The Fuel Tax Act, 2000

being

Chapter F-23.21* of the *Statutes of Saskatchewan, 2000* (effective January 1, 2001) as amended by the *Statutes of Saskatchewan,* 2004, c.T-18.1; and 2005, c.14.

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

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 F-23.21

An Act respecting a Tax on Fuel and making consequential amendments to *The Revenue and Financial Services Act*

PART I
Short Title and Interpretation

Short title

1 This Act may be cited as *The Fuel Tax Act, 2000*.

Interpretation

2 In this Act:

(a) **"consumer"** means a person who purchases or acquires fuel in, or imports propane into, Saskatchewan:

(i) for consumption or use by that person;

(ii) for consumption or use by another person at the first person's expense; or

(iii) on behalf of, or as the agent for, a principal for consumption or use by the principal or by another person at the principal's expense;

(b) **"Crown"** means the Crown in right of Saskatchewan;

(c) **"distributor of propane"** means a person who sells propane to a vendor for resale;

(d) **"enforcement officer"** means:

(i) an employee of the department over which the minister presides who is designated pursuant to section 49 as an enforcement officer;

(ii) a person who is designated pursuant to *The Traffic Safety Act* or is a member of a class of persons designated pursuant to *The Traffic Safety Act* as a traffic officer;

(iii) a member of a police service as defined in *The Police Act, 1990*;

(iv) a person appointed pursuant to *The Police Act, 1990* as a special constable;

(v) a member of the Royal Canadian Mounted Police; or

(vi) any other prescribed person or prescribed class of persons;

(e) **"farmer"** means a farmer as defined in the regulations;

(f) **"fuel"** means any combustible gas or combustible liquid that may be used to generate power by means of an internal combustion or turbine engine, but does not include:

(i) a prescribed fuel; or

(ii) fuel when used for a prescribed use;

(g) **"fuel tank"** means any tank or container installed on a motor vehicle for the purpose of carrying the fuel required to propel the motor vehicle;

(h) **"fuel tax exemption permit"** means a valid permit issued pursuant to subsection 7(2);

(i) **"interjurisdictional vehicle"** means an interjurisdictional vehicle as defined in *The Education and Health Tax Act*;

(j) **"licence"** means a valid licence issued pursuant to this Act;

(k) **"litre"** means:

(i) a litre that has been volume adjusted to a temperature of 15 degrees Celsius with a barometric pressure of 101.36 kilopascals; or

(ii) a volume measured by a prescribed weight or quantity;

(l) **"locomotive fuel"** means a fuel used by a railway company to operate a locomotive;

(m) **"marked diesel fuel"** means diesel fuel that has been marked or coloured in accordance with section 20 and includes prescribed diesel fuel that has been marked or coloured pursuant to the laws of another jurisdiction;

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

(o) **"motor vehicle"** means a vehicle that is propelled or driven by means of an internal combustion or turbine engine;

(p) **"prescribed"** means prescribed in the regulations;

(q) **"primary producer of renewable resources"** means a primary producer of renewable resources as defined in the regulations;

(r) **"recipient"** means:

(i) a consumer or any other person who gives or agrees to give any consideration for fuel;

(ii) a person to whom fuel is supplied, whether or not that person gives any consideration for the fuel;

(iii) a person who imports fuel into Saskatchewan;

(iv) a person who blends ethanol or any other prescribed product with fuel;

(v) a person who sells or removes fuel from a terminal;

(vi) a person who sells propane to vendors or consumers;

(vii) a person who is required by this Act to pay tax on fuel consumed in Saskatchewan;

(s) **"tax"** means the tax imposed pursuant to this Act;

(t) **"terminal"** means a fuel storage and distribution facility that:

(i) is supplied with fuel by a pipeline or refinery; and

(ii) is designated in writing by the minister as a terminal pursuant to section 50;

(u) **"vendor"** means a person in Saskatchewan who sells or provides fuel to a consumer, but does not include a distributor of propane.

2000, c.F-23.21, s.2; 2004, c.T-18.1, s.297.

PART II
Tax

DIVISION 1
Imposition of Tax

Tax payable by recipient

3(1) This section does not apply to propane.

(2) Every recipient shall pay to the Crown a tax on fuel at the time the recipient:

(a) acquires or receives fuel in Saskatchewan from another person;

(b) subject to subsection (3), imports fuel into Saskatchewan for the purpose of resale;

(c) sells or removes fuel in Saskatchewan from a terminal;

(d) blends ethanol or another prescribed product with fuel in Saskatchewan.

(3) A recipient is not required to pay a tax on fuel pursuant to clause (2)(b) if the fuel is imported into Saskatchewan for delivery to a terminal.

2000, c.F-23.21, s.3.

Tax payable on imported fuel by certain recipients

4(1) Every recipient who or that is a railway company or the registrant of an interjurisdictional vehicle shall pay to the Crown a tax with respect to fuel that is:

(a) acquired outside or inside Saskatchewan; and

(b) consumed in a motor vehicle operated within Saskatchewan.

(2) Every recipient who imports fuel into Saskatchewan in the tank of a commercial motor vehicle, other than an interjurisdictional vehicle, shall pay a tax with respect to that fuel.

(3) Every recipient who imports fuel in bulk into Saskatchewan shall pay tax with respect to that fuel.

2000, c.F-23.21, s.4.

Tax payable on propane

5(1) Every vendor of propane shall pay to the Crown a tax on propane at the time the vendor receives the propane from a distributor of propane.

(2) Subject to subsection (3), every consumer shall pay to the Crown a tax on propane at the time the consumer acquires or receives the propane.

(3) The tax imposed by subsection (2) is only payable with respect to propane that is purchased:

(a) by volume through metering facilities normally used to dispense propane for automotive purposes; or

(b) for delivery in containers capable of holding more than 45.35 kilograms of propane.

(4) Every consumer shall pay a tax to the Crown on propane that is imported into Saskatchewan in containers capable of holding more than 45.35 kilograms of propane.

