

Manganese-based Fuel Additives Act

1997, c. 11
[M-0.5]

An Act to regulate interprovincial trade in and the importation for commercial purposes of certain manganese-based substances

[Assented to 25th April, 1997]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the Manganese-based Fuel Additives Act.

INTERPRETATION

Definitions

2. In this Act,

"controlled substance" « substance à usage contrôlé »

"controlled substance" means a manganese-based substance that is mentioned in the schedule and includes any other substance that contains such a manganese-based substance;

"Minister" « ministre »

"Minister" means such member of the Queen's Privy Council for Canada as may be designated by order of the Governor in Council as the Minister for the purposes of this Act;

"unleaded gasoline" « essence sans plomb »

"unleaded gasoline" means gasoline to which lead has not been added during the production process.

HER MAJESTY

Binding on Her Majesty

3. This Act is binding on Her Majesty in right of Canada or a province.

INTERPROVINCIAL TRADE AND IMPORTATION

Prohibition

4. No person shall engage in interprovincial trade in or import for a commercial purpose a controlled substance except under an authorization referred to in section 5.

Authorization by Minister

5. (1) The Minister may authorize any person to engage in interprovincial trade in or to import for a commercial purpose a controlled substance if the Minister is satisfied

- (a) that the controlled substance is not unleaded gasoline; and
- (b) that the controlled substance will not be added to unleaded gasoline.

Conditions

(2) The Minister may attach to the authorization any condition respecting the controlled substance, the use that may be made of it, the term of the authorization and its renewal and any other condition that the Minister considers appropriate.

Security

6. The Minister may require the applicant for the authorization to post a bond or provide other security, in a form and for an amount fixed by the Minister, to ensure

- (a) that the controlled substance is not unleaded gasoline and that the controlled substance will not be added to unleaded gasoline; and
- (b) that the applicant will comply with the conditions of the authorization.

Revocation

7. The Minister may revoke the authorization

- (a) on the application or with the consent of the holder of the authorization, or
- (b) where the Minister
 - (i) is no longer satisfied that the controlled substance is not unleaded gasoline,
 - (ii) is no longer satisfied that the controlled substance will not be added to unleaded gasoline, or
 - (iii) is satisfied that the holder has not complied with the conditions of the authorization,

and, where the Minister revokes the authorization under paragraph (b), the Minister may realise on the security provided by the holder.

Regulations

8. The Governor in Council may make regulations for carrying out the purposes and provisions of sections 5 to 7, including regulations respecting applications for authorizations referred to in section 5 and their consideration by the Minister.

RECORDS

Interprovincial trade and importation

9. (1) Every person who, under an authorization referred to in section 5, engages in interprovincial trade in or imports a controlled substance shall maintain a record respecting the controlled substance in accordance with this section.

Contents of records

(2) A record that is required to be maintained by subsection (1) must contain the following information for each transaction under the authorization, which shall be entered within thirty days after the transaction and signed by the person who maintains the record:

- (a) the name of the controlled substance;
- (b) the place where and the person from whom it was acquired;
- (c) its quantity;
- (d) the use that is made or is to be made of it;
- (e) the place where and the person to whom it is disposed of; and
- (f) the day on which it crossed the boundary of a province or was released in accordance with the Customs Act.

Retention period

(3) A person who is required by this section to maintain a record containing information for a transaction shall maintain the record containing that information in Canada for a period of five years after the end of the calendar year in which the information was entered in the record or, in the case of a corporation, after the end of the financial year of the corporation in which the information was entered in the record.

Report

10. A person who is required to maintain a record by section 9 shall, within sixty days of each transaction under the authorization, file a report with the Minister, in the form prescribed by the Minister, on the information contained in the record.

POWERS OF THE MINISTER

Notice requiring information and samples

11. (1) For the purpose of deciding whether to recommend to the Governor in Council that the name of a manganese-based substance be added to or deleted from the schedule, the Minister may publish in the Canada Gazette and in any other manner that the Minister considers appropriate a notice requiring any person described in the notice to provide the Minister with such information and samples referred to in subsection (2) as may be in the possession of that person or to which that person may reasonably be expected to have access.

