1977

c 18 The Motor Vehicle Fuel Tax Amendment Act, 1977

Ontario
An Act to amend The Motor Vehicle Fuel Tax Act

Assented to July 12th, 1977

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

1. Section 2 of The Motor Vehicle Fuel Tax Act, being chapter 282 or, re-enacted of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 10, section 1, is repealed and the following substituted therefor:

2.—(1) Unless he is a registrant, no person shall supply fuel that is taxable or exempt from tax under this Act or the regulations to any person, except as authorized in writing by the Minister, and every person in the business of supplying fuel for any purpose shall register with the Minister as required by this section or the regulations.

(2) Unless he is a registrant or is specifically exempted by the regulations from the application of this subsection, no person shall receive fuel as a registrant.

(3) Where the Minister is satisfied that the applicant for a registration certificate will be acquiring fuel principally,

(a) for resale by the applicant;

(b) to be used by the applicant in a manner or for a purpose that will render such fuel exempt from tax by virtue of this Act or the regulations, or that will entitle the applicant to apply to the Minister for a full refund of the tax imposed by this Act on such fuel, and that the amount of fuel to be used by the applicant will generally exceed 75 gallons of fuel per month; or

(c) to be disposed of or consumed by the applicant in a manner prescribed by the regulations for the purpose of this subsection,
the Minister may issue a registration certificate to such applicant, and the certificate may be made subject to such conditions and restrictions as the Minister considers necessary to ensure that fuel acquired by the applicant through his use of the certificate will be dealt with by the applicant in accordance with clause a, b or c, as the case may be.

(4) Every person required to be a registrant under this section or the regulations shall, by such form and in such manner as the Minister requires, apply for registration, and subject to this Act and the regulations, a registration certificate shall be issued by the Minister, and every such certificate shall expire on the 31st day of March next following the date of its issue, is not transferable, and may be renewed annually if the registrant to whom it is issued is not in contravention of this Act or the regulations and continues to satisfy the conditions under which the certificate is issued.

(5) The Minister may refuse to issue a registration certificate to any applicant, or may suspend or cancel any registration certificate, if the person to whom the certificate is issued, or if an applicant to whom a certificate has been issued, contravenes or has permitted the contravention of the provisions of this Act or the regulations or the conditions or restrictions upon which his certificate is or was issued, but, subject to subsection 6, before any refusal, suspension or cancellation is made, the applicant or registrant, as the case may be, shall be afforded an opportunity, at a hearing before the Minister or some person authorized by the Minister to hold the hearing, to show cause why the issue of a registration certificate should not be refused or why the registration certificate should not be suspended or cancelled, whichever is the case.

(6) Where a registrant has failed to remit the tax that he has collected under this Act or that is payable by him under this Act at the time and in the manner required by this Act or the regulations, the Minister may, by notice in writing to the registrant and without a hearing, suspend forthwith the registrant’s certificate of registration, and the notice shall state the failure of the registrant for which his certificate is suspended and shall fix a day, not more than fifteen days after the date of the suspension, for a hearing before the Minister or some person authorized by him to hold the hearing to determine whether the registrant’s suspension should be rescinded or continued and upon what conditions the suspension may be rescinded or continued.

(7) The notice under subsection 6 and a notice of hearing under subsection 5 is properly served if served either by
is guilty of an offence and on summary conviction is liable to a fine of not less than the amount of tax, if any, that should have been paid or remitted by such person in compliance with this Act or the regulations, plus an additional amount of not less than $100 and not more than $2,000.

2. Section 3 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 14, section 2 and 1972, chapter 147, section 2, is further amended by adding thereto the following subsection:

(10) Where any person selling fuel receives any payment made as or in lieu of the tax payable under this Act, such payment shall be dealt with and accounted for as tax under this Act, and any person who fails to deal with and account for such payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act, and the Minister may collect and receive such payment by the same remedies and procedures as are provided by this Act or the regulations for the collection and enforcement of the tax payable under this Act.

3. Subsection 1 of section 4 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 147, section 3, is further amended by adding at the end thereof "or that he is a registrant".

4.—(1) Subsection 1 of section 4a of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 147, section 4, is amended by inserting after "may" in the sixth line "stop and".
(2) Subsection 2 of the said section 4a is amended by inserting after "be" in the first line "stopped and".

(2) The said section 5 is further amended by adding thereto the following subsection:

(2) Upon the request of the Minister, every purchaser of fuel and every person in control of a motor vehicle that contains fuel shall furnish to the Minister proof that the fuel was purchased from a registrant or that tax has been paid on such fuel or that no tax was payable under this Act on such fuel.

