

1927

c 298 Beach Protection Act

Ontario

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CHAPTER 298.

The Beach Protection Act.

Prohibition
against
taking sand,
gravel or
stone from
certain
waters.

1. No person shall take or carry away in any vessel or otherwise transport by water any sand, gravel or stone from the bed, beach, shore, or waters of Lake Erie, Lake Ontario or Lake Huron or from land covered by or bordering upon the waters of such lakes or from any bar or flat in any of the said lakes or adjoining any channel or entrance to any of the said lakes, whether such bed, beach, shore, land, bar or flat be owned by such person or otherwise owned, without a license first had and obtained from the Minister of Mines approved by the Lieutenant-Governor in Council, unless such sand, gravel or stone is taken from a locality distant inland from high water mark of any of the said lakes. 1920, c. 91, s. 2; 1922, c. 94, s. 2.

Prohibition
against
trespassing
in search of
sand, gravel
or stone.

2. No person without the license required by this Act shall go upon any bed, beach, shore, water, bar or flat mentioned in the next preceding section for the purpose of removing or assisting to remove any gravel, sand or stone therefrom. 1920, c. 91, s. 3.

Having
sand, etc.,
unlawfully
in posses-
sion.

3. No person shall have on board his vessel or on a vessel in his possession or control any sand, gravel or stone, taken without the license required by this Act from any such bed, beach, shore, water, bar or flat with intent to carry the same away. 1920, c. 91, s. 4.

Issue of
search war-
rant.

4. If any person makes oath before a justice of the peace, that he has reason to believe, and does believe that sand, gravel or stone, in respect to which a violation of the provisions of sections 1, 2 or 3 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, gravel or stone is found therein or thereon, he shall seize the same and the vessel, if any, in which the same is contained, and shall keep them secure until final action as hereinafter provided is had thereon. R.S.O. 1914, c. 244, s. 7.

5. The owner, master, or person in possession of the vessel shall without further information laid be summoned forthwith by the justice who issued the warrant, to appear before a police magistrate or two justices of the peace; and if such owner, master or person in possession fails to appear, or if it is shown to the satisfaction of the police magistrate or justices of the peace that a violation of section 3 has been committed, the magistrate or justices may convict the owner, master or person in possession of the vessel. R.S.O. 1914, c. 244, s. 8. Prosecution.

6. If any question arises as to the place from which the sand, gravel or stone was taken, the burden of proving the right to take the same shall be upon the owner, master or person in possession of the vessel whereon the same was found and seized. R.S.O. 1914, c. 244, s. 9. Burden of proof.

7.—(1) Any person contravening any of the preceding provisions of this Act shall on summary conviction incur a penalty of not less than \$10 or more than \$1,000 for each offence, but there shall be no prosecution under this Act without the authority of the Attorney-General of Ontario, in writing, signed by him. R.S.O. 1914, c. 244, s. 10 (1); 1920, c. 91, s. 5. Penalty.

(2) In addition to all other remedies provided by *The Summary Convictions Act* for the recovery of the penalty, the same, if not paid in accordance with the conviction, may be levied by the sale of the vessel under the warrant of the convicting magistrate or justices. Sale of vessel for payment of penalty. Rev. Stat. c 121.

(3) 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. R.S.O. 1914, c. 244, s. 10 (3, 4). Payment of balance to owner.

BEDS OF RIVERS AND STREAMS.

8.—(1) No person shall remove any stone, gravel, earth or 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 gravel, earth or 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 or watermain erected or laid by a municipal corporation. 1927, c. 28, s. 26 (1). Removal of stones, etc., from beds of certain streams prohibited.

(2) Any person who contravenes this section shall, for each offence on summary conviction incur a penalty of not less than \$10, or more than \$25. Penalty.

(3) Prosecutions under this section shall be taken before a police magistrate or two justices of the peace. R.S.O. 1914, c. 244, s. 11 (2-3). Prosecution.

REMOVING SAND FROM ROADS.

Removal of stones, etc., from street or road prohibited.

9.—(1) No person shall remove any stone, gravel, earth or 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.

(2) Any person contravening this section shall on summary conviction be liable to a penalty not exceeding \$10 for every load removed. 1927, c. 28, s. 26 (2).

PROCEDURE ON PROSECUTIONS.

Service of proceedings. Rev. Stat. c. 121.

10. In addition to the mode provided by *The Summary Convictions Act* for the service of a summons or other proceeding, the same may be served by leaving it, or a copy thereof, for the person to be served, on board any vessel to which he belongs, with the person being, or appearing to be, in charge or command of the vessel. R.S.O. 1914, c. 244, s. 13.

Burden of proof of consent.

11. In any information or complaint, laid under sections 1 to 3, it shall be sufficient to allege that the act charged was done without consent; and if at the hearing it appears that the act charged was committed by the person charged in the information or complaint, the burden of proving consent or consents by this Act required, shall be upon him. R.S.O. 1914, c. 244, s. 14.

Variance between information and evidence as to ownership.

12. The name of the owner in the information may be changed to that of any other owner to accord with the evidence, and no question which may arise as to the title to the land shall affect the authority of the magistrate or justices to determine whether the consent of the owner has been obtained. R.S.O. 1914, c. 244, s. 15.

Regulations as to licenses.

13. The Lieutenant-Governor in Council may make such regulations as to the terms and conditions upon which licenses may be granted under this Act and as to the fees payable therefor as he may deem expedient for the more effectual carrying out of the provisions of this Act. 1920, c. 91, s. 7.