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c 94 The Environmental Protection Amendment Act, 1973

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CHAPTER 94

An Act to amend
The Environmental Protection Act, 1971

Assented to October 18th, 1973
Session Prorogued March 5th, 1974

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

1. Clauses e and h of section 3 of The Environmental Protection Act, 1971, being chapter 86, are repealed and the following substituted therefor:

   (e) convene conferences and conduct seminars and educational and training programs relating to contaminants, pollution, waste and litter;

   (h) establish and operate demonstration and experimental waste management systems, litter disposal sites and sewage systems under Part VII.

2. Sections 23 and 24 of the said Act are repealed and the following substituted therefor:

   23.—(1) No person shall sell, offer or expose for sale, a motor or motor vehicle that does not comply with the regulations.

   (2) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle, a system or device to prevent or lessen the emission of any contaminant, no person shall sell, offer or expose for sale, such motor or motor vehicle unless the motor or motor vehicle has such system or device so installed, attached or incorporated and such system or device, when the motor or motor vehicle is operating, complies with the regulations.

   (3) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle, a system or device to prevent or lessen the emission of any contaminant,
no person shall remove or cause or permit the removal of such system or device from such motor or motor vehicle, except for repair of such system or device or for replacement of such system or device by a system or device of the same type.

24.—(1) Except where necessary for test or repair purposes, no person shall operate or cause or permit the operation of a motor or motor vehicle or any class or type thereof that does not comply with the regulations.

(2) Where a manufacturer installs on, attaches to or incorporates in any motor or motor vehicle a system or device to prevent or lessen the emission of any contaminant, the owner of such motor or motor vehicle shall not operate or cause or permit the operation of such motor or motor vehicle nor shall any person knowingly operate or cause or permit its operation unless such motor or motor vehicle has installed on, attached to or incorporated in it such system or device, and such system or device operates in accordance with the regulations when the motor or motor vehicle is in operation.

3. Section 25 of the said Act is repealed and the following substituted therefor:

25. In this Part, "Director" means the officer of the Ministry designated by the Minister to perform the functions of the Director under this Part and the regulations related thereto.

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

26a.—(1) In this section,

   (a) "ice shelter" means any structure that is located on or over ice over any water for more than one day and that is or may be used for shelter, privacy or the storage or sale of any thing;

   (b) "owner", when used in relation to an ice shelter, includes a person who has the right to use or occupy the ice shelter;

   (c) "waste" means human excrement or any refuse that is discharged or deposited in or from an ice shelter.

(2) No person shall discharge or deposit or cause or permit to be discharged or deposited any waste upon or over the ice over any water except in accordance with the regulations.
(3) Except as provided in subsection 4, where an ice shelter is placed or allowed to remain on ice over any water in contravention of any provision of the regulations, a provincial officer may remove the ice shelter or cause it to be removed,

(a) where the provincial officer is able to determine the name and address of the owner, after service of notice upon the owner at least seven days before the date of the removal; or

(b) where the provincial officer is unable to determine the name and address of the owner, forthwith.

(4) Where an ice shelter is placed or allowed to remain on ice over any water beyond the dates prescribed by the regulations within which ice shelters may be placed, allowed to remain or used on or over ice over any water, a provincial officer may remove the ice shelter or cause it to be removed without serving prior notice upon the owner, but where the provincial officer is able to determine the name and address of the owner, notice of the removal shall be served upon the owner forthwith after the removal.

(5) Except where an ice shelter has been destroyed in the course of removal, the owner of an ice shelter that has been removed pursuant to subsection 3 or 4 may take possession of the ice shelter within thirty days of the removal or of service of the notice mentioned in subsection 3, whichever is later, or within thirty days after service of the notice mentioned in subsection 4, as the case requires, upon payment to the Treasurer of Ontario of the costs and charges for removal and storage of the ice shelter.

(6) Where the owner of an ice shelter that has been removed pursuant to subsection 3 or 4 does not take possession of the ice shelter pursuant to subsection 5,

(a) a provincial officer may dispose of the ice shelter without compensation therefor; and

(b) the owner is divested of ownership of the ice shelter and, where the ice shelter is disposed of to any person, such person shall acquire ownership of the ice shelter free from any right, title or interest of any other person.

