

The Dangerous Goods Transportation Act

being

Chapter D-1.2 of the *Statutes of Saskatchewan, 1984-85-86* (effective June 11, 1985) as amended by the *Statutes of Saskatchewan*, 1986, c. 33; 1989-90, c.53; 1990-91, c.14; 2003, c.29; and 2004, c.T-18.1.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER D-1.2

An Act respecting the Transportation of Dangerous Goods in Saskatchewan

TITLE

Short title

- 1 This Act may be cited as *The Dangerous Goods Transportation Act*.

INTERPRETATION AND APPLICATION

Interpretation

- 2 In this Act:

- (a) **“analyst”** means any person designated as an analyst pursuant to section 11 or pursuant to the federal Act;
- (b) **“container”** means transport equipment, and includes equipment that is:

- (i) carried on a chassis;
- (ii) strong enough to be suitable for repeated use; and
- (iii) designed to facilitate the transportation of goods without intermediate reloading;

but does not include vehicles;

- (c) **“dangerous goods”** means any product, substance or organism included by its nature or by the regulations in any of the prescribed classes of dangerous goods;

- (d) **“federal Act”** means the *Transportation of Dangerous Goods Act* (Canada) and the regulations made under that Act, as amended from time to time;

- (d.1) **“handling”** means:

- (i) loading, reloading or unloading;
- (ii) packing, repacking or unpacking; or
- (iii) placing, replacing or removing;

dangerous goods in or from any container, packaging, means of transport or at any facility for the purposes of, in the course of or following transportation and includes storing dangerous goods in the course of transportation;

- (e) **“highway”** means a highway as defined in *The Traffic Safety Act* and includes a railway within the meaning of *The Railway Act*;

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(f) **“inspector”** means a person designated as an inspector pursuant to section 12;

(g) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(h) **“packaging”** means any receptacle or enveloping material used to contain or protect dangerous goods, but does not include a container or vehicle;

(i) **“prescribed”** means prescribed in the regulations;

(j) **“safety mark”** includes any:

(i) abbreviation;

(ii) design;

(iii) device;

(iv) label;

(v) letter;

(vi) number;

(vii) placard;

(viii) sign;

(ix) symbol;

(x) word; or

(xi) combination of the things mentioned in clauses (i) to (x);

that is required by the regulations to be displayed on dangerous goods or containers, packaging, facilities or means of transport used in the handling, offering for transport or transportation of dangerous goods;

(k) **“safety requirements”** means:

(i) requirements for the handling, offering for transport or transportation of dangerous goods; or

(ii) the:

(A) reporting of;

(B) training of persons engaged in; or

(C) inspection of;

the activities mentioned in subclause (i);

(l) **“safety standards”** means standards regulating the:

(i) construction;

(ii) design;

- (iii) equipping;
- (iv) functioning; or
- (v) performance;

of containers, packaging or means of transport used in the handling, offering for transport or transportation of dangerous goods;

(m) “**shipping document**” means any document that:

- (i) accompanies dangerous goods being handled, offered for transport or transported; and
- (ii) describes or contains information relating to the dangerous goods mentioned in subclause (i);

and includes a bill of lading, cargo manifest, shipping order and way-bill;

(m.1) “**terrorist activity**” means a terrorist activity as defined in the *Criminal Code*;

(n) “**vehicle**” means a vehicle as defined in *The Traffic Safety Act* and includes a train as defined in *The Railway Act*.

1984-85-86, c.D-1.2, s.2; 1986, c.33, s.6; 1989-90, c-53, s.2; 1990-91, c.14, s.3; 2003, c.29, s.12; 2004, c.T-18.1, s.297.

Application of Act

3(1) Subject to subsection (2), this Act applies to the:

- (a) handling;
- (b) offering for transport; and
- (c) transportation;

of dangerous goods, whether or not for hire or reward.

(2) This Act does not apply to the handling, offering for transport or transportation of dangerous goods while under the sole direction or control of the Minister of National Defence for Canada.

1990-91, c.14, s.4.

Act prevails

4 Where the provisions of this Act conflict with any other Act, this Act prevails, unless expressly stated otherwise.

1984-85-86, c.D-1.2, s.4.

