

Dangerous Goods Transportation Act

CHAPTER 119 OF THE REVISED STATUTES, 1989

An Act Respecting the Transportation of Dangerous Goods

Short title

1 This Act may be cited as the *Dangerous Goods Transportation Act*. R.S., c. 119, s. 1.

Interpretation

2 In this Act,

- (a) "analyst" means a person appointed as an analyst pursuant to this Act;
- (b) "container" means transport equipment, including equipment that
 - (i) is carried on a chassis,
 - (ii) is strong enough to be suitable for repeated use, and
 - (iii) is designed to facilitate the transportation of goods without intermediate reloading,but does not include a vehicle;
- (c) "dangerous goods" means a product, substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule;
- (d) "highway" means a highway as defined by the *Motor Vehicle Act*;
- (e) "inspector" means a person appointed as an inspector pursuant to this Act;
- (f) "Minister" means the Minister of Transportation and Communications;
- (g) "packaging" means a receptacle or enveloping material used to contain or protect goods, but does not include a container or a vehicle;
- (h) "prescribed" means prescribed by the regulations;
- (i) "safety mark" includes a design, symbol, device, sign, label, placard, letter, word, number, abbreviation or any combination thereof that is to be displayed on dangerous goods, packaging, containers or vehicles used in the transporting of dangerous goods;
- (j) "safety requirements" means requirements for the transportation of dangerous goods, for the reporting of such transportation, for the training of persons engaged in such transportation and for the inspection of such transportation;
- (k) "safety standards" means standards regulating the design, construction, equipping, functioning or performance of containers, packaging or vehicles used in the transporting of dangerous goods;
- (l) "shipping document" means a document that accompanies dangerous goods being transported and that describes or contains information relating to goods, and includes a bill of lading, cargo manifest, shipping order and way-bill;
- (m) "*Transportation of Dangerous Goods Act* (Canada)" includes regulations made pursuant to that Act;
- (n) "vehicle" means a device in, upon or by which a person or property is or may be transported or drawn upon a public highway, except a device moved by human power or used exclusively upon stationary rails or tracks. R.S., c. 119, s. 2.

Act binds Crown

3 This Act is binding upon Her Majesty in right of the Province, in right of a province and in the right of Canada. R.S., c. 119, s. 3.

Act does not apply

4 This Act does not apply to the transportation of dangerous goods in a vehicle while under the sole direction or control of the Minister of National Defence for Canada. R.S., c. 119, s. 4.

Transporting dangerous goods on highway

5 No person shall transport any dangerous goods in a vehicle on a highway unless

- (a) all applicable prescribed safety requirements are complied with; and
- (b) the vehicle and all containers and packaging in it comply with all applicable prescribed safety standards and display all applicable prescribed safety marks. R.S., c. 119, s. 5.

Exemption from Act

6 (1) Notwithstanding Section 5, the Minister may upon such terms and conditions as he deems fit exempt any person or vehicle from the application of this Act in whole or in part.

Minister may authorize another to exempt

(2) The Minister may in writing authorize any person to exercise on his behalf the power to exempt contained in subsection (1). R.S., c. 119, s. 6.

Inspectors and analysts

7 The Minister may appoint inspectors and analysts for the purposes of this Act. R.S., c. 119, s. 7.

Certificate of appointment of inspector

8 (1) An inspector shall be furnished with a certificate of his appointment and, on inspecting any container, packaging or vehicle he shall, if so required, produce the certificate to the person in charge thereof.

Certificate evidencing inspection of sealed sample

(2) Where an inspector pursuant to this Act inspects or takes a sample of anything that is sealed or closed up, he shall provide the person in charge of it with a certificate in prescribed form evidencing the inspection or taking of the sample.

Effect of certificate under subsection (2)

(3) A certificate provided under subsection (2) relieves the person to or for whose benefit it is provided of liability with respect to the inspection or taking of a sample evidenced by the certificate, but does not otherwise exempt that person from compliance with this Act and the regulations. R.S., c. 119, s. 8.

