



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 5
(2009, chapter 17)

An Act to amend the Act respecting transportation services by taxi

Introduced 8 April 2009
Passed in principle 7 May 2009
Passed 10 June 2009
Assented to 10 June 2009

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EXPLANATORY NOTES

This Act proposes various changes to taxi transportation.

It provides that a taxi owner's permit for transportation services for the handicapped may in principle be issued by the Commission des transports du Québec only if the taxi to which it is attached is handicapped accessible.

The Act also grants the holder of a taxi owner's permit the right to serve the entire territory covered by a taxi transportation service intermediary who provides transportation services exclusively by means of handicapped accessible taxis with whom the permit holder has entered into a contract.

The Act allows a taxi transportation service intermediary who provides transportation services exclusively by means of handicapped accessible taxis to serve any area comprised in the territory determined by government order that includes the servicing area for which the intermediary holds a permit.

As regards the powers of the Commission and its president, the Act allows the Commission to suspend the permit of a taxi owner or driver who charges a higher fare than that set by the Commission.

The Act modifies the Commission's powers with regard to holders of a taxi transportation service intermediary's permit. For instance, it requires permit holders to submit for the Commission's approval a by-law on the conduct and ethics required of the taxi owners and drivers to whom they provide services and empowers the Government to prescribe minimum provisions to be included in such a by-law.

The Act gives the Commission the power to determine the maximum number of taxi owner's permits for each servicing area.

It also authorizes the chair of the Commission to appoint an arbitrator to settle a dispute concerning the application of a by-law made by the holder of a taxi transportation service intermediary's permit.

The Act further provides that only an individual decision of the Commission may be contested before the Administrative Tribunal of Québec.

The Act contains provisions on transportation provided on a non-profit basis to intoxicated persons.

The Act also provides that, in the case of a second or subsequent conviction relating to the unlawful transport of persons by automobile, the judge makes an order ensuring that the automobile may not be used for a minimum period of 60 days.

Finally, the Act creates the Taxi Industry Advisory Panel and repeals the provisions relating to the Association professionnelle des chauffeurs de taxi du Québec, the Forum des intervenants de l'industrie du taxi and the taxi owners advisory committee.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting transportation services by taxi (R.S.Q., chapter S-6.01).

Bill 5

AN ACT TO AMEND THE ACT RESPECTING TRANSPORTATION SERVICES BY TAXI

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 3 of the Act respecting transportation services by taxi (R.S.Q., chapter S-6.01) is amended

(1) by inserting the following paragraph after paragraph 3:

“(3.1) transportation provided by a volunteer driver under the control of a non-profit organization or legal person that transports persons who are intoxicated, provided that

(a) the intoxicated person’s automobile is also driven to the destination;

(b) the service is not provided for pecuniary gain; and

(c) the organization or legal person keeps, at its head office, a permanent register of trips in which the pick-up point, information on the identity of the driver, the destination and the distance travelled are recorded;”;

(2) by replacing paragraph 4 by the following paragraph:

“(4) passenger transportation for baptisms, weddings and funerals, where the automobiles are given a mechanical inspection as prescribed by a government regulation under the Highway Safety Code (chapter C-24.2), or passenger transportation in antique automobiles over 30 years old, where the automobiles are given a mechanical inspection at least once a year;”.

2. Section 6 of the Act is amended by replacing the third paragraph by the following paragraph:

“A taxi owner’s permit to which a handicapped accessible taxi is attached authorizes the holder to provide transportation services to handicapped persons in

(1) any servicing area for which no other permit to which a handicapped accessible taxi is attached has been issued; and

(2) the territory served by a taxi transportation service intermediary described in the second paragraph of section 32 with whom the holder of the taxi owner's permit has entered into a contract.”

3. Section 10 of the Act is replaced by the following sections:

“**10.** In issuing taxi owner's permits for a particular servicing area, the Commission shall take into consideration, where applicable, the maximum number of permits that may be issued under section 10.1. However, it must consider any application of a person who shows that a permit is necessary to meet a specific need of any clientele the person identifies, in particular with respect to transportation services required by handicapped persons.

The Commission may set special conditions and restrictions applicable to the maintenance of any taxi owner's permit it issues.

For the purposes of the first and second paragraphs, a permit may only be issued after 10 June 2009 if the taxi to which the permit is attached is accessible to handicapped persons, unless the Commission is of the opinion that the number of handicapped accessible taxis is sufficient to meet the needs of those persons.

