The Gasoline Handling Amendment Act, 1973

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CHAPTER 115

An Act to amend The Gasoline Handling Act

Assented to November 15th, 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.—(1) Subsection 1 of section 1 of The Gasoline Handling Act, being chapter 189 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 1, s. 41, is further amended by adding thereto the following clause:

(c) "Director" means the Director of the Energy Branch.

(2) Clause f of subsection 1 of the said section 1 is repealed and the following substituted therefor:

(f) "gasoline" means a product of petroleum that has a flash point below 100°F and that is designed for use in an internal combustion engine.

(3) Subsection 2 of the said section 1, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43 and amended by 1972, chapter 1, section 41, is repealed.

2. Section 2 of the said Act is amended by striking out "Minister" in the sixth line and inserting in lieu thereof "Director".

3. Section 3 of the said Act is amended by striking out "73°F." in the third line and inserting in lieu thereof "100°F." and by striking out "Minister" in the fourth line and inserting in lieu thereof "Director".

4. Section 4 of the said Act is amended by striking out "Minister" in the first line and inserting in lieu thereof "Director".

5. —(1) Section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 43, is repealed and the following substituted therefor:
6.—(1) No person shall,

(a) operate a service station;
(b) operate a marina;
(c) operate a bulk plant; or
(d) transport gasoline or an associated product,

unless licensed to do so by the Director.

(2) No person shall install, repair, service or remove equipment at a bulk plant, consumer outlet, marina or service station unless he is,

(a) engaged in the business of installing, repairing, servicing or removing such equipment; and

(b) registered as a contractor by the Director for that purpose,

or he is an employee of such person.

(3) Subject to section 6a, any person who makes application for a licence in accordance with this Act and the regulations for any of the purposes enumerated in subsection 1 or makes application for registration as a contractor in accordance with this Act and the regulations and pays the prescribed fee is entitled to be issued such licence or registered as a contractor by the Director.

(4) Subject to section 6b, a licensee or registrant who makes application for a renewal of his licence or registration in accordance with this Act and the regulations and pays the prescribed fee is entitled to a renewal of his licence or registration by the Director.

(2) Subsection 2 of section 6 of the said Act, as re-enacted by subsection 1 of this section, does not come into force until a day to be named by the Lieutenant Governor by his proclamation.

6. Sections 6a, 6b and 6c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43, are repealed and the following substituted therefor:

6a. Subject to section 6c, the Director may refuse to issue a licence to an applicant or to register an applicant who has otherwise complied with the requirements of section 6 if in his opinion the past conduct of the applicant or where the applicant is a corporation, of its officers, directors or servants, affords reasonable grounds for belief that the operations to be carried on pursuant to the licence or registration will not be carried on in accordance with law and in a safe manner.
6b. Subject to section 6c, the Director may refuse to renew or may suspend or revoke a licence or registration if in his opinion the licensee or registrant or where the licensee or registrant is a corporation, any officer, director or servant thereof, has contravened or has knowingly permitted any person under his control or direction or associated with him in the carrying on of operations pursuant to the licence or registration to contravene any provision of this Act or of the regulations or of any other Act or regulation applying to the carrying on of such operations, and such contravention occurred through lack of competence or with intent to evade the requirements of such provision.

6c.—(1) Where the Director proposes to refuse to issue or renew a licence or registration or proposes to suspend or revoke a licence or registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant, licensee or registrant informing him that he has a right to a hearing by a judge of the county or district court of the county or district in which he intended to carry on or carried on his operations under the licence or registration if he applies therefore within fifteen days after service of the notice by the Director, and the applicant, licensee or registrant may within such time apply to the judge for a hearing.

(2) Where an applicant, licensee or registrant does not apply for a hearing in accordance with subsection 1, the Director may carry out the proposal stated in his notice under subsection 1.

(3) Where an applicant, licensee or registrant applies to a judge for a hearing in accordance with subsection 1, the judge shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and take such action as the judge considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the Director.

(4) The Director may serve notice under subsection 1 personally or by registered mail addressed to the applicant, licensee or registrant at his address last known to the Director and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person to whom notice is being given establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice until a later date.
Continuation of licences or registrations pending renewal

Parties

Notice of hearing

Examination of documentary evidence

(5) A judge to whom application is made by an applicant, licensee or registrant for a hearing under subsection 1 may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant, licensee or registrant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension.

(6) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence or registration, a licensee or registrant has applied for renewal of his licence or registration and paid the prescribed fee, his licence or registration shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for applying to a judge for a hearing expires and, where a hearing is applied for, until the judge has made his order.

7. Subsections 1, 2 and 3 of section 6d of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43, are repealed and the following substituted therefor:

(1) The Director, the applicant, licensee or registrant who has applied for the hearing and such other persons as the judge may specify are parties to the proceedings before a judge under section 6c.

(2) Notice of a hearing under section 6c shall afford to the applicant, licensee or registrant a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence or registration.

(3) An applicant, licensee or registrant who is a party to proceedings under section 6c shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

8. Subsection 4 of section 6e of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43, is amended by striking out "chief officer" in the fourth line and inserting in lieu thereof "Director".
9. Section 6f of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43, is repealed and the following substituted therefor:

6f. Notwithstanding section 6c, the Director, by notice to a licensee or registrant and without a hearing, may provisionally refuse renewal of or suspend the licence or registration where the carrying on of the operations under the licence or registration is, in the Director's opinion, an immediate threat to public safety or the safety of any person and the Director so states in the notice giving his reasons therefor, and thereafter sections 6c, 6d and 6e apply as if the notice given under this section were a notice of a proposal to revoke the licence or registration served under subsection 1 of section 6c.

10.—(1) Subsection 4a of section 8 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43, is amended by striking out "chief officer" in the third line and inserting in lieu thereof "Director".

(2) Subsection 4b of the said section 8, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43, is amended by striking out "chief officer" in the second line and inserting in lieu thereof "Director".

(3) Subsection 4c of the said section 8, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43, is amended by striking out "chief officer" in the second line and inserting in lieu thereof "Director".

(4) Subsection 4d of the said section 8, as enacted by the Statutes of Ontario, 1971, chapter 50, section 43, is amended by striking out "chief officer" in the first line and in the eighth line and inserting in lieu thereof in each instance "Director".

11.—(1) Clause d of section 9 of the said Act is amended by inserting after "and" in the second line "registrations and".

(2) Clause e of the said section 9 is amended by striking out "Minister" in the second line and inserting in lieu thereof "Director".

(3) Clause g of the said section 9 is amended by striking out "Minister" in the first line and inserting in lieu thereof "Director".
(4) The said section 9, as amended by the Statutes of Ontario, 1971, chapter 50, section 43, is further amended by adding thereto the following clauses:

(j) requiring the reporting of accidents, spills and leaks involving gasoline or associated products;

(k) providing for and requiring the keeping of records and plans and the making of affidavits, returns, statements or reports on the handling of gasoline and associated products;

(l) requiring and providing for the approval of design and construction standards and drawings for equipment and installations.

(5) The said section 9 is further amended by adding thereto the following subsection:

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or specifications and may require compliance with any code or specifications that is so adopted.

12. This Act, except as provided in subsection 2 of section 5, comes into force on the day it receives Royal Assent.

13. This Act may be cited as *The Gasoline Handling Amendment Act, 1973.*