

QUEEN'S PARK

# Finally, there's a fine way to punish polluters



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The fine was small - ludicrously small in the opinion of some people - but it showed that Ontario has a new weapon in doing battle with corporate polluters.

The \$9,000 penalty levied last week against CGC Inc. of Hagersville, operator of a gypsum drywall plant, for failing to comply with environmental laws attracted little notice, but it made history. The fine was the first under new legislation that does not rely on the courts but instead hands out penalties the way a parking-enforcement officer sticks a yellow ticket under a windshield wiper.

The law, which overturns established legal principles

about presumption of innocence, gives inspectors for the Ministry of the Environment the power to hand out on-the-spot fines of up to \$20,000 a day on individuals and up to \$100,000 a day on corporations. It remains controversial with the 148 industries, mining firms, power generators and pulp and paper operations covered by it. They don't like the reverse-onus aspect of it and they don't like the fact that criminal proceedings could still be pursued against serious polluters.

It's a double jeopardy that still irks the business community and a court challenge remains a possibility. "We still think it's definitely a step down the wrong alley," said Nancy Coulas, director of environment policy at Canadian Manufacturers and Exporters.

But the government believes it's found an instrument with its so-called "you-spill, you-pay" provision that will allow it to deal quickly with the 4,000 chemical discharges - on land and into water - that

occur in the province annually. In most cases, it can avoid the lengthy and expensive prosecutions that can get tied up in courts for years while local authorities deal with the financial burden of cleaning up.

"It sends out a message to people dealing with hazardous materials in one way or another that they need to be extra cautious," Environment Minister John Gerretsen said. "It's a good law," added Theresa McClenaghan, executive director of the Canadian Environmental Law Association.

CGC, formerly known as Canadian Gypsum Co., had the misfortune of being the first through the punitive gates after the new law came into effect last August. Tests the company conducted last Sept. 26 on water being returned to a tributary of the Grand River showed excessive levels of gypsum. The material is benign enough to be used in toothpaste and beer, but it was a violation of the law and the fine was calculated by a ministerial computer program.

Plant manager Mark Ensminger says CGC, which has operated in Hagersville since 1930, admits it failed and just wants to take its lumps and move on. "We're working very hard to ensure that it doesn't happen again," he said.

This attitude would suggest that the deterrent effect of the new law is as good as billed, but not all environmentalists are persuaded. Rick Smith, executive director of Environmental Defence, says a \$9,000 fine is "ludicrous" and could be viewed as simply the cost of doing dirty business.

Mr. Gerretsen says he is willing to review the computer program that calculates fines. "It should never become economically advantageous for somebody to take less precautions because the fines involved are insignificant."

More than 20 years after a giant spill of dry-cleaning solvent into the St. Clair River raised alarms about the dangers to drinking water posed by chemical industries, Ontario is finally getting serious.