Contents of notice

(2) A notice may require any information and samples that may assist the Minister to decide whether to recommend to the Governor in Council that the name of a manganese-based substance be added to or deleted from the schedule, including samples of the substance and information on the quantities, uses and composition of the substance.

Compliance with notice

(3) Every person to whom a notice is directed shall comply with the notice within such time or times as are specified in the notice.

Extension of time

(4) Notwithstanding subsection (3), the Minister may, on request in writing from any person to whom a notice is directed, extend the time or times within which the person shall comply with the notice.

ENFORCEMENT

Inspectors and Analysts

Designation

12. (1) The Minister may designate as an inspector or analyst for the purposes of this Act any person who, in the opinion of the Minister, is qualified to be so designated, either personally or by reason of that person occupying a certain position.

Inspector to show certificate of designation

(2) An inspector shall be furnished with a certificate of designation and, on entering any place under this Act, shall produce the certificate on request of the person in charge of the place.

Provisions of the Canadian Environmental Protection Act

Application of provisions of the Canadian Environmental Protection Act

13. Paragraphs 100(1)(a) and (f), subsections 100(2) to (7) and sections 101 to 107 and 111 of the Canadian Environmental Protection Act apply, with such modifications as the circumstances require, in respect of this Act.

OFFENCES AND PUNISHMENT

Interprovincial trade and importation

14. Every person who contravenes section 4 is guilty of an offence and liable

(a) on summary conviction, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months, or to both; or

(b) on conviction on indictment, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding three years, or to both.

False or misleading information

15. Every person who knowingly enters false or misleading information in a record required to be maintained by this Act or provides the Minister with false or misleading information, samples or results is guilty of an offence and liable

(a) on summary conviction, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months, or to both; or

(b) on conviction on indictment, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding five years, or to both.

Other offences

16. Every person who contravenes any provision of this Act, other than section 4 or 15 or a provision referred to in section 13, is guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding six months, or to both.

Proof of offence

17. (1) In any prosecution of 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 prosecuted for the offence.

Defence

(2) No person shall, by virtue of subsection (1), be found guilty of an offence under section 15 if the person establishes that the offence was committed without the person's knowledge or consent and that he or she exercised all due diligence to prevent its commission.

Defence

(3) No person shall be found guilty of an offence under this Act, other than an offence under section 15, if the person establishes that he or she exercised all due diligence to prevent its commission.

Orders of court

18. (1) Where an offender has been convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the court may, having regard to the nature of the

offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the offender from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
- (b) directing the offender to take such action as the court considers appropriate to remedy or avoid any harm that results or may result from the commission of the offence;
- (c) directing the offender to publish, in any manner that the court considers appropriate, the facts relating to the commission of the offence;
- (d) directing the offender to notify, at the offender's own cost and in any manner that the court considers appropriate, any person aggrieved or affected by the offender's conduct of the facts relating to the commission of the offence;
- (e) directing the offender to post such bond or pay such amount of money into court as will ensure compliance with any order made pursuant to this section;
- (f) directing the offender to submit to the Minister, on application by the Minister made within three years after the date of conviction, such information with respect to the activities of the offender as the court considers appropriate and just in the circumstances;
- (g) directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventative action taken by or caused to be taken on behalf of the Minister as a result of the commission of the offence; and
- (h) requiring the offender to comply with such other reasonable conditions as the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

Publication

(2) Where an offender does not comply with an order made under paragraph (1)(c) directing the publication of the facts relating to the commission of the offence, the Minister may publish the facts in compliance with the order and recover the costs of publication from the offender.

Debt due to Her Majesty

(3) Where the court makes an order under paragraph (1)(g) directing an offender to pay costs or the Minister incurs publication costs under subsection (2), the costs constitute a debt due to Her Majesty in right of Canada and may be recovered as such in any court of competent jurisdiction.

Coming into force and duration of order

(4) An order made under subsection (1) comes into force on the day on which it is made or on such other day as the court may determine but may not continue in force for more than three years after that day.