PERMIT

Exemption from certain requirements

5(1) The minister may issue a permit exempting any person or dangerous goods from any of the provisions of this Act with respect to the handling, offering for transport or transportation of dangerous goods.

(2) A permit issued pursuant to this section may contain any terms or conditions that the minister considers appropriate.

1984-85-86, c.D-1.2, s.5; 1990-91, c.14, s.5.

REQUIREMENTS RESPECTING TRANSPORTATION OF DANGEROUS GOODS

Safety standards and requirements

6 No person shall handle, offer for transport or transport any dangerous goods unless:

- (a) the prescribed safety requirements are complied with; and
- (b) all containers, packaging and means of transport comply with the prescribed safety standards and display the prescribed safety marks.

1984-85-86, c.D-1.2, s.6; 1990-91, c.14, s.6.

Safety marks

7 No person shall:

- (a) put any prescribed safety mark on any container, packaging or means of transport used or intended for use in the handling or transportation of dangerous goods; or
- (b) deliver or distribute any container, packaging or means of transport used or intended for use in the handling or transportation of dangerous goods on which any prescribed safety mark is displayed;

unless the container, packaging or means of transport complies with the prescribed safety standards.

1984-85-86, c.D-1.2, s.7; 1990-91, c.14, s.7.

Emergency plans

8(1) The minister may require any person who engages in the handling, offering for transport or transportation of dangerous goods to prepare, in the prescribed manner and circumstances, emergency plans for implementation in the event of any discharge, emission or escape of dangerous goods from any container, packaging or means of transport.

(2) The minister may require any person who engages in the handling, offering for transport or transportation of dangerous goods to prepare emergency plans for implementation in the event of any terrorist activity or threat of terrorist activity.

1984-85-86, c.D-1.2, s.8; 1990-91, c.14, s.8;
2003, c.29, s.13.

Duty to report discharge, etc.

9 Where any discharge, emission or escape of dangerous goods from any container, packaging or means of transport occurs, the person who, at that time, has the charge, management or control of the dangerous goods shall, in the prescribed manner and circumstances, report the discharge, emission or escape.

1984-85-86, c.D-1.2, s.9; 1990-91, c.14, s.9.

INSPECTION AND DETENTION**Shipping documents**

10 A shipping document or safety mark appearing on any container, packaging or means of transport is prima facie evidence of the contents of that container, packaging or means of transport.

1984-85-86, c.D-1.2, s.10; 1990-91, c.14, s.10.

Analysts

11 The minister may:

- (a) designate any person as an analyst for the purposes of this Act; and
- (b) rescind a designation made pursuant to clause (a).

1990-91, c.14, s.11.

Inspectors

12(1) The minister may:

- (a) designate any person or category of persons as inspectors for the purposes of this Act; and
 - (b) rescind a designation made pursuant to clause (a).
- (2) An inspector shall be furnished with a certificate of his designation stating the purposes, classes of dangerous goods and means of transport in respect of which he has been designated.
- (3) On entering or inspecting any container, packaging or means of transport, the inspector shall, if so requested, produce the certificate to the person in charge thereof.

1984-85-86, c.D-1.2, s.12; 1990-91, c.14, s.12.

Powers of inspection

13(1) For the purpose of enforcing this Act and the regulations, where an inspector believes on reasonable and probable grounds that:

- (a) a means of transport is transporting dangerous goods, the inspector may:
 - (i) stop and inspect that means of transport and its load; and
 - (ii) open and inspect any container or packaging that the inspector believes on reasonable and probable grounds contains dangerous goods; and

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- (b) dangerous goods are being handled or offered for transport in any place or premises, the inspector may:
 - (i) enter and inspect that place or premises; and
 - (ii) open and inspect any container or packaging that the inspector believes on reasonable and probable grounds contains dangerous goods.
- (2) In the course of an inspection pursuant to subsection (1), an inspector may:
 - (a) for the purpose of analysis, take samples of anything that he believes on reasonable and probable grounds to be dangerous goods; and
 - (b) examine, make copies of and take extracts from any books, records, shipping documents or things that he believes on reasonable and probable grounds contain any information relevant to the administration or enforcement of this Act or the regulations.
- (3) The owner or person who has the charge, management or control of any container, packaging or means of transport inspected pursuant to this section shall give the inspector all reasonable assistance in his power to enable the inspector to carry out his duties pursuant to this Act or the regulations.