Right to stop and inspect vehicle and load

9 (1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may, at any time, stop and inspect a vehicle and its load where he believes that dangerous goods are being transported, and request the opening and inspection of or open and inspect any container, packaging or vehicle on a highway wherein or whereby he believes that the dangerous goods are being transported.

Powers of inspector

(2) Upon inspecting any container, packaging or vehicle pursuant to subsection (1), an inspector may
(a) for the purpose of analysis, take samples of anything found therein that he believes on reasonable and probable grounds to be dangerous goods; and

(b) examine and make copies and extracts of any books, records, shipping documents or other documents or papers that he believes on reasonable and probable grounds contain any information relevant to the administration or enforcement of this Act and the regulations.

Right to seize and detain vehicle

(3) Where dangerous goods are being transported in a vehicle on a highway and an inspector is satisfied on reasonable and probable grounds that any provision of the Act or the regulations is being or has been contravened, he may seize the vehicle in which such dangerous goods are being transported and may detain the same until the final disposition of any prosecution instituted for such contravention but the inspector may release the vehicle at any time prior to such final disposition.

Duty to assist inspector

(4) The owner or person who has the charge, management or control of any container, packaging or vehicle inspected pursuant to subsection (1) or vehicle seized or detained pursuant to subsection (3) shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties and functions.

No obstruction of inspector

(5) No person shall, while an inspector is exercising his powers or carrying out his duties and functions

(a) fail to comply with any reasonable request of the inspector;

(b) knowingly make any false or misleading statement either verbally or in writing to the inspector;

(c) except with the authority of the inspector, remove, alter or interfere in any way with anything removed by the inspector; or

(d) otherwise obstruct or hinder the inspector. R.S., c. 119, s. 9.

Contravention of Section 5

10 (1) Every person who contravenes Section 5 is guilty of an offence and is liable

(a) on the first conviction to a fine of not more than fifty thousand dollars; and

(b) on each subsequent conviction to a fine of not more than one hundred thousand dollars, or to imprisonment for a term not exceeding two years.

Contravention of Act or regulations

(2) Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided by this Act is guilty of an offence and is liable on conviction to a fine of not more than ten thousand dollars or to imprisonment for a term not exceeding two years.

Limitation period

(3) No proceedings under this Section may be instituted after two years from the day the offence was committed. R.S., c. 119, s. 10.

Section 8 of Summary Proceedings Act

11 Where the procedure set out in Section 8 of the *Summary Proceedings Act* is employed for the prosecution of any offence under this Act, the maximum penalty that may be imposed is a fine of one thousand dollars. R.S., c. 119, s. 11.

Defence

12 It is a defence to a charge under this Act for the accused to establish that he took all reasonable measures to comply with this Act. R.S., c. 119, s. 12.

Where offence committed by employee or agent

13 In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, but it is a defence for the accused to establish that the offence was committed without his knowledge or that he took all reasonable measures to prevent its commission. R.S., c. 119, s. 13.

Offence and penalty on officer or agent of corporation

14 Any officer, director or agent of a corporation who directs, authorizes, assents to or acquiesces or participates in the commission of an offence is a party to and guilty of the offence and is liable on summary conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted. R.S., c. 119, s. 14.

Certificate or report as proof

15 (1) Subject to subsections (3) and (4), a certificate or report appearing to have been signed by an inspector or analyst stating that he has made an inspection or analysed or examined a vehicle, product, substance or organism and stating the results of the inspection, analysis or examination is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate or report.

Admissibility of copy or extract

(2) Subject to subsections (3) and (4), a copy or an extract made by an inspector pursuant to clause (b) of subsection (2) of Section 9 and appearing to have been certified under his signature as a true copy or extract is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the copy or extract and, in the absence of any evidence to the contrary, has the same probative force as the original document would have if it had been proved in the ordinary way.

Right to require attendance of inspector or analyst

(3) The party against whom a certificate or report is produced pursuant to subsection (1) or against whom a copy or an extract is produced pursuant to subsection (2) may, with leave of the court, require the attendance of the inspector or analyst who signed or appears to have signed the certificate, report, copy or extract for the purposes of cross-examination.

