shall have obtained and be in possession of an unexpired license therefor, no person shall,—

- (a) operate a fishing station; or
- (b) sell fish; or
- (c) buy fish by other than a retail purchase; or
- (d) process fish; or
- (e) engage in the business of exporting fish; or
- (f) operate a cold storage plant other than a plant licensed under *The Frozen Food Locker Act*.

(2) Every license shall show in which of the classes of business for which a license is hereby required, the licensee is thereby permitted to engage.

(3) A license may authorize the licensee to engage in any one or more of the classes of business mentioned in subsection (1), but if the licensee is to be permitted to carry on business as a retailer the license shall specifically state that by virtue thereof fish may be sold by retail sale only, or by retail sale and as otherwise stated in the license, as the case may be.

(4) No person shall carry on business as a retailer unless he obtains and is in possession of an unexpired license for that purpose.

(5) Every person to whom a license is issued shall comply with the terms, conditions and limitations thereof.

4. Subject to any regulation in respect thereto made by the Lieutenant Governor in Council, the Minister may in his absolute discretion issue, cause to be issued or refuse to issue any license required or permitted by this Act.

5. No person shall purchase fish except from a fisherman holding a subsisting commercial fishing license or from any person who is licensed under this Act to sell fish.

RECORDS.

6.—(1) Every fishing station operator, every fish dealer and every person engaged in the business of processing or exporting fish shall keep an accurate and complete record of each individual transaction made or entered into by him; and, without restricting the generality of the foregoing, the record shall show,—

- (a) the date of each transaction; and
- (b) the name, address and license number of the fisherman, fishing station operator, fish dealer or other person from whom the fish were purchased or received; and
- (c) the name, address and license number of the fish dealer, operator of a cold storage plant, person en-

gaged in the business of processing or exporting fish, retailer or other person to whom the fish were sold or delivered; and

- (d) the various species of fish and the quantity of each species included in, referred to or affected by each transaction; and
- (e) such other information as the Lieutenant Governor in Council, by regulations made pursuant to this Act, may prescribe.

(2) Every operator of a cold storage plant other than a plant licensed under *The Frozen Food Locker Act*, shall issue duplicate receipts for all fish received by him showing,—

- (a) the date of receipt of such fish; and
- (b) the name, address and license number of the fisherman, fishing station operator, fish dealer or other person from whom the fish were received; and
- (c) the various species of fish and the quantity of each species included in, referred to or affected by each transaction; and
- (d) such other information as the Lieutenant Governor in Council by regulation made pursuant to this Act may prescribe,—

and a copy of each duplicate receipt shall be forthwith forwarded to the Commissioner.

7. Every retailer on the request of the Commissioner shall keep an accurate and complete record of each individual purchase of fish made by him and without restricting the generality of the foregoing, the record shall show,—

- (a) the date of each purchase; and
- (b) the name, address and license number of the person from whom the fish were purchased; and
- (c) the various species of fish and the quantity of each species included in each purchase; and
- (d) such other information as the Lieutenant Governor in Council by regulations made pursuant to this Act may prescribe.

STATEMENTS.

8. Every fishing station operator, every fish dealer and every person engaged in the business of processing or exporting fish, shall on or before the fifteenth day of each month, send to the Commissioner a statement verified by the statutory declaration of a person having knowledge of the facts, which statement shall contain the information required by paragraphs (a), (b), (d) and (e) of subsection (1) of section 6 to be recorded in respect of each transaction made or entered into subsequent to the last transaction shown in the latest preceding statement furnished as required by this section, or, in the case of the first statement

furnished, made or entered into during the thirty days immediately preceding the date of the statement.

9. On the request of the Commissioner, every retailer shall, on or before the fifteenth day of each month, send to the Commissioner a statement verified by the statutory declaration of a person having knowledge of the facts, which statement shall contain the information, required by section 7 to be recorded, in respect of each purchase of fish made subsequent to the last purchase shown in the latest preceding statement furnished as required by this section, or in the case of the first statement furnished, made or entered into during the thirty days immediately preceding the date of the statement.

MISCELLANEOUS.

10.—(1) Any officer may examine and take extracts from any records required by this Act to be kept; and for the purpose of verifying the same, may also examine and take extracts from any other records, books and documents kept by, or in the possession of, any person required by this Act to keep records.

(2) Every person required by this Act to keep records shall, on request, make available to any officer all such records and any other records, books and documents kept by him or in his possession.

11.—(1) Every carrier (whether a common carrier or not) and including the owner or driver of any motor vehicle, before transporting or accepting for transport or buying any fish, shall obtain from the shipper or seller thereof a statement in duplicate signed by such shipper or seller which statement shall set forth,—

- (a) the various species of fish and the quantity of each species included in the shipment;
- (b) the name, address and license number of the shipper or seller thereof; and
- (c) the name and address of the consignee or buyer thereof,—

and a copy of the statement shall accompany the shipment and shall be delivered by the carrier to the consignee and one copy thereof shall be retained by the carrier or the owner or driver of the motor vehicle.