(7) A notice under subsection 3 or 4 shall be in such form as the regulations may prescribe and shall state that
the owner may take possession of the ice shelter pursuant to subsection 5 and that, if such owner does not so take possession, the ice shelter may be disposed of without compensation therefor and, where the ice shelter has been removed or caused to be removed pursuant to subsection 4 and has been damaged or destroyed in the course of the removal, the notice shall state the condition of the ice shelter.

(8) A provincial officer shall use due care in removing an ice shelter pursuant to subsection 3 or 4 but may use a means of removal that causes damage to or the destruction of the ice shelter if the use of the means of removal is necessary in order to carry out the removal.

(9) Where an ice shelter is removed pursuant to subsection 3 or 4 and the means of removal that is necessary in the circumstances results in damage to or the destruction of the ice shelter, the owner of the ice shelter is not entitled to compensation for the damage or destruction.

26b.—(1) No action or other proceeding for damages or otherwise shall be instituted against a provincial officer removing an ice shelter pursuant to section 26a or a person having the charge, management or control of a place where such an ice shelter is stored or anyone acting under the direction of such provincial officer or person for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of The Proceedings Against the Crown Act, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

5. Part VI of the said Act, as amended by the Statutes of Ontario, 1972, chapter 106, sections 18 to 21, is repealed and the following substituted therefor:

PART VI

ABANDONED MOTOR VEHICLES

49. In this Part,

(a) “abandoned motor vehicle” means a vehicle that has been left unattended without lawful authority
and that appears to an officer, by reason of its age, appearance, mechanical condition or lack of licence plates, to be abandoned;

(b) "abandoned motor vehicle site" means,

(i) a waste disposal site,

A. that is classified by the regulations as a derelict motor vehicle site,

B. that is not exempt under the regulations relating to Part V or Part VI, and

C. for which a certificate of approval or a provisional certificate of approval has been issued pursuant to Part V, or

(ii) any place that is approved in writing by the Director for the purpose of receiving and storing abandoned motor vehicles;

(c) "Director" means the Director of the Waste Management Branch of the Ministry;

(d) "officer" means a provincial officer or a member of the Ontario Provincial Police Force or the police force in the area where an abandoned motor vehicle is found.

50. An officer may remove or cause to be removed an abandoned motor vehicle to an abandoned motor vehicle site.

51. Where an officer has removed an abandoned motor vehicle to an abandoned motor vehicle site, the officer shall forthwith serve notice in writing of the removal on the owner of the vehicle at the latest address shown on the records of the Ministry of Transportation and Communications when the officer causes the records to be examined or on the records, if any, on or in the vehicle unless the name and address of the owner cannot be determined.

52. A notice under section 51 shall,

(a) contain a description of,

(i) the abandoned motor vehicle,

(ii) the place from which and the abandoned motor vehicle site to which the abandoned motor vehicle was removed,
(iii) the date of removal, and

(iv) the identification of the officer who removed or caused the removal of the abandoned motor vehicle;

(b) state,

(i) that if the abandoned motor vehicle is not claimed by the owner or any other person having a right or interest in the vehicle within thirty days from the date of service of the notice, the abandoned motor vehicle will be sold or otherwise disposed of by the person having the charge and control of the abandoned motor vehicle site, and

(ii) that the owner shall forthwith upon receipt of the notice notify any person having a right or interest in the abandoned motor vehicle, of whom he has knowledge, of the receipt and contents of the notice of removal.

53. The owner or any person having a right or interest in an abandoned motor vehicle may take possession of the abandoned motor vehicle within thirty days after the date of service of the notice referred to in section 51 or, where notice of removal has not been served, within thirty days after the date of removal of the vehicle on payment to the person having the charge and control of the abandoned motor vehicle site of all costs and charges, if any, for removal of the vehicle to and all costs and charges, if any, for storage of the vehicle at the abandoned motor vehicle site.

