

1984-85-86

CHAPTER F-13.2

An Act respecting Film and Video Classification

(Assented to June 19, 1985)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

- 1** This Act may be cited as *The Film and Video Classification Act*. Short title
- 2** In this Act: Interpretation
- (a) “board” means the Saskatchewan Film Classification Board continued pursuant to subsection 3(1); “board”
- (b) “chairman” means the chairman designated pursuant to subsection 3(2); “chairman”
- (c) “distribution” means retail distribution or wholesale distribution; “distribution”
- (d) “exhibition” means showing, projecting or otherwise displaying of film in a theatre to the public; “exhibition”
- (e) “exhibitor” means a person who engages in exhibition of films on a continual and successive basis; “exhibitor”
- (f) “film” means photographic moving picture film or any other means by which moving pictures are displayed and includes video tape, video cassette, video discs or other similar video devices by which moving pictures are shown, projected or displayed; “film”
- (g) “minister” means the member of the Executive Council to whom for the time being the administration of this Act is assigned; “minister”
- (h) “owner”, when used in connection with a film, means a person having a proprietary right in the film; “owner”
- (i) “person” includes a partnership, unincorporated syndicate, unincorporated association or unincorporated organization; “person”
- (j) “proprietary right” means an interest as owner or lessee or an interest under an agreement authorizing the right to use, distribute or exhibit a film; “proprietary right”

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FILM AND VIDEO CLASSIFICATION

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"retail
distribution"

(k) "retail distribution" means the sale, lease, rental, exchange or other means of dispersal of film to members of the public, other than retail distributors, wholesale distributors or exhibitors;

"retail
distributor"

(l) "retail distributor" means a person who engages in retail distribution on a continual and successive basis;

"theatre"

(m) "theatre" means a building or hall or any premises, room or place, including an open-air place, to which the public is admitted and where film is or is to be shown, projected or displayed;

"wholesale
distribution"

(n) "wholesale distribution" means the sale, lease, rental, exchange or other means of dispersal of film to retail distributors, exhibitors or other persons who engage in dispersal of films on a continual and successive basis but not to the general public;

"wholesale
distributor"

(o) "wholesale distributor" means a person who engages in wholesale distribution on a continual and successive basis.

Board

3(1) The Saskatchewan Film Classification Board is continued.

(2) The board is to consist of a chairman, designated by the Lieutenant Governor in Council, and not less than two other board members, all of whom are to be appointed by the Lieutenant Governor in Council.

(3) The board may:

(a) charge the owner of a film or any other person who proposes to exhibit or distribute a film any fees that may be prescribed in the regulations for classification and review of films and for performing any other services or functions;

(b) exempt in accordance with the criteria to be prescribed in the regulations and, subject to any terms and conditions that the board considers appropriate, any person, class of persons, film or class of films from all or any provision of this Act or the regulations;

(c) require an owner, wholesale distributor, retail distributor or exhibitor to submit to it a film, any information relating to the content of the film or advertising associated with the film for the purpose of allowing the board to perform its duties prescribed by this Act, the regulations or the Lieutenant Governor in Council;

(d) perform any duties, in addition to those described in clauses (a) and (c), that are prescribed by this Act, the regulations or the Lieutenant Governor in Council.

(4) The board may require proof that the owner acquired a proprietary right in any film before the date the owner presented the film to it for approval.

4(1) The board may:

Power to
approve,
disapprove,
etc.

(a) approve or disapprove films that are intended for exhibition or distribution in Saskatchewan;

(b) require the exhibitor, retail distributor or wholesale distributor, as the case may be, who intends to exhibit or distribute a film approved by the board to remove any portion of the film that the board does not approve of.

(2) The board shall perform its duties pursuant to this section in accordance with this section and in accordance with the criteria to be prescribed in the regulations.

(3) The board shall base its approval of a film on:

(a) an actual viewing by the board of the film and on criteria that are to be prescribed in the regulations;

(b) an approval previously given to the film by:

(i) a body that classifies, reviews or otherwise approves films and that is established pursuant to the legislation of another province or territory of Canada; or

(ii) any other body recognized in the regulations;

when the board is satisfied that the approval is based on criteria that are compatible and consistent with the criteria that are to be followed by the board in approving films and that are to be prescribed in the regulations;

(c) the information relating to the content of the film that is to be prescribed in the regulations; or

(d) all or any combination of the bases described in clauses (a) to (c).