(2) No buyer or consignee and no owner or driver of a motor vehicle shall buy or transport or accept fish or a shipment of fish unless accompanied by such a statement.

12.—(1) The Lieutenant Governor in Council may make such regulations and orders, not inconsistent with this Act, as are necessary to carry out the provisions of the Act according to their obvious intent or to meet any cases which arise for which no provision or insufficient provision

is made in the Act; and such regulations and orders shall be part of this Act and without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations respecting,—

- (a) the issue of licenses and the terms, conditions and limitations subject to which the same shall be issued;
 - (b) the forms of licenses and of the records to be kept and of the statements to be furnished as required herein;
 - (c) the fees to be paid for licenses;
 - (d) information, in addition to that herein required, which shall be furnished in any statement sent to the Commissioner;
 - (e) packing, handling, processing and storage of fish.
- (2) Every regulation or order so made shall have force and effect only after the same has been published in *The Alberta Gazette*.

13. Every person who fails to keep any record which by this Act he is required to keep, or who falsifies any record, or who contravenes or fails to observe any other provision of this Act or of any regulation made pursuant thereto, or the terms, conditions or limitations of any license issued pursuant thereto, shall be guilty of an offence under this Act.

14. No person without lawful excuse, the proof whereof shall lie on him, shall buy, sell, ship, transport, or have in his possession any fish or any portion of any fish during a time when fishing for such fish is prohibited by law: Provided that lawful excuse within the meaning of this section shall be ability to prove that such fish or portion of any fish was caught, bought, sold, shipped, transported, or had in possession during a time when commercial fishing for such fish was not prohibited by law in Alberta, or that such fish or portion thereof was lawfully caught, bought or obtained possession of in another jurisdiction.

15. No person shall buy any fish taken or caught under authority of a domestic fishing license within the meaning of Special Fishery Regulations for the Province of Alberta issued by order of the Governor General in Council pursuant to The Fisheries Act (Canada), or buy or sell any fish caught by angling.

16.—(1) Every person, not a corporation, who is convicted of an offence under this Act shall be liable on summary conviction,—

- (a) if the conviction is for a first offence to a fine of not less than ten dollars and not more than two hundred dollars, and in default of immediate payment, to imprisonment for not more than one month; and
- (b) if the conviction is for a second or subsequent offence, to a fine of not less than fifty dollars and not more

than five hundred dollars, and in default of immediate payment, to imprisonment for not more than three months.

(2) Every corporation which is convicted of an offence under this Act shall be liable to a fine of not less than fifty dollars and not more than one thousand dollars.

(3) Where a corporation is convicted of an offence under this Act, every director of the corporation, unless he satisfies the court that the offence for which the corporation was convicted was committed without his knowledge and consent, shall be deemed to be a party to the offence so committed; and unless the fine imposed on the corporation is paid within three months after the conviction, every such director may be prosecuted as a principal offender, and shall be liable on summary conviction to imprisonment for a term not exceeding three months.

PROCEDURE, EVIDENCE, ETC.

17.—(1) Any information or complaint as to an offence under the provisions of this Act shall be laid within one year after the commission of the offence, except in the case of a prosecution for omission to keep any record or send any statement required by this Act or the regulations, when it may be laid at any time after the offence is alleged to have been committed.

(2) A contravention of this Act or of the regulations or the terms or conditions of a license may be stated as an offence against this Act.

(3) The description of an offence, in the words either of this Act or of the regulations, or in any similar words, shall be sufficient, and any information or complaint may be for one or more offences.

(4) In any prosecution or proceeding under this Act in which proof is required,—

- (a) as to the issue or cancellation of any license; or
- (b) as to the person who is the licensee named in a license; or
- (c) as to the delivery, serving, mailing or giving any notice or document by the Department of Lands and Mines,—

a certificate signed by the Commissioner certifying as to the same shall be *prima facie* proof of the facts stated in the certificate and of the authority of the Commissioner without any proof of the appointment or signature.

(5) The fact that the person charged in the information or complaint laid, made or given under this Act has the same name as the person who is referred to as being the license holder in any certificate aforesaid certifying as to the person who is the license holder in any license, shall constitute *prima facie* proof that the person so charged is the holder of the license.

18.—(1) An officer shall have authority to stop and search, without a search warrant, any vehicle, aircraft, vessel, launch, boat or canoe, or any railway car, including a caboose and a baggage or express car, where the officer has reasonable grounds to believe the vehicle, aircraft, launch, boat or canoe, or railway car, contains any fish which have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to the provisions of this Act.