54. Where an abandoned motor vehicle has not been claimed by the owner or any person having a right or interest in the abandoned motor vehicle pursuant to section 53, the person having the charge and control of the abandoned motor vehicle site shall sell or otherwise dispose of the vehicle and shall apply the proceeds of the sale or other disposition firstly, in payment of all costs and charges, if any, for removal of the vehicle to the abandoned motor vehicle site, and secondly, in payment of all costs and charges, if any, for storage of the vehicle at the site, and any surplus shall be paid to the Treasurer of Ontario.

55.—(1) No action or other proceeding for damages or otherwise shall be instituted against an officer removing an abandoned motor vehicle or a person having the charge and
control of an abandoned motor vehicle site or anyone acting under the direction of such officer or person for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty under this Part.

(2) Subsection 1 does not, by reason of subsections 2 and 4 of section 5 of The Proceedings Against the Crown Act, relieve the Crown of liability in respect of a tort committed by an agent or servant of the Crown to which it would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection 1 had not been enacted.

55a. Where an abandoned motor vehicle is sold or otherwise disposed of pursuant to section 54, the owner or any person having a right or interest in the vehicle is divested of the ownership of or other right or interest in the vehicle and the person who has acquired the vehicle on a disposition pursuant to section 54 acquires the ownership of the vehicle free from any right or interest of any other person in the vehicle.

55b. Where an owner or other person having a right or interest in an abandoned motor vehicle that is disposed of pursuant to section 54 does not, acting in good faith through any cause beyond his control, receive notice of removal of the vehicle or does not otherwise acquire knowledge of such removal before the disposition and such owner or other person suffers loss as a result of such disposition, such owner or other person may apply to the Director for compensation upon giving notice to the Director forthwith after becoming aware of the disposition and upon applying therefor pursuant to section 55c within six months from the date the notice of removal, if any, is served or, where no notice of removal is served, from the date of removal of the vehicle to an abandoned motor vehicle site.

55c. A person applying for compensation pursuant to section 55b shall make application therefor to the Director in writing, setting out therein his full name and address and the particulars of his claim and shall furnish to the Director such additional information with respect to the subject-matter of the claim that the Director may require and that is within his knowledge.

55d. The Director may award compensation under section 55b in such amount and on such terms and conditions as appear just under the circumstances and shall set out his award in a certificate together with written reasons therefor and send a.
copy thereof to the applicant by registered mail at the address
set out in the application.

55c. The certificate of the Director is final at the end of thirty
days from the date of mailing it to the applicant unless notice
of appeal is served within that time.

Appeal

55f. The applicant may appeal to the Board at any time
before the certificate of the Director becomes final and the
procedure thereon shall be the same as upon an appeal from
an order of the Director under Part X.

Payment

55g. Where the Director has sent his certificate by
registered mail to the applicant and the time for any appeal
has expired or, where an appeal is taken, it is disposed of,
and it is finally determined that the applicant is entitled
to payment of compensation, the Director shall certify to the
Treasurer of Ontario the sum found to be payable and the
Treasurer shall pay such sum to the applicant out of the
Consolidated Revenue Fund.

Recovery
of moneys

55h. Where an applicant who has received any payment
out of the Consolidated Revenue Fund pursuant to section
55g recovers any moneys, directly or indirectly, from any
person in respect of the loss for which the payment was made
out of the Consolidated Revenue Fund, the applicant shall
repay to the Treasurer of Ontario for credit to the Consolidated
Revenue Fund an amount equal to the payment out of the
Consolidated Revenue Fund or the moneys received from such
person, whichever is the lesser, and such amount may be
recovered with costs in any court of competent jurisdiction
as a debt due to the Crown.

Part VII, amended

6. Part VII of the said Act, as amended by the Statutes of Ontario,
1972, chapter 106, sections 22 to 26, is further amended by
adding thereto the following sections:

Interpretation

61a. (1) In this section, "municipality" means the cor-
poration of a metropolitan area, regional area or a district
area, a local municipality which is not included in a metropoli-
tan, regional or district area, a county, a local board of a
health unit or a local board of health.

