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COUNCIL OF THE NORTHWEST TERRITORIES
1982 SESSION

BILL.. - 82()

AN ORDINANCE REGARDING THE
TRANSPORTATION OF DANGEROUS GOODS

Statement of Purpose

The purpose of this Bill is to regulate the transportation of dangerous goods in the Territories.

DISPOSITION

Date of Notice	1st Reading	2nd Reading	To Committee	Chairman	Reported	3rd Reading	Date of Assent

AN ORDINANCE REGARDING THE
TRANSPORTATION OF DANGEROUS GOODS

The Commissioner of the Northwest Territories,
by and with the advice and consent of the Council
of the said Territories, enacts as follows:

- Short title 1. This Ordinance may be cited as the Transportation of Dangerous Goods Ordinance.
- Definitions
- "analyst" 2. In this Ordinance
- "containter" (a) "analyst" means any person designated as an analyst pursuant to the Transportation of Dangerous Goods Act (Canada);
- "dangerous goods" (b) "container" means an article of transport equipment, including one that is carried on a chassis, that is strong enough to be suitable for repeated use and is designed to facilitate the transportation of goods without intermediate reloading, but does not include a vehicle;
- "highway" (c) "dangerous goods" means any product, substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule;
- "inspector" (d) "highway" means a highway as defined in the Vehicles Ordinance;
- "packaging" (e) "inspector" means any person designated as an inspector by the Executive Member under this Ordinance;
- "prescribed" (f) "packaging" means any receptacle or enveloping material used to contain or protect goods, but does not include a container or a means of transport;
- "regulations" (g) "prescribed" means prescribed by the regulations;
- "safety mark" (h) "regulations" means the regulations made under this Ordinance unless the context indicates otherwise;
- (i) "safety mark" includes any design, symbol, device, sign, label, placard, letter, word, number, abbreviation or any combination thereof that is to be displayed on dangerous goods, packaging or containers or vehicles used in the transportation of dangerous goods;

"safety requirements"

(j) "safety requirements" means requirements for the transportation of dangerous goods, for the reporting of those activities, for the training of persons engaged in those activities and for the inspection of those activities;

"safety standards"

(k) "safety standards" means standards regulating the design, construction, equipment, functioning or performance of containers, packaging or vehicles used in the transportation of dangerous goods;

"shipping document"

(l) "shipping document" means any document that accompanies dangerous goods being transported and that describes or contains information relating to the goods and, in particular, but without restricting the generality of the foregoing, includes a bill of lading, cargo manifest, shipping order or way-bill;

"trailer"

(m) "trailer" means a trailer as defined in the Vehicles Ordinance;

"Transportation of Dangerous Goods Act (Canada)"

(n) "Transportation of Dangerous Goods Act (Canada)" means the Transportation of Goods Act (Canada), as amended from time to time and includes the regulations made under that Act from time to time unless the context indicates otherwise;

"vehicle"

(o) "vehicle" means a vehicle as defined in the Vehicles Ordinance.

Where Ordinance does not apply

3. This Ordinance does not apply to dangerous goods transported in a vehicle,

(a) while under the sole direction or control of the Minister of National Defence for Canada; or

(b) for which a permit is issued under subsection 5(1) while there is compliance with the permit.

Application to Crown

4.(1) This Ordinance is binding on Her Majesty in right of Canada or a province and any agent thereof.

Binding on Commissioner

(2) This Ordinance is binding on the Commissioner of the Northwest Territories and his employees and his agents.

Exemption

5.(1) The Executive Member or a person designated by him may issue a permit exempting, from the application of this Ordinance, the transportation of dangerous goods in a vehicle.

Idem

(2) A permit issued under subsection (1) is subject to such terms and conditions as the issuer considers appropriate and are contained in the permit.

Idem

(3) The Executive Member may designate in writing any person as a person authorized to issue a permit referred to in subsection (1).

Offence

6. No person shall transport any dangerous goods in a vehicle on a highway unless,
(a) all applicable prescribed safety requirements are complied with; and
(b) the vehicle and all containers and packaging in it comply with all applicable prescribed safety standards and display all applicable prescribed safety marks.

Penalty and time limit

7.(1) Every person who contravenes section 6 is guilty of an offence and is liable on the first conviction to a fine of not more than \$50,000, and on each subsequent conviction to a fine of not more than \$100,000.

Offence

(2) Every person who contravenes any provision of this Ordinance, or the regulations, for which no other penalty is provided by this Ordinance is guilty of an offence and is liable on conviction to a fine of not more than \$10,000.

Time limit

(3) No proceedings under this section may be instituted after two years from the day the offence was committed.

Defence

8. It is a defence to a charge under this Ordinance for the accused to establish that he took all reasonable measures to comply with this Ordinance.

Offences by employee or agent

9. In any prosecution for an offence under this Ordinance, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the

offence, but it is a defence if the accused establishes that the offence was committed without his knowledge or that he took all reasonable measures to prevent its commission.

Officers,
etc. of
corporation

10. Any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of an offence is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted.

Certificate
or report of
inspector
or analyst

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

Copies or
extracts

(2) Subject to subsections (3) and (4), a copy of an extract made by an inspector under paragraph 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 under this Ordinance 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.

Attendance
of inspector
or analyst

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

Notice

(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.

Designation of inspectors

12.(1) The Executive Member may designate any person as an inspector for the purposes of this Ordinance.

Inspector to show certificate

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

Certificate

(3) Where an inspector inspects or takes a sample of anything under this Ordinance he shall, if the thing is sealed or closed up, provide the person in charge of it with a certificate in the prescribed form evidencing the inspection or taking of the sample.

Effect of certificate

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

Powers of inspectors

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

Inspection

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

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

Assistance
to inspect-
ors

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

Obstruction
of inspect-
ors

(4) No person shall, while an inspector is exercising his powers or carrying out his duties and functions under this Ordinance

- (a) fail to comply with any reasonable request of the inspector;
- (b) knowingly make any false or misleading statement either verbally or in writing to the inspector;
- (c) except with the authority of the inspector, remove, alter or interfere in any way with anything removed by the inspector; or
- (d) otherwise obstruct or hinder the inspector.

Regulations

14. (1) The Commissioner may make regulations,
- (a) prescribing products, substances and organisms to be included in the classes listed in the Schedule;
 - (b) establishing divisions, subdivisions and groups of dangerous goods and classes thereof;
 - (c) specifying, for each product, substance and organism prescribed under paragraph (a), the class listed in the Schedule and the division, subdivision or group into which it falls;
 - (d) determining or providing the manner of determining the class listed in the Schedule and the division, subdivision or group into which any dangerous goods not prescribed under paragraph (a) fall;

- (e) exempting from the application of this Ordinance and the regulations or any provision thereof the transporting of dangerous goods in such quantities or concentrations, in such circumstances, for such purposes or in such vehicles as are specified in the regulations;
- (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted under paragraph (e);
- (g) prescribing the manner in which a permit under paragraph (b) shall be applied for and issued;
- (h) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (i) prescribing shipping documents and other documents to be used in respect of the transportation of dangerous goods in a vehicle on a highway, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained;
- (j) prescribing forms for the purposes of this Ordinance and the regulations;
- (k) amending the Schedule;
- (l) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons or classes of persons while transporting dangerous goods in a vehicle or class of vehicle on a highway.

Code, etc.
may be
adopted by
reference

(2) Any regulation made under subsection (1) may adopt by reference, in whole or in part, with such changes as the Commissioner considers necessary any code or standard, or any regulation made by the Government of Canada, and may require compliance with any code, standard or regulation that is so adopted.

Agreements
respecting
enforcement

15.(1) The Executive Member may enter into an agreement with the Government of Canada with respect to the administration and enforcement of this Ordinance and the regulations or any provision thereof.

Costs,
expenses,
revenues and
related
matters

(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 and for the apportionment of any costs, expenses or revenues arising therefrom.

Conflict

16. Unless it is expressly provided in any other Ordinance that its provisions and regulations, made under it apply notwithstanding anything in this Ordinance, the provisions of this Ordinance and regulations prevail over the provisions of such other Ordinance and over regulations or orders made under such other Ordinance which conflict therewith.

Inconsistent
provisions

17. In the event of any inconsistency between the regulations made under this Ordinance and any orders, rules or regulations made under any other Ordinance, the regulations made under this Ordinance prevail to the extent of the inconsistency.

Commencement

18. This Ordinance comes into force on a day to be named by proclamation of the Commissioner.

SCHEDULE

- Class 1 - Explosives, including explosives within the meaning of the Explosives Act (Canada)
- Class 2 - Gases: compressed, deeply refrigerated, liquefied or dissolved under pressure
- Class 3 - Flammable and combustible liquids
- Class 4 - Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases
- Class 5 - Oxidizing substances; organic peroxides
- Class 6 - Poisonous (toxic) and infectious substances
- Class 7 - Radioactive materials and prescribed substances within the meaning of the Atomic Energy Control Act.
- Class 8 - Corrosives
- Class 9 - Miscellaneous products, substances or organisms considered by the Commissioner to be dangerous to life, health, property or the environment when transported in a vehicle on a highway and prescribed to be included in this class.

