

General Description of Content of Bill C-15

The following is an unofficial and personal summarization of the text of the above Bill submitted to the 38th Session of Parliament in October 2004.

This enactment amends the *Migratory Birds Convention Act, 1994* and the *Canadian Environmental Protection Act, 1999* to more effectively protect migratory birds and the marine environment from the negative effects caused by the discharges of harmful substances, such as oil, into marine waters. The enactment extends enforcement and judicial powers to the exclusive economic zone and refines tools required to enforce and prosecute violations that occur in this zone.

More specifically, the Bill would amend the *Migratory Birds Convention Act, 1994* (MBCA), an Act that implements a Convention for the protection of migratory birds in Canada and the United States. The Bill would amend the MBCA to:

- Extend application of the Act to the exclusive economic zone of Canada
- Prohibit a person or a vessel from depositing substances harmful to migratory birds in waters or an area frequented by migratory birds, or in place from which the substance may enter such waters or area
- Prohibit the destruction or falsifications of documents or records required under this Act or the *Canada Shipping Act*
- Provide whistle blower protection to Canadian employees who disclosed information relating to a contravention of the Act or regulations
- Impose a duty of care on masters, chief engineers, owners, operators and corporations, and their directors and officers, to ensure that the vessel and persons on board the vessel comply with the prohibition against the deposit of harmful substances.
- Impose a duty of care on corporations, their directors and officers to comply with the Act and regulations
- Expand the enforcement powers to include the authority for game officers to direct and detain Canadian vessels found to have deposited, be depositing, or about to deposit harmful substances in contravention of the Act.
- Expand the enforcement powers to include the authority for game officers to direct and detain foreign vessels found to have deposited, be depositing, or about to deposit harmful substances in contravention of the Act with the consent of the Attorney General of Canada.
- Extend the application of Canadian court jurisdiction to the exclusive economic zone in relation to offences under this Act.
- Increase penalties and set out sentencing options
- Expand the sentencing options for courts to impose additional punishments in the form of orders covering matters such as environmental audits, community service and the creation of scholarships for students enrolled in environmental studies

The Bill also proposes an amendment to the purpose of the Act [Section 4] so that it changes from “protecting migratory birds and nests” to “protecting and conserving migratory birds-as populations and individuals-and their nests.” Proposed amendments would also provide authorities to the Minister to define conditions and circumstances under which migratory birds may be killed, captured, injured, taken or disturbed with additional similar provisions for nests. These amendments will serve to correct technical problems with respect to the issuance of capture, kill or salvage permits, all matters or direct relevance to the issues of birds oiled at sea. They will also remove legal impediments to finding solutions related to incidental take associated with resource harvesting and agriculture.

The Bill also amends the Canadian Environmental Protection Act to

- Protect the marine environment from the wrongful activities of ships as well as persons
- Include for ships, prohibitions concerning the disposal and incineration of substances at sea
- Include regulation making authority to deal with disposals of substances during the normal operations of ships, aircrafts, platforms and other structures
- Expand the enforcement powers to include the authority to direct ships found to be in contravention of that Act or its regulations
- Subject owners of ships and directors and officers of corporations that own ships to a duty of care to ensure that ships comply with the provisions of that Act and its regulations concerning disposal at sea and with orders and directions made under that Act
- Expand the jurisdiction of Canadian courts to hear matters related to the Act to include the exclusive economic zone of Canada
- Provide the Attorney General of Canada with authority to consent to the use of these enforcement powers in the exclusive economic zone.

It amends CEPA (1999) to expand Disposal at Sea Provisions to allow for regulations controlling disposal of substances, including oily wastes, by ships that do not constitute normal operations.

It is consistent with international rules as defined by the United Nations Law of the Sea (UNCLOS) and the International convention for the Prevention of Marine Pollution (MARPOL).

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