(4) The board shall not:

(a) disapprove a film; or

(b) require an exhibitor, retail distributor or wholesale distributor to remove any portion of a film that the board does not approve of;

unless the board has actually viewed the film.

5(1) Where a film is approved by the board pursuant to section 4, the board shall, in accordance with this section:

Power to
classify

(a) classify the film into a category of classification for films that is prescribed in the regulations; or

- (b) approve a classification previously applied to the film.
- (2) Where the board classifies a film, it shall base its classification of a film on:
- (a) an actual viewing by the board of the film and any criteria that are to be prescribed in the regulations;
 - (b) a classification previously applied to the film by:
 - (i) a body that classifies, reviews or otherwise approves films and that is established pursuant to the legislation of another province or territory of Canada; or
 - (ii) any other body recognized in the regulations;
 when the board is satisfied that the classification is based on criteria that are compatible and consistent with the criteria that are to be followed by the board in classifying films and that are to be prescribed in the regulations;
 - (c) the information relating to the content of the film that is to be prescribed in the regulations; or
 - (d) all or any combination of the bases described in clauses (a) to (c).
- (3) The board shall approve a classification previously applied to the film only where:
- (a) the classification was previously applied by a board described in clause 4(3)(b); and
 - (b) the board is satisfied that the classification is based on criteria that are compatible and consistent with the criteria that are to be followed by the board in classifying films and that are to be prescribed in the regulations.
- (4) Where the board considers it to be appropriate, it may replace a classification previously given or approved by the board and any such reclassification is to be made in the same manner as a classification pursuant to this section.
- (5) Where a film or any information relating to the content of the film is submitted to the board to allow the board to approve and classify or approve a classification for the film, the board may retain the film or the information for any period of time that it considers appropriate.

Power to
regulate
advertising
and display

6(1) The board may:

- (a) approve, prescribe or prohibit:
 - (i) advertising associated with a film or with the exhibition or distribution of a film;
 - (ii) the manner in which advertising described in subclause (i) is displayed; and

(iii) the manner in which film to be distributed is displayed;

in accordance with any criteria that are to be prescribed in the regulations;

(b) require that the owner of a film or any other person proposing to exhibit or distribute a film ensure that the film and any advertising associated with the film display the classification for that film given or approved by the board and any additional information that the board may require.

(2) Where any advertising associated with a film is submitted to the board to allow the board to approve, prescribe or prohibit the advertising, the board may retain the advertising for any period of time that it considers appropriate.

er to enter 7(1) The board or any person authorized by the board may enter, at any reasonable time, without a warrant into any theatre where a film is or is to be exhibited or any premises where distribution of a film is or is to be made for the purpose of enforcing and administering this Act and may:

(a) request the production of a film and any advertising associated with the film that the board or a person authorized by the board considers necessary;

(b) request any owner of a film or any owner, operator or person in charge of the theatre or the premises, as the case may be, to give the board or the person authorized by the board all reasonable assistance with its or his inspection;

(c) subject to subsection (2) and with the consent of the owner of a film and on giving a receipt for the film or any advertising associated with the film, remove the film or advertising associated with the film for the purpose of viewing the film and of making copies or extracts of the film or advertising.

(2) The board or any person authorized by the board shall carry out the viewing of the film and the copying of the film and the advertising associated with the film removed pursuant to clause (1)(c) with reasonable dispatch and shall promptly return the film and the advertising to the person who produced or furnished them.

(3) The board or any person authorized by the board shall not enter into any part of a theatre, room or place where the exhibition or distribution of films is taking place or is to take place and that is actually being used as a dwelling without the consent of the occupier, except when authorized to do so by a

warrant issued by a justice of the peace or judge of the Provincial Court of Saskatchewan pursuant to subsection (5).