2000, c.F-23.21, s.5.

Tax exempt purchases by farmers and primary producers of renewable resources

6(1) A farmer is exempt from paying tax with respect to marked diesel fuel or propane purchased by the farmer if:

(a) in the case of:

(i) marked diesel fuel, the marked diesel fuel is intended solely for use in the farmer's unlicensed farm machinery or in a licensed farm vehicle when used in the farmer's farming operations or for any other prescribed use or purpose; or

(ii) propane, the propane is intended solely for use in the farmer's farming operations; and

(b) the farmer produces a valid fuel tax exemption permit at the time of purchase of the marked diesel fuel or propane.

(2) A primary producer of renewable resources is exempt from paying tax with respect to marked diesel fuel or propane purchased by the primary producer of renewable resources if:

(a) in the case of:

(i) marked diesel fuel, the marked diesel fuel is intended solely for a prescribed use or purpose in the business of the primary producer of renewable resources as a primary producer of renewable resources; or

(ii) propane, the propane is intended solely for prescribed purposes in the business of the primary producer of renewable resources as a primary producer of renewable resources; and

(b) the primary producer of renewable resources produces a valid fuel tax exemption permit at the time of purchase of the marked diesel fuel or propane.

(3) A recipient other than a consumer who sells marked diesel fuel or propane to a farmer or primary producer of renewable resources is not required to collect tax with respect to that sale if:

(a) the fuel was purchased in the circumstances mentioned in subsection (1) or (2); and

(b) the recipient:

(i) is satisfied that the person purchasing the fuel is the person named in the fuel tax exemption permit;

(ii) is satisfied that the fuel purchased is intended for use solely in the purchaser's farming operations or business as a primary producer of renewable resources, as the case may be; and

(iii) indicates on each copy of the invoice the person's fuel tax exemption permit number.

2000, c.F-23.21, s.6.

Fuel tax exemption permit

7(1) A farmer or a primary producer of renewable resources who wishes to obtain a fuel tax exemption permit may apply to the minister in the prescribed manner and provide the prescribed information.

(2) On receipt of an application pursuant to subsection (1), the minister may issue the applicant a fuel tax exemption permit where the minister is satisfied that:

(a) the applicant is a farmer or a primary producer of renewable resources and has complied with this Act and the regulations; and

(b) it is appropriate to issue the fuel tax exemption permit.

(3) Sections 29 to 31 apply to a fuel tax exemption permit.

2000, c.F-23.21, s.7.

Rate of tax

8 The tax required to be paid pursuant to this Part is to be paid at the following rates:

(a) subject to clauses (b) and (c), with respect to gasoline, ethanol-blended gasoline, diesel fuel, locomotive fuel and other prescribed fuels, $0.15 per litre;

(b) with respect to aviation fuel used to operate an aircraft, $0.015 per litre;

(c) with respect to propane, $0.09 per litre;

(d) subject to clause (e), with respect to ethanol or any other prescribed product added to gasoline, ethanol-blended gasoline, diesel fuel, locomotive fuel or other prescribed fuels, $0.15 per litre;

(e) with respect to ethanol or any other prescribed product added to aviation fuel used to operate an aircraft, $0.015 per litre.

2000, c.F-23.21, s.8; 2005, c.14, s.3.

Remittance of tax

9(1) A recipient who is required to pay the tax and who is described in subsection (2) shall remit the tax to the minister:

(a) at the prescribed times and in the prescribed manner; or

(b) at the times and in the manner prescribed in Part III of *The Revenue and Financial Services Act* and the regulations made pursuant to that Part.

(2) Subsection (1) applies to a recipient who or that:

(a) imports fuel into Saskatchewan for the purpose of resale;

(b) imports fuel into Saskatchewan and is required to pay tax pursuant to section 4;

(c) sells or removes fuel in Saskatchewan from a terminal;

(d) blends ethanol or other prescribed products with fuel in Saskatchewan;

(e) is a distributor of propane who or that sells propane in Saskatchewan;

(f) is a consumer of propane who is liable to pay tax on propane imported into Saskatchewan pursuant to subsection 5(4); or

(g) is the holder of a licence issued pursuant to section 27.

(3) Every recipient, other than one mentioned in subsection (2), shall remit the tax to the person who supplied the recipient with the fuel in Saskatchewan.

2000, c.F-23.21, s.9.

Power of minister to enforce Act

10(1) Unless otherwise provided for in this Act and the regulations, taxes are to be collected and remitted to the minister in accordance with Part III of *The Revenue and Financial Services Act* and the regulations made pursuant to that Part.

(2) The minister may enforce the collection and remission of taxes in accordance with this Act, the regulations, Part III of *The Revenue and Financial Services Act* and the regulations made pursuant to that Part.

2000, c.F-23.21, s.10.

Tax recovery and credit

11(1) If a recipient, other than a consumer, pays tax on fuel and later sells or disposes of the fuel, the recipient shall recover the tax paid from the person who received the fuel.

(2) Subject to subsection (3), the minister may provide a credit, refund or allowance for all or part of the tax paid by a recipient on fuel where the minister is satisfied that:

(a) the recipient paid the tax; and

(b) one of the following circumstances has occurred:

(i) the fuel was exported from Saskatchewan for resale;

(ii) a verifiable quantity of fuel was stolen or destroyed;

(iii) the recipient sold the fuel free of tax pursuant to an authorization issued pursuant to section 12;

(iv) in the case of propane, the recipient sold the propane for a prescribed exempt purpose;

(v) in the case of diesel fuel, the diesel fuel is marked by a person to whom a licence has been issued pursuant to section 19 for a subsequent sale as marked diesel fuel;

(vi) the fuel with respect to which tax was paid was sold to prescribed persons in the prescribed circumstances.

(3) Subclauses (2)(b)(i) to (v) do not apply to a recipient who is a consumer.

(4) Where the losses of fuel are unverifiable, the minister may:

(a) provide a refund of all or part of the tax paid by a recipient on lost fuel; or

(b) provide an allowance for lost fuel.