“**10.1.** The Commission may make a regulation setting the maximum number of taxi owner's permits that may be issued for each servicing area it specifies, for the services it identifies and subject to the conditions it determines. This number must, in the Commission's judgment, foster a healthy balance, in each servicing area, between the demand for taxi services and the profitability of enterprises holding taxi owner's permits. The conditions established by the Commission may limit the periods of service, the categories of clientele or any other aspect of operation. Such a regulation may be made only after consultation with, in particular, the holders of taxi owner's permits concerned.”

4. Section 18 of the Act is amended

(1) by replacing “grâce à” in the first paragraph in the French text by “à l'occasion de”;

(2) by striking out “contravened the first paragraph of section 21 or” in subparagraph 2 of the second paragraph;

(3) by replacing the third paragraph by the following paragraph:

“The Commission may suspend or revoke a taxi owner's permit if the holder

(1) has been found guilty in the last five years of a criminal or indictable offence related to the aptitudes and conduct required for the operation of a taxi transportation enterprise;

(2) has been found guilty in the last five years of a criminal or indictable offence related to the trafficking, importation or exportation of narcotics, or to poppy or cannabis production, and provided for in section 5, 6 or 7 of the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19); or

(3) has an interest of which notice has not been given in accordance with section 21.”

5. Section 20 of the Act is amended

(1) by replacing “and the Commission has received a copy of the contract, the Commission must satisfy itself that the creditor consents to the assignment or transfer” in the last sentence of the second paragraph by “, the transferor or the transferee must prove that the creditor consents to the assignment or transfer”;

(2) by striking out the last sentence of the fourth paragraph.

6. Section 26 of the Act is amended by replacing “grâce à” in subparagraph 2 of the first paragraph in the French text by “à l’occasion de”.

7. Section 32 of the Act is amended

(1) by striking out the last sentence of the first paragraph;

(2) by inserting the following paragraph after the first paragraph:

“Despite the first paragraph, a taxi transportation service intermediary who provides transportation services exclusively by means of handicapped accessible taxis may serve any servicing area comprised in the territory determined by order under the first paragraph that includes the servicing area for which the intermediary holds a permit.”

8. The Act is amended by inserting the following sections after section 34:

“34.1. Holders of a taxi transportation service intermediary’s permit must, not later than 180 days after the date the permit is issued, submit for the approval of the Commission a by-law on the conduct and ethics required of the taxi owners and drivers to whom they provide services.

Any changes made to the by-law by the permit holder must be submitted to the Commission for approval.

“34.2. The Commission may refuse to issue a taxi transportation service intermediary’s permit, or revoke or suspend such a permit, if the intermediary concerned

(1) has been found guilty in the last five years of a criminal or indictable offence committed while operating a taxi transportation enterprise or a taxi transportation service intermediary's enterprise;

(2) has been found guilty in the last five years of a criminal or indictable offence related to the aptitudes and conduct required to operate a taxi transportation service intermediary's enterprise; or

(3) has failed to pay a fine that is not under appeal and that was imposed under this Act, the Transport Act (chapter T-12) or the Highway Safety Code (chapter C-24.2).

It may also suspend or revoke an intermediary's permit, or impose conditions applicable to the maintenance of such a permit, if the intermediary concerned

(1) engages in practices that compromise the safety of users;

(2) fails to adopt, to submit for the Commission's approval or to apply the by-law referred to in section 34.1 or any changes made to it;

(3) fails to comply with or enforce the provisions of a regulation or by-law adopted under this Act, such as the provisions concerning hours of service, data collection and conservation, the passing of internal by-laws, conduct and ethics, and services to handicapped persons; or

(4) refuses to submit to an inspection or hinders the work of a person authorized to conduct such an inspection under this Act, the Highway Safety Code or the Transport Act.”

9. Chapter V of the Act, comprising sections 35 to 47, is repealed.

10. Section 67 of the Act is amended by inserting “, of a non-profit organization or legal person that transports persons who are intoxicated” after “intermediary's permit” in subparagraph 1 of the first paragraph.

11. Section 71 of the Act is amended by replacing the second paragraph by the following paragraphs:

“A peace officer who seizes an automobile has custody of it, at the owner's expense, until a court having jurisdiction declares it confiscated or orders that it be returned to its owner. The judge who makes such an order may subject the return of the automobile to certain conditions.