(4) Where any person mentioned in clause (1)(b) refuses to produce a film or any advertising associated with a film that the board or a person authorized by the board considers relevant to determine whether there has been a violation of this Act or the regulations, the board or any person authorized by the board may make an application to a justice of the peace or a judge of the Provincial Court of Saskatchewan for a warrant authorizing the board or the person authorized by the board, as the case may be, to:

- (a) enter into and search the theatre where film is or is to be exhibited or premises where film is or is to be distributed or any place where any film or advertising associated with a film and that may constitute evidence of a violation of this Act or the regulations is located;
- (b) seize and take possession of any film or advertising associated with a film that may constitute evidence of a violation of this Act or the regulations.

(5) A justice of the peace or a judge of the Provincial Court of Saskatchewan, if satisfied by evidence given on the oath of the board or any person authorized by the board that:

- (a) there is reasonable ground for believing that a violation of this Act or the regulations has occurred; and
- (b) there is evidence to be found at the place to be searched;

may issue a warrant under his hand authorizing the person named in the warrant to enter the place named in the warrant and every part of that place and of the premises connected with that place to examine that place and connected premises and search for and seize and take possession of any film or advertising associated with a film that may constitute evidence of a violation of this Act or the regulations.

Registration
with board
required

8(1) No wholesale distributor, retail distributor or exhibitor shall commence the distribution or exhibition of a film, as the case may be, in Saskatchewan, unless he:

- (a) is registered with the board;
- (b) has supplied the board with his name and address for service in Saskatchewan and any additional information that may be prescribed in the regulations at the times prescribed in the regulations; and
- (c) where terms and conditions are imposed on him pursuant to subsection (5), he has complied with those terms and conditions.

- (2) The board shall maintain a register showing:
- (a) the names and addresses for service of all wholesale distributors, retail distributors and exhibitors registered with it pursuant to subsection (1);
 - (b) the names of all films submitted to it pursuant to section 9 together with the classification given by it to the film; and
 - (c) any information, in addition to that described in subsection (1) that may be prescribed in the regulations.
- (3) Subject to subsection (4), the board shall make the register kept pursuant to subsection (2) available for public inspection during the normal business hours of the board.
- (4) The board may withhold from public inspection any:
- (a) parts of the register; or
 - (b) information or material;

that relates to the business and operations of exhibitors, retail distributors or wholesale distributor and that, in the opinion of the board, will be unduly detrimental to their business and operations if disclosed to the public.

(5) Where the board is satisfied that a wholesale distributor, retail distributor or exhibitor who is registered pursuant to this Act has:

- (a) violated any provision of this Act, the regulations or a decision of board;
- (b) made a material mis-statement in any information submitted to the board pursuant to subsection (1); or
- (c) been guilty of misrepresentation, fraud or dishonesty;

the board may suspend, cancel or impose terms and conditions on the registration of the wholesale distributor, retail distributor or exhibitor, as the case may be.

(6) The board shall not take any action pursuant to subsection (5) without giving the wholesale distributor, retail distributor or exhibitor an opportunity to be heard.

9 No exhibitor, retail distributor or wholesale distributor of a film, shall exhibit or distribute the film, as the case may be, unless:

- (a) the board has approved the film and classified or approved a classification for the film; and
- (b) where the board has approved a film subject to certain portions of the film being removed from the film, unless the

portions of the film that the board has required to be removed are removed.

Forfeiture **10(1) Where:**

(a) films have been seized pursuant to this Act from the owner or any person having possession of the films; and

(b) the owner or the person having possession of the films has been convicted of a violation of this Act, the regulations or a directive of the board;

the films are, on the conviction and in addition to any other penalty imposed, forfeited to Her Majesty the Queen in right of Saskatchewan.

(2) Where a film has been forfeited to Her Majesty the Queen in right of Saskatchewan pursuant to subsection (1), the person from whom the film was seized or any other person claiming to be entitled to the film may apply to the board in the manner prescribed in the regulations to recover the film and, where the board is satisfied that it is appropriate to do so and on the payment by the applicant of any fee prescribed in the regulations, the board may dispose of the film to the applicant.

(3) Where:

(a) films have been seized pursuant to this Act from the owner or any person having possession of the films; and

(b) no conviction has been obtained pursuant to this Act for a violation of this Act, the regulations or a directive of the board;

any person claiming to be an owner of a film or to be otherwise lawfully entitled to possess the film may show cause why the film should not be forfeited to Her Majesty the Queen in right of Saskatchewan by filing with the board within 30 days after the date of the seizure a notice in the form and containing the information prescribed in the regulations.