(5) As a condition of providing a refund or allowance, the minister may require the recipient to whom the refund or allowance is to be paid to enter into an agreement with the minister that allows for the sharing of any refund or allowance with other recipients who purchased fuel from the recipient.

(6) Any credit, refund or allowance provided pursuant to this section is to be paid out of the general revenue fund and is to be accounted for as a reduction of revenue received pursuant to this Act.

2000, c.F-23.21, s.11.

Authorization to sell or purchase fuel without paying tax

12(1) If authorized to do so by the regulations, the minister may authorize a recipient to sell or purchase fuel without paying tax.

(2) In an authorization issued pursuant to subsection (1), the minister may impose any prescribed terms and conditions or any other terms that the minister considers appropriate.

(3) Sections 29 to 31 apply to any authorization issued pursuant to subsection (2).

2000, c.F-23.21, s.12.

Reassessment of tax

13 At the time tax is imposed and at the effective date of any change in the tax rate, the minister may require any recipient who owns or possesses fuel, whether on that recipient's premises, in storage elsewhere or in transit:

(a) to assess that fuel with respect to the imposition of tax or change in the tax rate, as the case may be; and

(b) either:

(i) to remit the tax assessed to the minister at any prescribed time and in any prescribed manner; or

(ii) to apply to the minister for a refund at any prescribed time and in any prescribed manner.

2000, c.F-23.21, s.13.

Rebates of tax to farmers and primary producers of renewable resources

14(1) Subject to subsection (2), the minister shall rebate tax paid by farmers or primary producers of renewable resources on any prescribed fuel, prescribed class of fuel or prescribed use of fuel.

(2) The rebate of tax mentioned in subsection (1) is payable:

(a) in the prescribed manner and in accordance with the prescribed terms and conditions; and

(b) to the prescribed maximum amount.

(3) No fuel acquired without payment of tax is eligible for a rebate of tax.

(4) Any rebate of tax paid pursuant to this section is to be paid out of the general revenue fund and is to be accounted for as a reduction of revenue received pursuant to this Act.

2000, c.F-23.21, s.14.

Recovery of overpayment of rebate, refund, credit or allowance

15(1) When requested to do so in writing by the minister, a person to whom a rebate, refund, credit or allowance was provided shall remit the rebate, refund, credit or allowance if the minister determines that:

(a) the rebate, refund, credit or allowance was provided in error;

(b) the rebate, refund, credit or allowance was obtained by means of fraud or deceit; or

(c) for any other reason, the amount of the rebate, refund, credit or allowance was greater than the amount that should have been provided.

(2) The amount of rebate, refund, credit or allowance that is to be repaid pursuant to this section is a debt due to the Crown and the minister may recover that amount:

(a) in accordance with *The Revenue and Financial Services Act,* as if the amount owing were tax payable, or *The Financial Administration Act, 1993;* or

(b) in any other manner authorized by law.

2000, c.F-23.21, s.15.

Further information required of person receiving rebates

16(1) Where a person applies for a rebate, refund, credit or allowance pursuant to section 11 or 13, the minister may:

(a) contact the person who has claimed the rebate, refund, credit or allowance; and

(b) do all or any of the following:

(i) request further information or documentation with respect to that person's claim for a rebate, refund, credit or allowance;

(ii) decrease the amount of rebate, refund, credit or allowance to any person who has provided incomplete or unsatisfactory information or documentation;

(iii) disqualify the application for a rebate, refund, credit or allowance, in which case no rebate, refund, credit or allowance shall be provided to that person.

(2) Where a person has been requested to provide further information or documentation pursuant to subclause (1)(b)(i) and fails to provide satisfactory information or documentation within the time and in the manner specified in the request, the minister may disqualify that person's application for a rebate, refund, credit or allowance and, if the minister does disqualify that person, no rebate, refund, credit or allowance shall be provided to that person.

2000, c.F-23.21, s.16.

DIVISION 2
Import and Export of Fuel

Importing fuel into Saskatchewan

17(1) In this section, **"importing recipient"** means a recipient who imports fuel into Saskatchewan:

(a) for the purpose of reselling it, where the fuel is delivered other than to a terminal; or

(b) where the recipient is liable to pay tax on that fuel pursuant to section 4;

but does not include:

(c) the holder of a licence issued pursuant to section 27 or 28;

(d) a railway company; or

(e) a registrant of an interjurisdictional vehicle that is licensed pursuant to section 46 or pursuant to a provision in the laws of the jurisdiction that is the registrant's base jurisdiction where that provision is equivalent to section 46 and where that jurisdiction has entered into an agreement with the minister pursuant to section 44.

(2) On or before importing fuel into Saskatchewan, an importing recipient shall:

(a) report the importation or intended importation of the fuel to the minister; and

(b) subject to subsection (4), deposit with the minister an amount equal to the amount of tax that would be payable if the fuel were purchased from a vendor for use in Saskatchewan.

(3) An importing recipient shall make the report and the deposit required pursuant to subsection (2) in the prescribed manner.

(4) Clause (2)(b) does not apply to marked diesel fuel or propane imported by:

(a) a farmer who is named in a valid fuel tax exemption permit and who intends to use the fuel solely for a purpose or use mentioned in subsection 6(1); or

(b) a primary producer of renewable resources who is named in a valid fuel tax exemption permit and who intends to use the fuel solely for a purpose or use mentioned in subsection 6(2).

(5) If the minister receives proof satisfactory to the minister that any tax on imported fuel mentioned in subsection (2) has been paid or accounted for, the minister shall refund the amount deposited pursuant to subsection (2).

(6) Notwithstanding subsection (5), the amount deposited pursuant to subsection (2) is forfeited to the Crown if, within 90 days after the date that the amount was deposited with the minister, the importing recipient has not provided the minister with proof satisfactory to the minister that the tax, if any, on the imported fuel has been paid or accounted for.

2000, c.F-23.21, s.17.