(2) A municipality and Her Majesty the Queen in right of
Ontario, represented by the Minister, may enter into an agree-
ment applicable to the whole or any part or parts of the area
under the jurisdiction of the municipality providing for,

(a) the issuance by the municipality of certificates of
approval pursuant to this Part;
(b) the issuance by the municipality of permits pursuant to this Part;

c) the making of orders by the municipality pursuant to this Part;

d) the carrying out of inspections respecting sewage systems under this Part that may be necessary or expedient,

(i) for the exercise by the municipality of such powers or duties under this Part as may be specified in the agreement, and

(ii) with respect to such applications under The Planning Act for consents under section 29 of that Act or for approvals of plans of subdivision under section 33 of that Act as may be specified in the agreement; or

e) the collection and payment or remittance of any fees payable under this Act or the regulations for any inspections that are carried out by the municipality under the agreement,

and any matter incidental thereto, and a municipality that has entered into such an agreement has all such powers as may be necessary to carry out the provisions thereof.

(3) Where the Minister and a municipality have entered into an agreement pursuant to this section, the municipality or the officer or employee of the municipality designated in the agreement shall be deemed to be the Director or the Executive Director, as the case may require, for the purpose of carrying out the provisions of this Act and the regulations applicable to the matters dealt with in the agreement.

61b.--(1) Subject to subsection 2, where an application is made for a consent under section 29 of The Planning Act or for approval of a plan of subdivision under section 33 of The Planning Act, the applicant shall pay a fee at the rate or rates prescribed by the regulations to the Treasurer of Ontario or, where an agreement is made under section 61a, to the person specified in the agreement,

(a) in the case of an application under section 29 of The Planning Act, for each parcel of land in respect of which the application is made; and

(b) in the case of an application under section 33 of The Planning Act, for each lot on the proposed plan of subdivision.
(2) No fee is payable under subsection 1 in respect of,

(a) in the case of an application for a consent under section 29 of The Planning Act,

(i) a parcel of land more than ten acres in area in respect of which the application is made,

(ii) a parcel of land in respect of which the application is made that is part of the land on which the owner thereof resides and from which he derives his chief source of income by farming, where no person other than the applicant and one or more members of his immediate family are parties to the transaction in respect of which the application is made,

(iii) a parcel of land in respect of which the application is made and for which a sewage works has been approved under section 42 of The Ontario Water Resources Act to serve the parcel of land; or

(b) in the case of an application under section 33 of The Planning Act,

(i) any lot that is more than ten acres in area on the proposed plan of subdivision, or

(ii) any lot that the application states will be served by a sewage works that has been approved or in respect of which an application has been or will be made for approval under section 42 of The Ontario Water Resources Act,

where the applicant files with the Director an affidavit showing that he is entitled to the benefit of the exemption set out in this subsection.

(3) Where an affidavit is filed under subsection 2 with the Director, the Executive Director shall cause to be prepared a certificate of exemption from the provisions of subsection 1 and cause the certificate to be delivered to the person filing the affidavit.

(4) A consent under section 29 of The Planning Act or an approval under section 33 of The Planning Act shall not be given before the fees mentioned in subsection 1 have been paid or a certificate has been delivered pursuant to subsection 3.

(5) In this section, "immediate family" means the son, daughter, son-in-law, daughter-in-law, father, mother, grand-
child, grandparent, adopted son, adopted daughter, stepson, stepdaughter or a person to whom the owner stands in loco parentis.

(6) In addition to any other remedy and to any penalty imposed by law, any fee due and payable under this section,

(a) to the Treasurer of Ontario, may be recovered with costs by the Minister as a debt due to Her Majesty the Queen in right of Ontario; or

(b) to the corporation of a metropolitan, regional or district area, a county or a local municipality, may be recovered with costs by such corporation as a debt due to such corporation,

in a court of competent jurisdiction.

7. Section 82 of the said Act is repealed and the following substituted therefor:

82. The Minister may designate in writing one or more Designation of provincial officers 
officers or employees of the Ministry or other persons as provincial officers for the purposes of any section or Part of this Act or any regulation or section of any regulation relating thereto.