(4) On receiving a notice pursuant to subsection (3) and on being satisfied that it is appropriate to do so, the board may order the release of the film.

(5) Where the board is not satisfied that it is appropriate to release the film, it may cause a summons to be issued by a justice of the peace directed to the person who filed the notice pursuant to subsection (3) and calling on that person to appear at a time and place named in the summons to show cause why the film should not be forfeited to Her Majesty the Queen in right of Saskatchewan.

(6) At the time and place mentioned in the summons oratory other time and place to which the hearing may be adjourned, the person who filed the notice pursuant to subsection (3) may appear and present evidence to show why the film should not be forfeited to Her Majesty the Queen in right of Saskatchewan and the justice of the peace shall receive that evidence and any additional evidence that may be presented on behalf of the person who filed the notice and on behalf of Her Majesty the Queen in right of Saskatchewan.

(7) A justice of the peace is not bound by the legal and technical rules of evidence in a hearing pursuant to this section.

(8) The onus of proof is on the person who filed a notice pursuant to subsection (3).

(9) If no cause or no sufficient cause is shown to the contrary, the justice shall order that the film be forfeited to Her Majesty the Queen in Saskatchewan.

(10) If the justice is satisfied by evidence that no violation of this Act, the regulations or a directive of the board has been committed or was intended to be committed with respect to the film and finds the claim of the person who filed a notice pursuant to subsection (3) to be established, he shall order that the film be restored to that person.

(11) All films forfeited to Her Majesty the Queen in right of Saskatchewan pursuant to this section are to be sold or otherwise disposed of by the board in any manner that may be prescribed in this section or in the regulations.

11(1) In this section and in section 13, "appeal committee" ^{Appeal committee} means the committee appointed pursuant to subsection (2).

(2) The Lieutenant Governor in Council may appoint an appeal committee for the purpose of considering and determining appeals from the decisions of the board and, where it appoints an appeal committee, may prescribe in the regulations the practice and procedure to be followed in making appeals pursuant to this section.

(3) Where an appeal committee is established, the owner of a film or any other person who, in the opinion of the appeal committee, appears to be interested in the matter may appeal a decision of the board to the appeal committee and the committee may confirm or vary the board's decision or substitute its own decision in place of the board's decision.

(4) There is no appeal from the decision of an appeal committee.

Prohibition on
attendance at
exhibition,
sale, rental,
etc.

12(1) In this section, "permitted age" means, with respect to a film, the minimum age at which an individual is not prohibited by the regulations from viewing, purchasing, leasing or exchanging the film.

(2) Where a film is to be exhibited at a theatre or to be distributed on a premises, no owner, lessee or manager of the theatre or of the premises, as the case may be, shall permit any person apparently under the permitted age for that film to view or purchase, lease or exchange that film.

(3) Where:

(a) an owner, lessee or manager of a theatre where film is to be exhibited; or

(b) an employee of the owner, lessee or manager who is in charge of the theatre where film is to be exhibited;

has or ought to have reasonable grounds to believe that a person in or proposing to enter into the theatre is under the permitted age for the film, he shall demand from that person proof, that is satisfactory to the owner, lessee, manager or employee, as the case may be, that the person is of the permitted age or older before the film is exhibited to that person.

(4) Where:

(a) an owner, lessee or manager of a premise where film is to be distributed; or

(b) an employee of the owner, lessee or manager who is in charge of the premises where film is to be distributed;

has or ought to have reasonable grounds to believe that a person who is to view, purchase, rent, lease or exchange a film or to whom a film is to be otherwise distributed is under the permitted age for the film, he shall demand from that person proof, that is satisfactory to the owner, lessee, manager or employee, as the case may be, that the person is of the permitted age or older before the film is distributed to that person.

(5) Where a person who is requested pursuant to subsection (3) or (4) to supply proof of age fails or refuses to supply proof of age or supplies proof of age that he is under the permitted age for a film:

(a) in the case of the theatre where the film is to be exhibited, the owner, lessee or manager or employee of the owner, lessee or manager of the theatre shall require that person to leave the theatre; or

(b) in the case of the premises where the film is to be distributed, the owner, lessee or manager or employee of the owner, lessee or manager of the premises shall not distribute the film to that person.