Exporting fuel from Saskatchewan

18 Every person, other than a holder of a licence issued pursuant to section 28, who intends to export fuel in bulk from Saskatchewan shall report the export from Saskatchewan in the prescribed manner.

2000, c.F-23.21, s.18.

PART III
Marking and Licensing

DIVISION 1
Marking

Licence required to mark diesel fuel

19(1) No person shall mark diesel fuel without holding a licence.

(2) Any person who wishes to obtain a licence to mark diesel fuel shall apply to the minister in a form acceptable to the minister.

(3) The minister may issue a licence to an applicant if the minister is satisfied that the applicant has complied with this Act and the regulations and that it is appropriate to issue the licence.

(4) Sections 29 to 31 apply to a licence issued pursuant to this section.

2000, c.F-23.21, s.19.

Marking diesel fuel

20(1) In this section and in section 21, **"licensed marker"** means a person to whom a licence has been issued pursuant to section 19.

(2) Every licensed marker shall mark or colour the diesel fuel using only a prescribed chemical dye or prescribed agent and only in accordance with any prescribed procedures.

(3) The minister may pay to a licensed marker an allowance in the prescribed amount and in the prescribed manner.

(4) Where authorized to do so by the minister, a licensed marker who is entitled to an allowance pursuant to this section may deduct the amount of the allowance from the tax to be remitted by the licensed marker to the minister.

2000, c.F-23.21, s.20.

Offences respecting marking

21(1) No person shall place any prescribed chemical dye or prescribed agent into diesel fuel unless that person:

(a) is a licensed marker; or

(b) has the written authority of the minister to mark or colour fuel and marks or colours only the fuel specified in the authorization.

(2) No person shall sell unmarked diesel fuel as marked diesel fuel.

(3) No person shall add any substance to or otherwise tamper with marked diesel fuel for the purpose of removing or attempting to conceal or change the colour or identity of the fuel.

2000, c.F-23.21, s.21.

Offences respecting the use of marked diesel fuel

22(1) No person shall use marked diesel fuel, or any mixture of fuel containing marked diesel fuel in any proportion, for any purpose other than a purpose that is:

(a) authorized by subsection 6(1) or (2); or

(b) permitted by the regulations.

(2) No person shall sell marked diesel fuel that the person knows or ought to know will be used for a purpose other than a purpose or use that is:

(a) authorized by subsection 6(1) or (2); or

(b) permitted by the regulations.

(3) Subject to subsection (4), no person to whom a current certificate of registration or a registration permit has been issued pursuant to *The Traffic Safety Act* or who is in possession or control of a motor vehicle shall knowingly or unknowingly have marked diesel fuel, or a mixture of fuel containing marked diesel fuel in any proportion in:

(a) the fuel tank of the motor vehicle; or

(b) any other tank or container that is carried in or on the motor vehicle and that is or may be connected to the fuel system of the motor vehicle.

(4) Subsection (3) does not apply to a motor vehicle used for a purpose or use described in subsection 6(1) or (2) or in any regulations made for the purpose of those subsections.

2000, c.F-23.21, s.22; 2004, c.T-18.1, s.297.

Restrictions on dispensing marked diesel fuel

23(1) Every vendor or bulk fuel dealer filling or placing marked diesel fuel into the fuel tank of a motor vehicle shall maintain records that show the name, and the fuel tax exemption permit number, of each recipient and that show each purchase by that recipient.

(2) No vendor or bulk fuel dealer shall dispense marked diesel fuel through self-service pumps or other dispensing equipment that allow a purchaser to dispense the fuel directly into the fuel tank of a motor vehicle, unless the dispensing equipment is accessed only through a keylock or card lock facility.

2000, c.F-23.21, s.23.

Liability for tax where untaxed fuel is put to other uses

24(1) A person who acquires fuel on which tax has not been paid and who subsequently uses or permits that fuel to be used for a purpose contrary to section 22 is liable for tax with respect to the amount of fuel that the minister estimates has been used for a purpose contrary to section 22.

(2) The tax liability mentioned in subsection (1) is in addition to any other penalty that may be imposed pursuant to this Act or *The Revenue and Financial Services Act*.

2000, c.F-23.21, s.24.

Liability for tax where untaxed fuel is not exported

25(1) A person who acquires fuel on which tax has not been paid for the purpose of exporting that fuel from Saskatchewan and who subsequently fails to export that fuel is liable for tax with respect to the amount of fuel that the minister estimates has not been exported.

(2) The tax liability mentioned in subsection (1) is in addition to any other penalty that may be imposed pursuant to this Act or *The Revenue and Financial Services Act*.

2000, c.F-23.21, s.25.

Appointment of analysts

26(1) The minister may appoint a person as an analyst to determine whether a sample of fuel is marked diesel fuel or contains marked diesel fuel in any proportion.

(2) For the purposes of a certificate of analysis mentioned in subsection (3), any fuel that is found by an analyst to contain the prescribed chemical dye or prescribed agent is deemed to be marked diesel fuel.

(3) In any legal proceeding, a certificate of analysis purporting to be signed by a person appointed pursuant to subsection (1) is admissible as proof, in the absence of evidence to the contrary, of the facts stated in the certificate and of the authority of the person issuing the certificate, without proof of the appointment or signature.

2000, c.F-23.21, s.26.

DIVISION 2
Licences, Permits and Authorizations

Licence required to blend, manufacture or store fuel

27(1) Without a licence, no person shall:

(a) blend fuel with ethanol or any other prescribed product;

(b) manufacture fuel; or

(c) store fuel at a terminal.

(2) Any person who wishes to obtain a licence to do all or any of the things mentioned in subsection (1) shall apply to the minister in a form acceptable to the minister.

(3) The minister may issue a licence to an applicant if the minister is satisfied that the applicant has complied with this Act and the regulations and that it is appropriate to issue the licence.

(4) Sections 29 to 31 apply to a licence issued pursuant to this section.

2000, c.F-23.21, s.27.