8. Subsections 1 and 2 of section 84 of the said Act are repealed and the following substituted therefor:

(1) For the purpose of the administration of this Act and the regulations, a provincial officer may, from time to time and upon production of his designation, enter at any reasonable time any building, structure, machine, vehicle, land, water or air and make or require to be made such surveys, examinations, investigations, tests and inquiries, including examinations of books, records and documents, as he considers necessary, and may make, take and remove or may require to be made, taken or removed samples, copies or extracts, and the Crown is liable for any damage or actual costs occasioned thereby.

(2) Where a provincial judge is satisfied, upon an ex parte Order authorizing application by a provincial officer, that there is reasonable ground for believing that it is necessary to enter any building, structure, machine, vehicle, land, water or air for the administration of this Act or the regulations, the provincial judge may issue an order authorizing a provincial officer to enter therein or thereon and to make or require to be made such surveys, examinations, investigations, tests and inquiries and to take the other actions mentioned in subsection 1 but every such entry, survey, examination, investigation,
test, inquiry and other such action shall be made or taken
between sunrise and sunset unless the provincial judge author-
izes the provincial officer, by the order, to so act at another time.

9. Section 85 of the said Act is amended by adding thereto the
following subsections:

(2) A provincial officer, for the purpose of carrying out the
provisions of this Act and the regulations, may require the
driver of any motor vehicle to stop and may inspect the motor
vehicle and require the driver of the motor vehicle to submit
the motor vehicle, together with its equipment and any trailer
attached thereto, to such examinations and tests at such place
or places and time or times as the provincial officer considers
expedient and where the provincial officer considers it necessary
or expedient he may call for the assistance of any member of the
Ontario Provincial Police Force or the police force in the area
where the assistance is required and it is the duty of every
member of a police force to render such assistance.

(3) Every driver of a motor vehicle shall stop or submit
the motor vehicle, together with its equipment and any trailer
attached, to such examinations and tests as may be required by a
provincial officer or a member of a police force referred to in
subsection 2.

10. Section 86 of the said Act is repealed and the following sub-
stituted therefor:

86. No person shall hinder or obstruct a provincial officer
in the lawful performance of his duties or furnish a provincial
officer with false information or refuse to furnish him with
information required for the purposes of this Act and the
regulations.

11.—(1) Clause (i) of subsection 1 of section 94 of the said Act is repealed
and the following substituted therefor:

(i) prescribing the amounts of grants and loans and the
terms and conditions of such grants and loans.

(2) Subsection 3 of the said section 94 is amended by adding
thereto the following clauses:

(d) prescribing forms and providing for their use for the
purposes of Part IV;

(e) providing for the issue of permits and identification
plates for ice shelters and requiring and governing
their use;
(f) regulating the placing, construction and standard of repair of ice shelters and requiring and regulating the storage, treatment and disposal of waste and requiring the approval of the Director for any equipment and things related thereto by any person or class of persons and prohibiting the placing, allowing to remain or use of an ice shelter contrary to or in a condition that is contrary to the regulations or without any equipment or facilities required by the regulations;

(g) prescribing the dates within which ice shelters may be placed, allowed to remain or used on or over the ice over any water.

(3) Subsection 5 of the said section 94, as amended by the Statutes of Ontario, 1972, chapter 106, section 31, is repealed.

(4) Subsection 6 of the said section 94, as amended by the Statutes of Ontario, 1972, chapter 106, section 31, is further amended by adding thereto the following clauses:

(k) prescribing fees or rates of fees payable and the procedure for payment under section 61b;

(l) prescribing qualifications of inspectors, providing for their classification, examination and certification, prescribing fees for such examination and certification and providing for the terms upon which such certification may be suspended or cancelled and prohibiting any municipality from carrying out any inspections under an agreement under Part VII except by certified inspectors;

(m) exempting any parcel or class of parcels of land in respect of which an application for a consent is made under section 29 of The Planning Act from the payment of a fee under section 61b.

12. Subsection 2 of section 102 of the said Act is amended by adding at the end thereof “that occurs during the period within which the order or program approval is applicable”.

13. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

14. This Act may be cited as The Environmental Protection Amendment Act, 1973.