

1950

c 32 Beach Protection Act

Ontario

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CHAPTER 32

The Beach Protection Act

1. In this Act,

Interpre-
tation.

(a) "licence" means licence issued under this Act;

(b) "Minister" means Minister of Mines;

(c) "regulations" means regulations made under this Act;

(d) "sand" includes earth, gravel and stone. 1946,
c. 5, s. 1.

2.—(1) The Minister may issue licences for the taking of sand from the bed, bank, beach, shore or waters of any lake, river or stream or from any bar or flat in any lake, river or stream or adjoining any channel or entrance to any lake, river or stream in accordance with the regulations, and may suspend or cancel any licence.

Issue and
revocation
of licence.

(2) Each licence shall be effective only in the geographical area defined therein, and shall contain such particular terms and conditions as to its operation as the Minister directs.

Operation
of licence.

3.—(1) No person, unless he is the holder of a licence, shall take or carry away in any boat, vessel, craft, cart, truck or other conveyance, or otherwise transport by land or water or remove by drag-line or other mechanical device, any sand from a bed, bank, beach, shore, waters, bar or flat mentioned in subsection 1 of section 2 whether or not such bed, bank, beach, shore, waters, bar or flat is owned by such person.

Prohibition
against
taking sand.

(2) Subsection 1 shall not apply to the removal of sand by a municipality for municipal uses or by a *bona fide* resident of Ontario provided that such sand is for his personal use and not for resale or for use for commercial or industrial purposes. 1946, c. 5, s. 3.

Exception.

4. Subject to subsection 2 of section 3, no person shall go upon any bed, bank, beach, shore, waters, bar or flat mentioned in subsection 1 of section 2 for the purpose of removing

Being
present to
remove
sand.

or assisting to remove any sand therefrom except under the authority of a licence. 1946, c. 5, s. 4.

Having sand unlawfully taken on vessel.

5. No person shall have on board his vessel or on a vessel in his possession or control, any sand taken contrary to this Act. 1946, c. 5, s. 5.

Issue of search warrant.

6.—(1) Where any person makes oath before a justice of the peace that he has reason to believe and does believe that sand, in respect of which a violation of section 3, 4 or 5 has been committed, is on board any vessel, or at any place, the justice of the peace shall issue a search warrant directed to any sheriff, police officer, constable or bailiff, who shall forthwith proceed to search the vessel or place and if any sand is found thereon or thereat, he shall seize it and the vessel, if any, in which it is contained, and shall keep them secure until final action as hereinafter provided is had thereon.

Prosecution.

(2) The owner, master or person in possession of the vessel, or person in possession of sand shall without further information laid be summoned forthwith by the justice who issued the warrant to appear before a magistrate, and if such owner, master or person in possession fails to appear, or if it is shown to the satisfaction of the magistrate that a violation has been committed, the magistrate may convict the owner, master or person in possession. 1946, c. 5, s. 6.

Removal of sand from bed of certain streams prohibited.

7.—(1) No person shall remove any sand from the bed of any river, stream or creek running between two municipalities without the consent of the councils of such municipalities and in no case shall any sand be removed from the bed of any river, stream or creek so as to injure or endanger the safety of any bridge, drainage pipe, watermain or other structure erected or laid by a municipal corporation.

Penalty.

(2) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$25 for each offence. 1946, c. 5, s. 7.

Removal of sand from street or road prohibited.

8.—(1) No person shall remove any sand from any street or road or from the extension of any street or road into any river or lake without the consent of the council of the municipality in which it is situate.

Penalty.

(2) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10 for every load removed. 1946, c. 5, s. 8.

9.—(1) Notwithstanding anything contained in this Act, *The Beaches and River Beds Act* or any other Act, or in any regulations or order made under any of the said Acts, the Lieutenant-Governor in Council may make regulations prohibiting absolutely, or restricting subject to the terms and conditions contained therein, the taking, removing and carrying away by cart or truck, or by any boat or vessel or other water craft, or by any other vehicle or craft, of any sand from any bed, beach, shore or waters of, or adjacent to, any part of the shores of Lake Erie, Lake Ontario or Lake Huron, or from any land covered by the waters of any of the said lakes adjacent to the said shore, or from any sandbar or flat therein or adjoining any channel or entrance thereto as described in the regulations.

Removal
of sand
from Lakes
Erie,
Ontario,
Huron.
Rev. Stat.,
c. 33.

(2) Such prohibition or restriction shall extend to the owner, tenant or occupant of any such bed, beach, shore, sandbar or flat and to any person claiming under the authority of any municipal corporation or of any order of the Ontario Municipal Board and to every other individual and corporation.

Extent of
prohibition
or
restriction.

(3) Every person who contravenes the prohibition or restriction contained in any such regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$100. 1946, c. 5, s. 9.

Penalty.

10. Every person who violates any of the provisions of this Act or the regulations for which no other penalty is provided shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$1,000, but no prosecution shall be commenced except with the consent in writing of the Attorney-General. 1946, c. 5, s. 10.

General
penalty;
consent to
prosecute.

11. Save as otherwise provided in this Act *The Summary Convictions Act* shall apply to all proceedings taken under this Act. 1946, c. 5, s. 11.

Application
of
Rev. Stat.,
c. 379.

12. In addition to the method of service prescribed by *The Summary Convictions Act* any summons or other proceeding may, where it is directed to a person on board any vessel, be served by leaving it, or a copy thereof, with the person who is or appears to be in charge or command of such vessel. 1946, c. 5, s. 12.

Service of
proceedings.
Rev. Stat.,
c. 379.

13. In any prosecution the burden of proving the right to take any sand shall be upon the person charged with a violation of the Act. 1946, c. 5, s. 13.

Burden of
proof.

Royalties. **14.**—(1) A person to whom a licence is issued in accordance with this Act, may be required to pay to the Crown in addition to his licence fee, a fixed sum for every yard of sand removed under the authority of the licence. 1946, c. 5, s. 14 (1).

Amount of royalty. (2) The amount to be charged per yard shall be fixed by the Minister according to the location, type, availability and accessibility of such sand. 1946, c. 5, s. 14 (2); 1947, c. 101, s. 2.

Security. (3) The Minister may require a person to whom such licence is issued and by whom such sums are payable to the Crown to give security by bond satisfactory to the Minister, for the payment of such sums. 1946, c. 5, s. 14 (3).

Sale of vessel, etc., for payment of penalty. **15.**—(1) In addition to the remedies provided by *The Summary Convictions Act* for the recovery of penalties, any penalty imposed for a violation of this Act if not paid in accordance with the conviction may be levied by the sale of any vessel, conveyance, drag-line or other mechanical device involved in the commission of the offence under the warrant of the convicting magistrate.

Rev. Stat., c. 379.

Payment of balance to owner. (2) Upon return being made of the sale after satisfying the penalty and the costs of the sale, the overplus, if any, shall be paid to the owner of the vessel. 1946, c. 5, s. 15.

Regulations. **16.** The Lieutenant-Governor in Council may make regulations,

- (a) providing for the issue and renewal of licences and prescribing the general terms and conditions thereof and the fees payable therefor;
- (b) prescribing the form and contents of security bonds;
- (c) prescribing such forms as may be necessary;
- (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1946, c. 5, s. 16.