Licence to import or export fuel

28(1) Any person who wishes to obtain any of the following licences may apply to the minister:

(a) a licence to import fuel into Saskatchewan on a regular basis without paying the deposit prior to the entry of fuel as required by clause 17(2)(b); or

(b) a licence to export fuel from Saskatchewan without paying the tax as imposed by section 3 on the acquisition of the fuel.

(2) An application pursuant to subsection (1) must be in a form acceptable to the minister.

(3) The minister may issue a licence to an applicant if the minister is satisfied that the applicant has complied with this Act and the regulations and that it is appropriate to issue the licence.

(4) Sections 29 to 31 apply to a licence issued pursuant to this section.

(5) The holder of the licence issued pursuant to this section may, in accordance with the terms of the licence:

(a) import fuel into Saskatchewan without paying the deposit prior to the entry of the fuel required by clause 17(2)(b); or

(b) export fuel from Saskatchewan without paying the tax as imposed by section 3 on the acquisition of the fuel.

2000, c.F-23.21, s.28.

Terms and conditions imposed on licences, permits and authorizations

29(1) At the time a licence, permit or authorization is issued pursuant to this Act or at any subsequent time, the minister may impose any terms and conditions on the licence, permit or authorization that the minister considers necessary.

(2) At any time after a licence, permit or authorization is issued, the minister may do all or any of the following:

(a) amend, modify or vary terms and conditions imposed on the licence, permit or authorization;

(b) impose new terms and conditions on the licence, permit or authorization;

(c) repeal terms and conditions imposed on the licence, permit or authorization and substitute new terms and conditions in their place.

(3) No person who holds a licence, permit or authorization shall fail to comply with the terms and conditions imposed on that person's licence, permit or authorization.

2000, c.F-23.21, s.29.

Amendment, suspension or cancellation of licence, permit or authorization

30(1) The minister may amend and, and subject to section 31, suspend or cancel a licence, permit or authorization where, in the opinion of the minister, the person who holds the licence, permit or authorization:

(a) has failed to comply with this Act or the regulations;

(b) has failed to comply with any term or condition imposed on his or her licence, permit or authorization;

(c) has provided false or misleading information to the minister in the person's application for the licence, permit or authorization or at any other time; or

(d) is carrying on business in a manner that is prejudicial to the public interest.

(2) The minister may amend, suspend or cancel all the licences, permits or authorizations in a category of licences, permits or authorizations without complying with section 31 where:

(a) the minister proposes to deal with all the licences, permits or authorizations in the category of licences, permits or authorizations in an identical manner; and

(b) the minister considers that it is appropriate and in the public interest to do so.

2000, c.F-23.21, s.30.

Opportunity to be heard

31(1) The minister shall not suspend or cancel a licence, permit or authorization without giving the holder of the licence, permit or authorization an opportunity to be heard.

(2) Notwithstanding subsection (1), if the minister considers that it is necessary to act to protect the public interest, the minister may immediately suspend or cancel a licence, permit or authorization without giving the holder of the licence, permit or authorization an opportunity to be heard, but shall give the holder an opportunity to be heard within 30 days after the date on which the minister takes any of those actions.

2000, c.F-23.21, s.31.

PART IV
Investigations, Enforcement and Offences

DIVISION 1
Investigations and Enforcement

Interpretation of Part

32 In this Part:

(a) **"Act"** includes the regulations;

(b) **"property"** includes computer hardware;

(c) **"records"** includes books, papers, documents, information, computer software and electronic records.

2000, c.F-23.21, s.32.

Power to enter on land

33 For the purposes of carrying out his or her duties pursuant to this Act, the minister, an enforcement officer and any person lawfully accompanying the minister or an enforcement officer may enter on any land, whether or not that land is enclosed.

2000, c.F-23.21, s.33.

General powers respecting inspections and taking of fuel sample

34(1) For the purpose of enforcing and administering this Act, the minister or an enforcement officer may do all or any of the following:

(a) subject to subsection (6), enter, without a warrant, at any reasonable time the following premises for the purpose of conducting an inspection or examination:

(i) any premises used by a person in connection with the importation, export, storage, transportation, sale or marking of fuel or with blending ethanol or other prescribed products with fuel;

(ii) any premises containing any records or property that relate to the importation, export, storage, transportation, sale or marking of fuel or to blending ethanol or other prescribed products with fuel;

(b) make any inquiries of a person that are or may be relevant to an inspection or examination pursuant to this section;

(c) require any person keeping any records or property related to the importation, export, storage, transportation, sale, purchase or marking of fuel to provide those records to the minister or an enforcement officer;

(d) without a warrant, examine any fuel on the premises, including any fuel contained in the fuel tank of any motor vehicle found on the premises or in any other receptacle, and take samples of that fuel.

(2) For the purpose of determining whether tax has been paid or is payable or of enforcing and administering this Act, an enforcement officer may, where the enforcement officer believes that diesel fuel is present in a motor vehicle, do all or any of the following:

(a) request or signal the person in charge of or operating the motor vehicle to stop the motor vehicle;

(b) detain the motor vehicle when it is stopped;

(c) without a warrant, examine the fuel in the fuel tank of the motor vehicle or in another receptacle on the motor vehicle; and

(d) take samples of that fuel.

(3) The person in charge of or operating a motor vehicle shall, when requested or signalled by an enforcement officer pursuant to clause (2)(a):

(a) immediately bring the motor vehicle to a safe stop;

(b) immediately provide access to the fuel tank of the motor vehicle or other receptacle on the motor vehicle where the enforcement officer reasonably believes that fuel may be located; and

(c) permit the enforcement officer to examine the fuel in the fuel tank of the motor vehicle or in another receptacle on the motor vehicle and take samples of that fuel.

(4) If any records or property are provided to the minister or an enforcement officer pursuant to clause (1)(c), the minister or enforcement officer may:

(a) examine the records or property; and

(b) remove the records or property for the purpose of making copies in accordance with section 37.