In the case of a subsequent offence under paragraph 1 of section 117 of which the defendant is convicted or deemed convicted, the judge shall make an order, with the conditions the judge determines, to ensure that the automobile is not used for a minimum period of 60 days.”

12. Chapter IX of the Act, comprising sections 72 to 78, is replaced by the following chapter:

“CHAPTER IX

“TAXI INDUSTRY ADVISORY PANEL

“72. The Taxi Industry Advisory Panel is hereby established.

The role of the Panel is

(1) to foster concerted action between the main stakeholders in the taxi industry with regard to the commercial practices prevailing in the industry; and

(2) to advise the Minister on measures designed to develop the taxi industry and improve the quality of services, a task which includes making recommendations to the Minister on which a consensus has been reached.

“73. The Panel shall be composed of a chair and not more than nine members to be appointed by the Minister to represent the holders of taxi driver’s permits, taxi transportation service intermediaries, the holders of taxi owner’s permits, including those that provide specialized transportation services, and users.”

13. Section 80 of the Act is amended by striking out “, where the latter has sent a copy of the contract to the Commission,” and “and the Association professionnelle des chauffeurs de taxi du Québec” in the first paragraph.

14. Section 82 of the Act is amended by adding the following paragraph at the end:

“Following an inquiry, the Commission may also, where a holder of a taxi driver’s permit has charged a higher fare than that fixed by the Commission, order the Société or the authority referred to in section 25 to suspend the permit for a period determined by the Commission. The Société or authority must suspend the permit as soon as the notice of suspension is received from the Commission.”

15. The Act is amended by inserting the following after section 84:

“CHAPTER X.1

“ARBITRATION

“84.1. The chair of the Commission may, on request from either party, appoint an arbitrator to settle a dispute concerning the application of a provision of any conduct and ethics by-law between the holder of a taxi transportation service intermediary’s permit and a taxi owner or driver to whom the former provides services.

“84.2. The arbitrator may not have an interest in the dispute or have acted as a representative of either party.

“84.3. The arbitrator has all the powers necessary for the exercise of his or her jurisdiction. The arbitrator settles the dispute in accordance with the applicable rules of law and decides on every question of fact. The arbitrator may, in particular, order either party to do or not do something.

“84.4. The arbitrator’s decision must be rendered promptly. It must be in writing, give reasons and be signed. It must be forwarded without delay to the parties. The decision forms part of the records of the Commission.

No appeal lies from the arbitrator’s decision.

“84.5. The arbitrator may not be prosecuted for an official act in good faith in the exercise of arbitration functions.”

16. Section 85 of the Act is amended by replacing “Any decision” by “Only an individual decision”.

17. Section 88 of the Act is amended by adding the following subparagraph after subparagraph 2 of the first paragraph:

“(2.1) prescribing the minimum provisions to be included in the conduct and ethics by-law that a permit holder must submit to the Commission for approval under section 34.1;”.

18. Sections 135 and 136 of the Act are repealed.

19. Order in Council 736-2002 dated 12 June 2002 (2002, G.O. 2, 3254) concerning the maximum number of taxi owner’s permits per servicing area and certain conditions of operation is deemed to be a regulation made by the Commission des transports du Québec under section 10.1 of the Act respecting transportation services by taxi, enacted by section 3, and continues to apply until the coming into force of a regulation to replace it adopted by the Commission after 10 June 2009.

20. The applications received by the Minister of Transport under the third paragraph of section 10 of the Act respecting transportation services by taxi as it read on 9 June 2009 and the documents relating to such applications become documents of the Commission des transports du Québec as of 10 June 2009 if they are still pending at that date and if they concern the functions referred to in section 10.1 of the Act respecting transportation services by taxi, enacted by section 3.

21. For the purposes of sections 34.1 and 34.2 of the Act respecting transportation services by taxi, enacted by section 8, persons that hold a taxi transportation service intermediary's permit on *(insert the date of coming into force of the first regulation made under subparagraph 2.1 of the first paragraph of section 88 of the Act respecting transportation services by taxi, enacted by section 17)* must, not later than the 180th day following that date, submit for the approval of the Commission des transports du Québec a by-law on the conduct and ethics required of the taxi owners and drivers to whom they provide services.

22. This Act comes into force on 10 June 2009, except

- (1) paragraph 2 of section 1, which comes into force on 10 June 2010; and
- (2) section 34.1, subparagraph 2 of the second paragraph of section 34.2 of the Act respecting transportation services by taxi, enacted by section 8, and section 21, which come into force on the date or dates to be set by the Government.