Notice of intention to produce document

(4) No certificate, report, copy or extract referred to in subsection (1) or (2) shall be received in evidence unless the party intending to produce it has served on the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate, report, copy or extract. R.S., c. 119, s. 15.

Regulations

16 (1) The Governor in Council may make regulations

- (a) prescribing products, substances and organisms to be included in the classes listed in the Schedule;
- (b) establishing divisions, subdivisions and groups of dangerous goods and classes thereof;
- (c) specifying, for each product, substance and organism prescribed pursuant to clause (a) the class listed in the Schedule and the division, subdivision or group into which it falls;

- (d) determining or providing the manner of determining the classes listed in the Schedule and the division, subdivision or group into which any dangerous goods not prescribed pursuant to clause (a) fall;
- (e) exempting from the application of this Act and the regulations, or any provision thereof, the transporting of dangerous goods in such quantities or concentrations, in such circumstances, for such purposes or in such vehicles as are specified in the regulations;
- (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted pursuant to clause (e);
- (g) respecting exemptions granted pursuant to Section 6;
- (h) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (i) prescribing shipping documents and other documents to be used in respect of the transportation of dangerous goods, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained;
- (j) prescribing remedial powers of an inspector where the inspector believes on reasonable and probable grounds that dangerous goods being transported constitute a serious and imminent danger to life, health, property or the environment or are being transported otherwise than in compliance with the applicable safety marks, safety requirements or safety standards;
- (k) respecting the disposition or recovery of property seized;
- (l) fixing the form, amount, nature, class, beneficiary, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons while transporting dangerous goods in a vehicle or class of vehicle on a highway;
- (m) prohibiting the transportation of dangerous goods under such circumstances as are prescribed;
- (n) prohibiting the transportation of such dangerous goods as are prescribed;
- (o) requiring that where there occurs a discharge, emission or escape of dangerous goods from any container, packaging or vehicle on a highway, the persons having charge, management or control of the dangerous goods, shall report the discharge, emission or escape to a designated person, and designating the person to whom the report is to be made and prescribing the information to be included in the report and the manner of reporting;
- (p) prescribing forms for the purposes of this Act and the regulations;
- (q) defining any word or expression used but not defined in this Act;
- (r) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Amendment of Schedule

(2) The Schedule to this Act may be added to, varied or restricted from time to time by the Governor in Council.

Adoption of federal code

(3) The Governor in Council may by order determine that any regulation, code or standard made by the Governor General in Council, in whole or in part, shall have the same force and effect as if made by the Governor in Council and such order shall be a regulation for the purposes of this Act.

Regulations Act

(4) The exercise of the authority contained in this Section shall be regulations within the meaning of the *Regulations Act*. R.S., c. 119, s. 16.

Agreements with Government of Canada

17 (1) The Minister may, with the approval of the Governor in Council, enter into agreements with the Government of Canada with respect to the administration and enforcement of

- (a) this Act and the regulations or any provisions thereof;
- (b) the *Transportation of Dangerous Goods Act* (Canada), or any provision thereof.

Content of agreement

(2) An agreement entered into pursuant to subsection (1) may provide for any matter necessary for or incidental to the implementation, administration or enforcement agreed upon and for the apportionment of any costs, expenses or revenues arising therefrom. R.S., c. 119, s. 17.

SCHEDULE

Class 1 - Explosives, including explosives within the meaning of the *Explosives Act* (Canada)

Class 2 - Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure

Class 3 - Flammable and combustible liquids

Class 4 - Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases

Class 5 - Oxidizing substances; organic peroxides

Class 6 - Poisonous (toxic) and infectious substances

Class 8 - Corrosives

Class 9 - Miscellaneous products, substances or organisms considered by the Governor in Council to be dangerous to life, health, property or the environment when transported in a vehicle on a highway and prescribed to be included in this class.

R.S., c. 119, Sch.

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