(5) For the purposes of producing a readable record from a computer system used by a person on whom a request is made pursuant to clause (1)(c), the minister or an enforcement officer may use any computer hardware or software in the possession of that person.

(6) The minister or an enforcement officer shall not enter any premises that are a private dwelling without the consent of the occupier or a warrant obtained pursuant to section 36.

2000, c.F-23.21, s.34.

Demand for records and property

35(1) The minister or an enforcement officer may serve a written demand on any person, including a trustee or a director, officer or employee of a corporation, requiring that person to produce any records or property in that person's control that relate to the importation, export, storage, consumption, transportation, sale, blending or marking of fuel.

(2) No person on whom a written demand is served pursuant to this section shall fail to provide the records or property mentioned in the written demand within the time specified in the written demand.

(3) The minister or enforcement officer may inspect and examine any records or property produced pursuant to a written demand served pursuant to this section and remove the records for the purpose of making copies in accordance with section 37.

2000, c.F-23.21, s.35.

Warrant

36(1) Where a justice of the peace or provincial court judge is satisfied by information on the oath of the minister or an enforcement officer that there are reasonable grounds to believe that an offence against this Act has occurred and that evidence of that offence is likely to be found, the justice of the peace or the provincial court judge may issue a warrant to do all or any of the following:

(a) enter and search any place or premises named in the warrant;

(b) stop and search any motor vehicle described in the warrant;

(c) seize and remove anything that may be evidence of an offence against this Act.

(2) With a warrant issued pursuant to subsection (1), the minister or enforcement officer may do all or any of the following:

(a) at any time, enter and search any place or premises named in the warrant;

(b) stop and search any motor vehicle described in the warrant;

(c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the minister or enforcement officer finds in the place, premises or motor vehicle;

(d) require the production of and examine any records or property that the minister or enforcement officer believes, on reasonable grounds, may contain information related to an offence against this Act;

(e) remove, for the purpose of making copies, any records or property examined pursuant to this section;

(f) seize and remove from any place, premises or motor vehicle searched anything that may be evidence of an offence against this Act.

(3) Subject to subsection (4), the minister or enforcement officer may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to this section if:

(a) the conditions for obtaining a warrant exist; and

(b) the minister or enforcement officer has reasonable grounds to believe that the delay necessary to obtain a warrant would result:

(i) in danger to human life or safety; or

(ii) in the loss, removal or destruction of evidence.

(4) The minister or an enforcement officer shall not enter premises that are a private residence without a warrant issued pursuant to this section unless the occupant of those premises consents to the entry.

2000, c.F-23.21, s.36.

Copies of records

37(1) Where any records are removed pursuant to section 34, 35 or 36, the minister or enforcement officer may make copies of those records.

(2) The minister or enforcement officer shall:

(a) make those copies with reasonable dispatch; and

(b) promptly return the originals of the records to:

(i) the place they were removed from; or

(ii) any other place that may be agreed to by the minister or enforcement officer and the person who furnished them or from whom they were seized.

(3) A record certified by the minister or an enforcement officer to be a copy made pursuant to this section:

(a) is admissible in evidence without proof of the office or signature of the person purporting to have made the certificate; and

(b) has the same probative force as the original record.

2000, c.F-23.21, s.37.

Searches of motor vehicles transporting fuel in bulk

38(1) When requested to do so by an enforcement officer, every person transporting fuel in bulk and every operator of a motor vehicle transporting fuel in bulk, other than in the fuel tank of a motor vehicle, shall provide the enforcement officer with written proof of:

(a) the quantity and type of fuel being transported;

(b) the name and address of the person or persons from whom the fuel was obtained;

(c) the name and address of every person to whom the fuel was delivered or is to be delivered; and

(d) the use or intended use, if known, of the fuel delivered or to be delivered.

(2) An enforcement officer may detain a motor vehicle transporting fuel in bulk, other than in the fuel tank of a motor vehicle, if:

(a) the written proof requested pursuant to subsection (1) is not provided;

(b) the enforcement officer wishes to verify any written proof provided pursuant to subsection (1); or

(c) the person transporting the fuel has failed to comply with the requirements of Division 2 of Part II.

(3) An enforcement officer may detain a motor vehicle pursuant to subsection (2) until:

(a) the written proof requested pursuant to subsection (1) has been provided and verified to the satisfaction of the enforcement officer detaining the motor vehicle; and

(b) the requirements of Division 2 of Part II have been complied with.

2000, c.F-23.21, s.38.

DIVISION 2
Offences

Offences

39 No person shall:

(a) obtain or attempt to obtain a rebate of tax or a refund, credit or allowance pursuant to this Act or the regulations by providing the minister with an application or a proof of purchase that is false or misleading in any respect;

(b) issue a receipt with respect to a sale of fuel that:

(i) is false or misleading in any respect; or

(ii) in the case of a second or duplicate receipt, is not clearly marked as being a copy or duplicate;

(c) in the case of a person who uses or purports to use a fuel tax exemption permit to obtain fuel without payment of tax:

(i) mislead the vendor of the fuel as to the intended use of the fuel to be purchased without payment of tax;

(ii) mislead the vendor of the fuel as to the person's identity or the person's authority to use the fuel tax exemption permit;

(iii) use a fuel tax exemption permit that has expired or has been stolen, cancelled, falsified, forged, altered or is otherwise invalid; or

(iv) use any other false pretence to obtain fuel without payment of tax;

(d) make or participate in, assent to or acquiesce in making a false or misleading statement in any application or other document provided to the minister or an enforcement officer pursuant to this Act;

(e) destroy, alter, mutilate or dispose of any book or record of a licensee, where the book or record is required to be kept for the purposes of this Act;

(f) make or participate in, assent to or acquiesce in making a false or misleading entry in a book or record of a licensee or any recipient, where the book or record is required to be kept for the purposes of this Act;

(g) omit or participate in, assent to or acquiesce in omitting an entry of a material fact in a book or record of a licensee or any recipient, where the book or record is required to be kept for the purposes of this Act;

(h) contravene any other provision of this Act.