(2) An officer shall, for the purpose of preventing or detecting the violation of any of the provisions of this Act or the regulations, have the right at any time and from time to time, without warrant, to enter into any and every part of any place, other than a private dwelling house and make searches in every part thereof, and of the premises connected therewith, as he may think necessary for the purpose aforesaid, and may use all necessary force including the breaking of any lock or fastening in case the owner or person in charge obstructs or refuses to facilitate his search.

(3) In the discharge of his duties, every officer and every person by him accompanied, or authorized for that purpose, may enter upon and pass through or over private property, without being liable for trespass.

19.—(1) Where an officer in making or attempting to make a search under or pursuant to subsection (1) of section 18 finds in any vehicle, aircraft, vessel, launch, boat, canoe or railway car, any fish which in his opinion have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to the provisions of this Act, he shall forthwith seize the fish and the containers in which they are contained, and any papers, books, documents or records therein or upon the person of any person found therein or connected therewith, which may afford evidence of the commission of an offence against the Act or regulations, and he may also forthwith seize the vehicle, aircraft, vessel, launch, boat or canoe, and any animal hitched to or drawing such vehicle.

(2) Where an officer in making or attempting to make a search under or pursuant to subsection (2) of section 18 finds in any premises any fish which in his opinion have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to the provisions of this Act, he shall forthwith seize the fish and the containers in which the same are contained, together with any papers, books, documents and records in the premises or upon the person of any person found therein or connected therewith which may afford evidence of the commission of an offence against the Act or regulations.

(3) Where an officer finds any person committing or any person he has reason to believe has committed a violation of any of the provisions of the Act or regulations, he shall forthwith seize all fish in the possession or control of the

person together with any papers, books, documents or records which may afford evidence of the commission of an offence against the Act or the regulations.

(4) Where an officer at or in any place, whether in the possession or control of any person or not finds,—

(a) any fish which he has reason to believe have been or are intended to be bought, sold, received, stored, processed or otherwise dealt with contrary to the provisions of this Act or;

(b) any vehicle, aircraft, vessel, launch, boat or canoe which he has reason to believe is kept or used for or in connection with the violation of the Act or regulations, or any animal hitched to or drawing such vehicle,—

he shall forthwith seize the fish and their containers, and he may also forthwith seize the vehicle, aircraft, vessel, launch, boat, canoe or animal.

20. Any vehicle, aircraft, vessel, launch, boat or canoe used for transporting fish in respect of which no statement has been obtained by the carrier from the shipper or seller thereof, or otherwise used for transporting fish contrary to the provisions of this Act, and any animal hitched to or drawing such vehicle, shall be liable to seizure.

21. An officer on view of a violation of this Act or the regulations may arrest the person committing the same, without process, and bring him before a competent court to be dealt with according to law.

22.—(1) In all cases where any fish, containers, vehicle, aircraft, vessel, launch, boat or canoe is under seizure, confiscation thereof shall automatically follow conviction for an offence under this Act, and the same shall become the property of His Majesty in the right of the Province to be disposed of as the Minister may direct, provided, however, that in the case of fish which are subject to spoilage, the justice before whom information is laid, may order immediate disposal of such fish as he may see fit, but at any place where no justice is available, any officer may sell or otherwise dispose of such fish as he may see fit.

(2) In all cases where any fish, containers, vehicle, aircraft, vessel, launch, boat or canoe is under seizure and the owner is unknown, or where no legal action has been taken regarding any seizure where a violation of this Act or the regulations has occurred, the Minister may direct the disposal thereof; provided, however, that in case of fish which are subject to spoilage, any officer may sell or otherwise dispose of such fish as he may see fit.

(3) The proceeds of the sale of any seizure made under this section shall be forthwith transmitted to the Provincial Treasurer and shall form part of the General Revenue.

23.—(1) A license held by any person convicted of an offence against this Act or the regulations shall upon conviction be deemed to be cancelled without further action or notice, but the Minister may authorize the reinstatement of any such license.

(2) Where the Minister is satisfied that the seizure or confiscation of any article or thing would work undue hardship or injustice, he may grant relief against the forfeiture and direct the return of the article or thing, or the proceeds of the sale of the article or thing, to the person from whom it has been taken, upon such terms as he may deem just.

COSTS.

24. In every case where a penalty is authorized by this Act to be inflicted, the justice shall have the power to order costs to be paid in addition to the amount of the penalty, and the costs when so ordered to be paid shall be considered as part of the penalty.

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

FOURTH SESSION
NINTH LEGISLATURE

8 GEORGE VI

1944

BILL

An Act respecting Persons dealing in
or with Fish.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. TANNER.

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