

**Gazette**  
officielle

<sup>DU</sup>  
**Québec**

**Part**

**2**

**No. 51**

23 December 2009

**Laws and Regulations**

Volume 141

## **Summary**

Table of Contents

Acts 2009

Index

Legal deposit – 1st Quarter 1968  
Bibliothèque nationale du Québec  
© Éditeur officiel du Québec, 2009

All rights reserved in all countries. No part of this publication may be translated, used or reproduced for commercial purposes by any means, whether electronic or mechanical, including micro-reproduction, without the written authorization of the Québec Official Publisher.

# NOTICE TO USERS

---

The *Gazette officielle du Québec* is the means by which the Québec Government makes its decisions official. It is published in two separate editions under the authority of the Act respecting the Centre de services partagés du Québec (R.S.Q., c. C-8.1.1) and the Regulation respecting the *Gazette officielle du Québec* (Order in Council 1259-97 dated 24 September 1997), amended by the Regulation to amend the Regulation respecting the *Gazette officielle du Québec* (Order in Council 264-2004 dated 24 March 2004 (2004, G.O. 2, 1176). Partie 1, entitled “Avis juridiques”, is published at least every Saturday. If a Saturday is a legal holiday, the Official Publisher is authorized to publish it on the preceding day or on the following Monday. Partie 2, entitled “Lois et règlements”, and the English edition, Part 2 “Laws and Regulations”, are published at least every Wednesday. If a Wednesday is a legal holiday, the Official Publisher is authorized to publish them on the preceding day or on the Thursday following such holiday.

## Part 2 – LAWS AND REGULATIONS

### Internet

The *Gazette officielle du Québec* Part 2 will be available on the Internet at noon each Wednesday at the following address:

[www.publicationsduquebec.gouv.qc.ca](http://www.publicationsduquebec.gouv.qc.ca)

### Contents

Part 2 contains:

- (1) Acts assented to, before their publication in the annual collection of statutes;
- (2) proclamations of Acts;
- (3) regulations made by the Government, a minister or a group of ministers and of Government agencies and semi-public agencies described by the Charter of the French language (R.S.Q., c. C-11), which before coming into force must be approved by the Government, a minister or a group of ministers;
- (4) decisions of the Conseil du trésor and ministers’ orders whose publications in the *Gazette officielle du Québec* is required by law or by the Government;
- (5) regulations and rules made by a Government agency which do not require approval by the Government, a minister or a group of ministers to come into force, but whose publication in the *Gazette officielle du Québec* is required by law;
- (6) rules of practice made by judicial courts and quasi-judicial tribunals;
- (7) drafts of the texts mentioned in paragraph 3 whose publication in the *Gazette officielle du Québec* is required by law before their adoption or approval by the Government.

### French edition

In addition to the documents referred to in paragraphs 1 to 7 above, the French version of the *Gazette officielle du Québec* contains the orders in council of the Government.

### Rates\*

1. