

BILL C-42: AN ACT TO AMEND THE QUARANTINE ACT

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LEGISLATIVE HISTORY OF BILL C-42

HOUSE OF COMMONS

Bill Stage	Date
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First Reading:	12 December 2006
Second Reading:	29 March 2007
Committee Report:	5 June 2007
Report Stage:	14 June 2007
Third Reading:	14 June 2007

SENATE

Bill Stage	Date
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First Reading:	18 June 2007
Second Reading:	18 June 2007
Committee Report:	21 June 2007
Report Stage:	
Third Reading:	22 June 2007

Royal Assent: 22 June 2007

Statutes of Canada 2007, c.27

N.B. Any substantive changes in this Legislative Summary which have been made since the preceding issue are indicated in **bold print**.

Legislative history by Michel Bédard

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BACKGROUND

Bill C-42, An Act to amend the Quarantine Act, was introduced in the House of Commons on 12 December 2006. On that same day, with the exception of section 34, the new *Quarantine Act*⁽¹⁾ was brought into force. That Act had been given Royal Assent on 13 May 2005.

The *Quarantine Act* replaced a law (the *Quarantine Act*, R.S.C. 1985, c. Q-1) that had remained largely unchanged since its adoption in 1872. Replacing the *Quarantine Act* had initially been part of a health protection legislative renewal package that would also have replaced the *Food and Drugs Act*, the *Hazardous Products Act*, and the *Radiation Emitting Devices Act* with a new Canada Health Protection Act. However, replacing the *Quarantine Act* became a priority in the wake of the 2003 Severe Acute Respiratory Syndrome (SARS) outbreak, as reports released after the outbreak stressed the need for improved measures to address public health threats both at Canada's borders and within Canada.⁽²⁾

The new bill provides some adjustments and technical amendments to the new *Quarantine Act* in order to bring section 34 of the *Quarantine Act* into force. The proposed amended section 34 will also be consistent with the newly revised *International Health Regulations*, which are designed to “prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade.”⁽³⁾ The *International Health Regulations* are binding on all World Health Organization member states, including Canada.

* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both Houses of Parliament, receive Royal Assent, and come into force.

(1) Bill C-12, 1st Session, 38th Parliament, S.C. 2005, c. 5.

(2) For more information on the *Quarantine Act*, see M. Tiedemann and S. Norris, *Bill C-12: The Quarantine Act*, LS-484E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, October 2004.

(3) World Health Organization, “Frequently asked questions about the *International Health Regulations*,” <http://www.who.int/csr/ihr/howtheywork/faq/en/index.html#whatis>.

DESCRIPTION AND ANALYSIS

Bill C-42 replaces sections 34, 63 and 71 of the *Quarantine Act*. It also amends the schedule to the *Quarantine Act* and notes that the amended section 34 will come into force on the day Bill C-42 receives Royal Assent.

A. Clause 1: Amendments to Section 34 (Conveyances)

Section 34 of the *Quarantine Act* and the proposed amendments to section 34 establish the duty of operators of certain “conveyances” to report to authorities any reasonable grounds to suspect that: (a) persons, cargo or other things on board could cause the spreading of a communicable disease listed in the schedule; (b) a person on board has died; or (c) any prescribed circumstances exist. The proposed amendment to subsection 34(1) specifies that section 34 applies to *watercraft or aircraft* used to carry persons or cargo, and to other conveyances prescribed by regulation. The proposed amendment to subsection 34(2) requires operators of those conveyances to report their suspicions to a quarantine officer *as soon as possible before the conveyance arrives in Canada*. In contrast, the existing section 34(1) requires operators of *all conveyances*⁽⁴⁾ used to carry persons or cargo, or other conveyances prescribed by regulation, *before arriving in Canada*, to report to a designated authority situated at the nearest entry point, as opposed to reporting to a quarantine officer. The proposed subsections 34(1) and (2) therefore reflect, for the most part, the same content as the existing subsection 34(1) with the following exceptions: they now apply only to watercraft or aircraft, and not to train, motor vehicle, trailer or other means of transportation; an operator must now report suspicions to a quarantine officer as opposed to reporting to a designated authority at an entry point; and an operator must now report as soon as possible before the conveyance arrives in Canada as opposed to simply reporting before arrival. **That being said, subsection 34(1) was further amended by the House of Commons Standing Committee on Health (“the Committee”), so that the words *watercraft or aircraft* were replaced by the more general term *conveyance* found in the original section 34 of the *Quarantine Act*.**