1984-85-86, c.D-1.2, s.13; 1990-91, c.14, s.13.

Duty to comply with inspection

14 No person shall, while an inspector is exercising his powers or carrying out his duties under this Act:

- (a) fail to comply with any reasonable request of the inspector;
- (b) knowingly make any false or misleading statement, verbal or written, to the inspector;
- (c) unless authorized by the inspector, remove, alter or interfere in any way with anything detained or removed by the inspector; or
- (d) otherwise obstruct or hinder the inspector.

1984-85-86, c.D-1.2, s.14.

Certificate evidencing inspection, etc.

15(1) Where an inspector inspects, detains or takes a sample of anything under this Act, he shall, if the thing is sealed or closed up, provide the person in charge thereof with a certificate, in the prescribed form, evidencing the inspection, detention or taking of a sample, as the case may be.

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

1984-85-86, c.D-1.2, s.15.

Certificate as evidence

16(1) Subject to subsections (3) and (4), a certificate or report purporting to have been signed by an inspector or analyst stating that he has inspected, analyzed or examined a means of transport, packaging, container, shipping document, product, substance or organism and stating the results of the inspection, analysis or examination is admissible in evidence in any prosecution for an offence against this Act or the regulations as prima facie proof of the statements contained in the certificate or report without proof of the signature or official character of the person appearing to have signed the certificate or report.

(2) Subject to subsections (3) and (4), a copy of an extract taken by an inspector pursuant to clause 13(2)(b) 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 against this Act or the regulations 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.

(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 the 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.

(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 a notice of such intention together with a duplicate of the certificate, report, copy or extract.

1984-85-86, c.D-1.2, s.16; 1990-91, c.14, s.14.

Powers of detention

17(1) Where an inspector is satisfied on reasonable and probable grounds that:

- (a) any discharge, emission or escape of dangerous goods from:
 - (i) any container or packaging by means of which dangerous goods are being handled; or
 - (ii) any means of transport by means of which dangerous goods are being transported;

is occurring or has occurred;

- (b) any serious and imminent danger of a discharge, emission or escape referred to in clause (a) exists; or

- (c) any provision of this Act or the regulations is being or has been contravened;

he may detain any dangerous goods, container, packaging or means of transport in respect of which the condition has arisen or the contravention has occurred.

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- (2) Any property detained under this section shall be released when:
- (a) the provisions of this Act and the regulations have, in the opinion of the inspector, been complied with; or
 - (b) the danger to life, health, property or the environment has, in the opinion of the inspector, been prevented or adequately reduced;

as the case may be.

- (3) Any property detained pursuant to this section remains the responsibility of the owner or person who has the charge, management or control of the property at the time that it is detained.

1984-85-86, c.D-1.2, s.17; 1990-91, c.14, s.15.

OFFENCES AND PENALTIES**Offences; penalties**

18(1) Every person who contravenes section 6 or 7 is guilty of an offence and liable on summary conviction to a fine of not more than \$50,000 in the case of a first offence and to a fine of not more than \$100,000 for each subsequent offence, to imprisonment for a term of not more than two years, or to both such fine and imprisonment.

(1.1) Every person who contravenes an order made pursuant to section 24.1 is guilty of an offence and liable on summary conviction to a fine of not more than \$100,000, to imprisonment for a term or not more than two years or to both and, in the case of a continuing offence, to a further fine of not more than \$50,000 for each day or part of a day during which the offence continues.

(2) Every person who contravenes any provision of this Act or the regulations for which no other punishment is provided by this Act is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000, to imprisonment for a term of not more than one year, or to both such fine and imprisonment.

(3) Where a fine is imposed on a corporation pursuant to subsection (1) or (2) and that fine is not paid forthwith, the Government of Saskatchewan may, by filing the conviction, enter as a judgment the amount of the fine and costs, if any, in Her Majesty's Court of Queen's Bench for Saskatchewan, whether or not the trial was held in that court, and that judgment is enforceable against the corporation in the same manner as if it were a judgment rendered against the corporation in that court in civil proceedings.

1984-85-86, c.D-1.2, s.18; 2003, c.29, s.14.