(6) A person who is required to leave a theatre pursuant to subsection (5) shall do so immediately.

(7) A person who fails to immediately leave a theatre after he is required to do so pursuant to subsection (5) may be ejected from the theatre.

13(1) This Act does not apply to:

Exemptions

(a) a film owned or sponsored by:

(i) a church or religious society, where the film is designed for purposes of worship or religious instruction; or

(ii) a university, school or other educational institution administered by the Minister of Education or the Minister of Advanced Education and Manpower, where the film is designed for educational purposes;

(b) films designed for the purpose of advertising, demonstrating or instructing in the use of commercial or industrial products; or

(c) any other films or classes of films, persons or classes of persons or advertising associated with films that may be exempted in the regulations or by the board pursuant to clause 3(3)(b).

(2) Where a dispute arises as to whether or not a film, class of films, person or class of persons or advertising associated with films is exempt pursuant to subsection (1), the question may be appealed to the appeal committee by the board, the owner of the film or any interested person and the decision of the appeal committee is final.

14 A person who violates any provision of this Act or the regulations or any decision of the board, for which no penalty is otherwise provided, is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 and, in the case of a continuing offence, to a further fine of \$100 for every day during which the offence continues.

Penalty

15(1) Where it appears to the board that any person has failed to comply with or is violating any provision of this Act or the regulations or any decision of the board and notwithstanding the imposition of any penalty with respect to the non-compliance or violation and in addition to any other

Order for compliance

rights it may have, the board may apply to Her Majesty's Court of Queen's Bench for Saskatchewan for an order:

- (a) directing the person to comply with the provision or the decision or restraining the person from violating the provision or decision; and
- (b) if the person is a corporation, directing the directors and senior officers of the corporation to cause the corporation to comply with or to cease violating the provision or decision;

and the court may grant the order or any other order that the court thinks fit.

(2) An application pursuant to this section may be made *ex parte* if a judge of Her Majesty's Court of Queen's Bench considers it proper to do so.

Regulations

16(1) Subject to subsection (2) and for the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations:

- (a) prescribing the fees payable pursuant to this Act and establishing classes of films, owners, lessors or distributors of film and establishing different fees for each class;
- (b) authorizing the board to enter into agreements:
 - (i) with any other province of Canada for the purpose of establishing a joint film classification board;
 - (ii) with a body that classifies, reviews or otherwise approves film and that is established pursuant to the legislation of another province or territory of Canada or any other body that the Lieutenant Governor in Council may authorize for the purpose of adopting or approving film classification;
- (c) exempting any person or classes of persons, films or classes of films or advertising associated with films from all or any portion of this Act or the regulations;
- (d) defining, enlarging or restricting the meaning of any word used in this Act;
- (e) prescribing the terms and conditions pursuant to which films may be exhibited, distributed or advertised;
- (f) respecting any other matter or thing that is required to be prescribed in the regulations;
- (g) respecting any other matter or thing that may be necessary to carry out the provisions of this Act.

(2) The Lieutenant Governor in Council shall make regulations:

- (a) prescribing the criteria to be followed by the board in approving or disapproving of films;
- (b) prescribing criteria to be followed by the board in classifying films;
- (c) prescribing criteria to be followed by the board in approving, prescribing or prohibiting advertising associated with films;
- (d) prescribing the information relating to the content of a film that the board is to use to approve, disapprove or classify the film;
- (e) prescribing a system of classification of films and, with respect to each classification, the ages of individuals who may be prohibited from viewing, purchasing, leasing or exchanging films of that classification;
- (f) prescribing the criteria to be followed by the board in approving, prescribing or prohibiting the manner in which advertising associated with a film or the exhibition or distribution of a film is to be displayed;
- (g) prescribing the criteria to be followed by the board in approving, prescribing or prohibiting the manner in which film to be distributed is displayed;
- (h) prescribing the criteria to be followed by the board in exempting film or classes of film, persons or classes of persons or advertising, materials or other information related to film and intended for public dissemination in Saskatchewan from the Act or the regulations.

17 *The Theatres and Cinematographs Act* is repealed.

R.S.S. 1978
c.T-11 repealed

18 This Act or any part of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.

Coming into
force