6. Subsection 2 of section 7 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 10, section 2, is repealed and the following substituted therefor:

(2) No registrant shall collect the tax imposed by this Act on fuel supplied by him to a registrant, unless the fuel is supplied by delivering it directly into the fuel tank of a motor vehicle licensed or required to be licensed under The Highway Traffic Act, or unless the registrant to whom the fuel is supplied is required or permitted by this Act or the Minister to pay the tax imposed by this Act.

7. (1) Subsection 1 of section 10b of the said Act, as enacted by the Statutes of Ontario, 1972, chapter 147, section 7, is amended by inserting after "in" in the second line "subsection 8 of section 2 or in".

(2) Subsection 2 of the said section 10b is amended by inserting after "under" in the first line "subsection 8 of section 2 or under" and by inserting after "collected" in the sixth line and in the seventh line "or paid".

8. The said Act is amended by adding thereto the following sections:

16a. (1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act or the regulations may at all reasonable times enter and examine any motor vehicle containing fuel or enter into any premises where any business is carried on or any property is kept or anything is done in connection with any business or where any books or records are or should be kept pursuant to this Act or the regulations, and may,
(a) audit or examine the books, records, accounts, vouchers, letters, telegrams or other documents that relate or may relate either to the information that is or should be in the books or records or to the amount of tax that is or should be collected, payable or remitted under this Act or the regulations;

(b) examine any fuel or motor vehicle or the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of any inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act or that should be remitted or collected under this Act or the regulations;

(c) require a purchaser, retailer, wholesaler, importer, registrant or an operator of a motor vehicle liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such purchaser, retailer, wholesaler, importer, registrant or operator is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof or any other person on the premises of such purchaser, retailer, wholesaler, importer or registrant or in the motor vehicle of such operator to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises with him; and

(d) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by registered letter or by a demand served personally, require from any purchaser, retailer, wholesaler, importer, registrant, or from the owner or operator of a motor vehicle, or if any of them is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,
(a) any information or a return as required under this Act or the regulations; or

(b) production or production on oath of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein.

(3) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon ex parte application, authorize in writing any officer of the Ministry of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place, or any motor vehicle containing fuel, for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings.

(4) The Minister may, by registered letter or by a demand that is served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is collectable or payable under this Act by any purchaser or registrant, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand.

(5) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Ministry of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way.
(6) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do, or prevent or attempt to prevent any person doing any such thing.

(7) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything that he is required by this section to do.

(8) Every person who contravenes this section or who fails to provide any information or make any return requested under this section is guilty of an offence and on summary conviction is liable to a fine of $50 for each day during which the offence continues.

16b.-(1) Every person carrying fuel in a motor vehicle that is equipped to carry more than 40 gallons of fuel in a tank other than the fuel tank of the motor vehicle, and the operator of every such motor vehicle, shall, when requested by the Minister or any person authorized by the Minister, provide any or all of the following information,

(a) the name and address of any person from whom the fuel being carried was obtained, and the name and address of any person to whom the fuel so obtained was delivered or is to be delivered;

(b) the quantity of fuel delivered or to be delivered to any person; or

(c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle,

and where no written evidence substantiating such information is available at the time that the request is made, the person to whom the request is made shall orally supply the information and may be required to certify in writing any of such oral statements.

(2) Where the information required to be furnished by subsection 1 is not given, or where the information that is furnished is false, the motor vehicle may be detained by the Minister until the information is provided or until the true information is provided, and during any such detention, the Crown shall not be liable for any damages to the motor vehicle or to its owner or operator or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending the furnishing of the information required by subsection 1 or the furnishing of accurate information as required by subsection 1.
Section 21 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 147, section 11 and 1975, chapter 10, section 7, is further amended by adding thereto the following subsections:

(2) The Lieutenant Governor in Council may make regulations establishing a system of registration for the purposes of this Act, and,

(a) requiring persons who buy, sell, deal in, consume or refine any fuel, including fuel for the heating of homes and buildings, to become registrants under this Act for the purpose of accounting for, collecting or facilitating the administration of the tax imposed by this Act;

(b) prescribing classes of registrants, the conditions and restrictions affecting any prescribed class of registrant, and the method of collecting or paying the tax imposed by this Act to be followed by any prescribed class of registrant;

(c) prescribing the information, returns and records to be given, made or kept by any registrant or class of registrants;

(d) requiring the registration of the operators of commercially-used motor vehicles that consume or carry fuel and that are not vehicles operated exclusively for pleasure or recreation;

(e) exempting any person or class of persons from the application of subsection 2 of section 2.

(3) The Minister may make regulations prescribing any form required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form shall be completed and what information it shall contain.

(4) A regulation, other than a regulation made under subsection 2, is, if it so provides, effective with reference to a period before it was filed.

This Act comes into force on the day it receives Royal Assent.