Defence

19 In any prosecution for an offence against this Act or the regulations, it is a defence for the person charged to prove that he took all reasonable measures to comply with this Act and the regulations.

1984-85-86, c.D-1.2, s.19.

Proof of offence

20 In any prosecution for an offence against this Act or the regulations, 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, unless the accused establishes that the offence was committed without his knowledge and that he took all reasonable measures to prevent its commission.

1984-85-86, c.D-1.2, s.20.

Liability of directors, etc., of corporation

21 Every officer, director or agent of a corporation who directs, authorizes, assents to, acquiesces in or participates in the commission of an offence against this Act or the regulations is a party to and guilty of the offence and liable on summary conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

1984-85-86, c.D-1.2, s.21.

Limitation of actions

22 No prosecution for an offence against this Act or the regulations is to be commenced after two years from the day of the commission of the alleged offence.

1984-85-86, c.D-1.2, s.22.

GENERAL**Power to enter into agreements**

23(1) The minister may, with the approval of the Lieutenant Governor in Council, enter into agreements with any municipal or provincial government or the Government of Canada with respect to the administration and enforcement of:

- (a) this Act and the regulations;
- (b) the federal Act; or
- (c) legislation of any other province that deals with the handling, offering for transport or transporting of dangerous goods.

(2) An agreement entered into under subsection (1) may provide for any matters necessary for or incidental to the implementation, administration or enforcement agreed on or for the apportionment of any costs, expenses or revenues arising therefrom.

1984-85-86, c.D-1.2, s.23; 1990-91, c.14, s.16.

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Protection of public, etc.

24(1) Where the minister considers it necessary for the protection of the public, property or the environment, he may, in respect of any matter not provided for in this Act and in accordance with the regulations, direct any person engaged in the handling, offering for transport or transportation of dangerous goods to cease any activity or to carry it on in any manner consistent with the intention of this Act.

(2) Any person who receives a directive pursuant to subsection (1) may apply to have the decision reviewed in the manner set out in the regulations, but that person shall comply with the directive until the review is finally determined.

1984-85-86, c.D-1.2, s.24; 1990-91, c.14, s.17.

Powers re terrorist activity

24.1(1) In this section, “**minister’s designate**” means a person designated by the minister for the purposes of this section.

(2) Notwithstanding any other provision of this Act or any provision of the regulations, any other Act or law or any licence, permit, approval, authorization, lease or grant of any right or benefit granted pursuant to any Act or law but subject to any order or directive of the Minister of National Defence, if the minister has reasonable grounds to believe that terrorist activity is occurring or might occur, and that the terrorist activity constitutes an existing or potential threat of a discharge, emission or escape of dangerous goods from any container, packaging or means of transport:

- (a) the minister may, by order:
 - (i) direct any person engaged in the handling, offering for transport or transportation of dangerous goods to:
 - (A) shut down and cease the handling, offering for transport or transportation of dangerous goods; and
 - (B) take any measures that the minister considers necessary for the protection of the public, property or the environment against the terrorist activity;
 - (ii) close, or prohibit or restrict access to or travel in, any area that the minister may specify;
 - (iii) evacuate any area or any premises within any area that the minister may specify; and
 - (iv) require any person engaged in the handling, offering for transport or transportation of dangerous goods to take any other action that the minister considers necessary:
 - (A) to protect the health or safety of the public against the terrorist activity; or
 - (B) to prevent serious damage to the environment caused or that may be caused by the terrorist activity; and