2000, c.F-23.21, s.39.

Penalties

40(1) Subject to subsection (2), every person who contravenes any provision of this Act is guilty of an offence and liable on summary conviction:

(a) in the case of an individual, to a fine not exceeding $10,000;

(b) in the case of a corporation, to a fine not exceeding $50,000.

(2) Every person who contravenes section 21 is guilty of an offence and liable on summary conviction to a fine not exceeding $1,000,000, to three years' imprisonment or to both.

(3) If a corporation commits an offence pursuant to this Act, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.

2000, c.F-23.21, s.40.

Power of court to order compliance

41(1) If the minister is of the opinion that a person has failed to comply with this Act, the minister may apply to the Court of Queen's Bench for all or any of the following:

(a) an order directing the person to comply with this Act or restraining that person from contravening this Act;

(b) an order directing the directors and officers of a corporation to comply with this Act or restraining those directors and officers from contravening this Act;

(c) any other order, relief or remedy that the minister may request.

(2) On an application pursuant to subsection (1), the Court of Queen's Bench may grant the order requested and may make any other order that the Court of Queen's Bench considers necessary.

2000, c.F-23.21, s.41.

PART V
Administrative Provisions and Regulations

Restrictions on interjurisdictional vehicles

42(1) No registrant of an interjurisdictional vehicle shall enter Saskatchewan with a vehicle that has a gross vehicle weight equal to or greater than the prescribed weight unless the registrant is named in:

(a) a permit issued pursuant to section 43; or

(b) a licence issued pursuant to:

(i) section 46; or

(ii) a provision in the laws of the jurisdiction that is the registrant's base jurisdiction where that provision is equivalent to section 46 and where that jurisdiction has entered into an agreement with the minister pursuant to section 44.

(2) No registrant of an interjurisdictional vehicle shall fail to cause any decal issued with a licence mentioned in clause (1)(b) to be displayed in the manner required by an agreement mentioned in section 44.

2000, c.F-23.21, s.42.

Permit for importation by interjurisdictional vehicles

43(1) Any registrant of an interjurisdictional vehicle who wishes to bring a motor vehicle into Saskatchewan in the circumstances mentioned in section 42 may apply to the minister or a prescribed issuer for a prescribed permit that is issued in the prescribed manner and subject to the prescribed terms.

(2) The minister or prescribed issuer may:

(a) issue a permit to an applicant if the minister is satisfied that the applicant has complied with this Act and the regulations and that it is appropriate to issue the permit; and

(b) charge the permit holder with a prescribed fee in lieu of tax.

(3) Sections 29 to 31 apply to a permit issued pursuant to this section.

2000, c.F-23.21, s.43.

Interjurisdictional fuel tax programs and agreements

44 On behalf of the Crown, the minister may:

(a) participate in arrangements or programs respecting the interjurisdictional administration and enforcement of the tax or similar taxes imposed by other jurisdictions inside or outside Canada; and

(b) enter into agreements with the governments of those other jurisdictions for the purpose of more equitably applying and collecting the tax and similar taxes imposed by those other jurisdictions or of avoiding the duplicate application of the tax and similar taxes.

2000, c.F-23.21, s.44.

Payments pursuant to agreements

45(1) Notwithstanding any other provision of this Act or any other Act or law, the minister may pay to other jurisdictions inside or outside Canada that part of the tax and other moneys collected pursuant to this Act that is required to be paid by an agreement entered into pursuant to section 44.

(2) Any payment made pursuant to subsection (1) is payable out of the general revenue fund and is to be accounted for as a reduction of revenue to that fund.

2000, c.F-23.21, s.45.

Licences and decals

46(1) In accordance with the regulations, the minister may:

(a) issue licences to registrants of interjurisdictional vehicles for the purposes of facilitating an arrangement, program or agreement mentioned in section 44 and renew or reinstate those licences; and

(b) grant decals to registrants of interjurisdictional vehicles and require that those decals be displayed in the manner required by an agreement mentioned in section 44.

(2) Sections 29 to 31 apply to a licence issued pursuant to this section.

(3) The minister may enter into agreements with any registrant of an interjurisdictional vehicle to set forth:

(a) the duties and obligations to be performed by the registrant;

(b) the consequences of failing to perform the duties and obligations;

(c) any other matters that the minister considers necessary or appropriate.

2000, c.F-23.21, s.46.

Agreements respecting collection of tax

47(1) On behalf of the Crown, the minister may enter into an agreement with the government of any jurisdiction inside or outside Canada respecting the administration and enforcement of the provisions of this Act dealing with tax payable by a person importing fuel into Saskatchewan or exporting fuel from Saskatchewan.

(2) Any fee payable to a government pursuant to an agreement mentioned in subsection (1) may be paid out of revenues received on behalf of the Crown pursuant to the provisions of this Act dealing with tax payable by persons importing fuel into, or exporting fuel from, Saskatchewan and may be accounted for as a reduction of revenues received.

(3) An officer of a government with whom an agreement mentioned in subsection (1) is entered into who is acting pursuant to that agreement is an agent of the Crown for the purposes of this Act.

(4) No action or other proceeding for damages shall be instituted against an officer mentioned in subsection (3) who is acting pursuant to an agreement mentioned in subsection (1) for any loss or damage suffered by any person by reason of anything done, attempted, caused or permitted to be done or omitted to be done in good faith by that officer pursuant to or in the performance or supposed performance of any duty pursuant to this Act, the regulations or the agreement or pursuant to or in the exercise or supposed exercise of any power given by this Act, the regulations or the agreement.

(5) Subsection (4) does not absolve the Crown from vicarious liability because of an act or omission for which the Crown would have been liable had that subsection not been in force.

2000, c.F-23.21, s.47.

Forms

48 The minister may determine the form of any application, licence, permit, authorization or other document required for the purposes of this Act.

2000, c.F-23.21, s.48.

Designation of enforcement officers

49 The minister may designate any employee of the department over which the minister presides as an enforcement officer.

2000, c.F-23.21, s.49.