(4) “Conveyance” is defined in section 2 of the *Quarantine Act* as “a watercraft, aircraft, train, motor vehicle, trailer or other means of transportation, including a cargo container, that arrives in Canada or is in the process of departing from Canada.”

Subsection 34(3) in the proposed amendment provides that *as soon as possible before* a conveyance departs from Canada through a departure point, the operator must report the circumstances discussed in paragraphs 34(2)(a), (b) and (c) to a quarantine officer. This differs slightly from the existing equivalent subsection 34(2), which requires only that, *before departing Canada from a departure point* (as opposed to specifying that it should be done as soon as possible before departing) an operator shall report the circumstances to a designated authority.

The proposed subsection 34(4) indicates that in situations where it is not possible to inform a quarantine officer of the circumstances referred to in subsection 34(2) prior to the conveyance's arrival at its destination in Canada, an operator does not contravene proposed subsection 34(2) provided that he or she informs a quarantine officer of such circumstances on arrival at the destination. **In accordance with the Committee's recommendation, subsection 34(4) was further amended to specify that there will be no contravention of subsection (2) when it is not reasonably possible (as opposed to simply possible) to inform a quarantine officer prior to arrival, provided that the quarantine officer is informed upon arrival.**

The existing equivalent subsection 34(3) similarly notes that where it is not possible to report to the designated authority prior to arrival or departure from Canada, the report shall be made at the entry or departure point; but it does not specify that an operator reporting at the arrival or departure point, when it is not possible to do so in advance of arrival or departure, will not be found to be in contravention of the Act.

Finally, the proposed amendments remove subsection 34(4) of the existing *Quarantine Act*, which provides that the designated authority must notify a quarantine or environmental health officer of any operator report relating to the circumstances referred to in subsection 34(2). This subsection no longer required, since the operator report is to be made directly to a quarantine officer.

B. Clause 2: Amendment to Section 63 (Ministerial Regulations)

The existing section 63 provides that the Minister may make regulations amending the schedule to the *Quarantine Act* as well as designating the authority to whom operators of conveyances must report when arriving in or departing from Canada. The latter provision is removed under the proposed amendment to section 63. The reason for this deletion is that the proposed section 34 (discussed above) clearly indicates that operators are required to report to quarantine officers, making the need to specify who is a designated authority irrelevant.

C. Clause 3: Amendment to Section 71 (Contravention)

The existing text of section 71 of the *Quarantine Act* provides that every person who contravenes certain sections of the Act or regulations is guilty of a summary conviction offence. The proposed amendment to this section updates its references to certain subsections of section 34, to make them consistent with the bill's proposed amendments to section 34 (i.e., reference is now made to subsection 34(2) or (3), not subsection 34(1), (2) or (4)).

D. Clause 4: Amendment to the Schedule

The schedule to the *Quarantine Act*, which lists the communicable diseases that travellers and operators are obligated to report, is amended to make the section references consistent with the proposed amendments to section 34. Thus, the duty to disclose reasonable grounds to believe that a person or cargo could cause the spreading of a communicable disease would fall under subsection 34(2) of the proposed amendments, as opposed to subsection 34(1).

E. Clause 5: Coming Into Force

Clause 5 provides that the proposed amended section 34 comes into force on the day Bill C-42 comes into force.

COMMENTARY

Like the *Quarantine Act*, the Act to amend the Quarantine Act has received little media attention. However, the coming into force of the *Quarantine Act* on 12 December 2006 was mentioned by some media, and one source noted that the new legislation has been criticized for not compelling the provinces to provide information relating to epidemics to the federal government.⁽⁵⁾

(5) Tom Blackwell, "Law lets officials divert planes, take over hotels," *National Post* [Toronto], 14 December 2006.