- (b) the minister may take any action that the minister considers necessary:
 - (i) to protect the health or safety of the public against that threat; or
 - (ii) to prevent serious damage to the environment caused or that may be caused by that threat.
- (3) Subject to subsection (4), a minister's designate may make any order described in clause (2)(a) if:
 - (a) the minister's designate believes, on reasonable grounds, that:
 - (i) a terrorist activity constitutes a serious threat to the environment or the health or safety of the public; and
 - (ii) the requirements set out in the order are necessary to decrease or eliminate that serious threat; and
 - (b) in the opinion of the minister's designate, there will be insufficient time for the minister to make an order pursuant to this section because of the nature of the serious threat.
- (4) An order made by a minister's designate pursuant to subsection (3):
 - (a) must specify the time at which it is made; and
 - (b) terminates 72 hours after it is made unless the minister makes an order extending its effect.
- (5) Immediately after making an order pursuant to subsection (2) or (3), the minister or the minister's designate, as the case may be, shall:
 - (a) serve a copy on any person named in the order; and
 - (b) cause the order to be published by any means of communication that the minister or minister's designate reasonably considers will make the order known to the majority of the population in the area affected by the order.
- (6) No person shall fail to comply with an order made pursuant to subsection (2) or (3).
- (7) The minister may:
 - (a) do all or any of the things mentioned in an order pursuant to subsection (2) or (3) if the person to whom the order is issued fails to comply with the order:
 - (i) within the period specified in the order; or
 - (ii) if no period is specified in the order, within a reasonable period after the order was issued; and
 - (b) recover the costs and expenses incurred pursuant to clause (a) on behalf of the Crown in right of Saskatchewan as a debt due and owing to the Crown from the person who failed to comply with the order.

c. D-1.2**DANGEROUS GOODS TRANSPORTATION****Power to require insurance**

25 The minister may, subject to any regulations, require any person who engages in or proposes to engage in the handling, offering for transport or transportation of dangerous goods or any class of dangerous goods to provide evidence of financial responsibility in the form of insurance or an indemnity bond, or in any other form, satisfactory to the minister.

1984-85-86, c.D-1.2, s.25; 1990-91, c.14, s.18.

Delegation

26 The minister may, in writing, with respect to any duties or powers imposed or conferred on him by this Act or the regulations, authorize any person to perform any of those duties or exercise any of those powers.

1984-85-86, c.D-1.2, s.26.

Crown bound

27 The Crown is bound by this Act.

1984-85-86, c.D-1.2, s.27.

Regulations

28(1) For the purpose of carrying out this Act according to its intent, the Lieutenant Governor in Council may make regulations:

- (a) prescribing classes, divisions, subdivisions and groups of dangerous goods;
- (b) prescribing products, substances and organisms to be included in the prescribed classes of dangerous goods;
- (c) specifying, for each product, substance and organism, the class, division, subdivision or group into which it falls;
- (d) determining or providing the manner of determining the class, division, subdivision or group into which any dangerous goods fall;
- (e) exempting from the application of any provision of this Act or the regulations the handling, offering for transport or transportation of dangerous goods in any quantities or concentrations, in any circumstances, for any purposes or in any containers, packaging or means of transport that he may specify;
- (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted pursuant to clause (e);
- (g) prescribing the manner of application for the issuance of a permit issued pursuant to section 5;
- (h) prescribing circumstances in which the handling, offering for transport or transportation of dangerous goods is prohibited;
- (i) specifying dangerous goods that shall not be handled, offered for transport or transported in any circumstances;

- (j) prescribing safety marks, safety requirements and safety standards of general or particular application;
 - (k) prescribing shipping documents and other documents to be used in the handling, offering for transport or transportation of dangerous goods, the information to be included in those documents and the persons by whom and manner in which those documents are to be used and retained;
 - (l) prescribing forms for the purposes of this Act and the regulations;
 - (m) respecting the circumstances and manner in which emergency plans referred to in section 8 shall be prepared;
 - (n) respecting the circumstances and manner in which the report of any discharge, emission or escape of dangerous goods referred to in section 9 shall be made and designating the person to whom such a report shall be made;
 - (o) prescribing the circumstances in which fees are or are not payable for inspections under this Act and determining the amount of those fees;
 - (p) respecting the qualifications, training and examination of inspectors, prescribing the forms of the certificates referred to in sections 12 and 15, and prescribing the manner in which inspectors shall carry out their duties under this Act;
 - (q) respecting the notice of direction and the effect, duration and review of directives mentioned in section 24;
 - (r) respecting evidence of financial responsibility of any person engaged in or proposing to engage in the handling, offering for transport or transportation of dangerous goods or any class of dangerous goods;
 - (s) respecting any matter or thing required or authorized by this Act to be prescribed in the regulations.
- (2) Any regulation made under subsection (1) may adopt by reference, in whole or in part, with any changes that the Lieutenant Governor in Council considers necessary, any code, standard or regulation made by the Government of Canada, and may require compliance with any code, standard or regulation so adopted.