Designation of terminals

50(1) An owner or person in charge of a fuel storage or distribution facility in Saskatchewan that is supplied with fuel by a pipeline or refinery may apply to the minister to have the facility designated as a terminal.

(2) On an application pursuant to subsection (1), the minister may designate a fuel storage and distribution facility in Saskatchewan as a terminal if, in the opinion of the minister:

(a) the facility meets the prescribed conditions; and

(b) it is appropriate to do so.

2000, c.F-23.21, s.50.

Regulations

51(1) The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(b) prescribing persons or classes of persons as enforcement officers;

(c) prescribing fuels or uses of fuels for the purposes of clause 2(f);

(d) prescribing measurements by weight or quantity to determine a litre for the purposes of clause 2(k);

(e) prescribing diesel fuel marked or coloured by another jurisdiction for the purposes of clause 2(m);

(f) prescribing products that may be blended with fuel pursuant to section 27;

(g) defining who are farmers and primary producers of renewable resources for the purposes of this Act;

(h) prescribing a purpose or use for which a farmer may use marked diesel fuel;

(i) prescribing a purpose or use for which a primary producer of renewable resources may use marked diesel fuel;

(j) prescribing fuels that may be marked or coloured for the purposes of this Act, the chemical dye or agent to be used for marking or colouring fuel and the manner in which that chemical dye or agent is to be added to fuel;

(k) prescribing the manner of applying for fuel tax exemption permits and the information that is to accompany applications;

(l) prescribing fuels for the purposes of clause 8(a) and prescribing products for the purposes of clauses 8(d) and (e);

(m) prescribing the manner of making reports required by this Act to be submitted or forwarded to the minister and the times within which those reports must be submitted or forwarded;

(n) prescribing any record to be kept for the purposes of this Act and prescribing the manner and time in which any reports or deposits required by this Act are to be submitted to the minister;

(o) prescribing the amount and manner of paying an allowance to a person licensed to mark or colour fuel pursuant to section 20;

(p) governing the issuance of licences, permits and authorizations pursuant to this Act and the terms and conditions to which those licences, permits and authorizations are subject;

(q) governing rebates of tax, including:

(i) prescribing the fuels, classes of fuels and uses of fuels for which rebates may be paid; and

(ii) prescribing persons who are eligible for a rebate of tax and prescribing any terms and conditions to which a rebate of tax may be subject;

(r) prescribing the manner in which a maximum rebate of tax or other rebate amount is to be determined, applied or apportioned where more than one person is involved in the operation of a farm or the business of a primary producer of renewable resources;

(s) prescribing the manner and terms and conditions under which a rebate of tax may be paid;

(t) prescribing the maximum amount of a rebate of tax;

(u) prescribing the time and manner in which a person eligible for a rebate of tax shall apply for or request the payment of a rebate of tax and prescribing the time and manner in which a rebate of tax may be paid;

(v) prescribing any document or information that is required to accompany an application for a rebate of tax;

(w) prescribing the amount or rate of rebate of tax to persons eligible to receive a rebate of tax;

(x) prescribing the time and the manner in which persons required to do so shall assess and report tax on their fuel inventories resulting from the imposition of the tax or a change in the tax rate;

(y) prescribing a weight for interjurisdictional vehicles for the purposes of subsection 42(1);

(z) prescribing a fee in lieu of tax for the purposes of section 43;

(aa) prescribing persons who may be issuers for the purposes of section 43;

(bb) respecting any matter or thing the Lieutenant Governor in Council considers necessary for the implementation or administration of an agreement mentioned in section 44;

(cc) respecting the procedures for applying for licences or for renewal or reinstatement of a licence pursuant to section 46 and the information to be provided by applicants or authorizing the minister to prescribe procedures for applying for licences or for renewal or reinstatement of a licence and the information to be provided by applicants;

(dd) prescribing the duration of licences issued and decals granted pursuant to section 46;

(ee) prescribing the fees for applying for a licence pursuant to section 46, for issuing the licence, for granting decals and for renewing or reinstating a licence or decal;

(ff) prescribing categories of persons who deal with fuel, requiring those categories of persons to keep records for the purposes of this Act and the regulations, prescribing the content of records to be kept and the time for which and manner in which those records are to be retained and, for that purpose, may establish different requirements for different categories;

(gg) for the purposes of subsection 53(2):

(i) prescribing licences or permits or categories of licences or permits that were issued pursuant to *The Fuel Tax Act, 1987*, as that Act existed on the day before the coming into force of section 1 of this Act; and

(ii) prescribing provisions of this Act;

(hh) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;

(ii) respecting any other matter or thing the Lieutenant Governor in Council considers necessary or expedient to carry out the intent of this Act.

(2) Notwithstanding any other Act or law, a regulation made pursuant to this section may be made retroactive to a day not earlier than the day on which section 1 of this Act comes into force.

2000, c.F-23.21, s.51; 2005, c.14, s.4.

PART VI
Repeal, Transitional, Consequential and Coming into Force

S.S. 1986-87-88, c.F-23.2 repealed

52 *The Fuel Tax Act, 1987* is repealed.

2000, c.F-23.21, s.52.

Transitional

53(1) Any licence issued pursuant to 25.4 of *The Fuel Tax Act, 1987*, as that Act existed on the day before the coming into force of section 1 of this Act, is deemed to be issued pursuant to section 46 of this Act and may be dealt with by the minister as if it were issued pursuant to this Act.

(2) Any prescribed licences, other than licences mentioned in subsection (1), and prescribed permits that were issued pursuant to *The Fuel Tax Act, 1987*, as that Act existed on the day before the coming into force of section 1 of this Act, are deemed to be issued pursuant to the prescribed provisions of this Act and may be dealt with by the minister as if they were issued pursuant to this Act.

2000, c.F-23.21, s.53.

54 **Dispensed.** This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act

Coming into force

55 This Act comes into force on January 1, 2001.

2000, c.F-23.21, s.55.

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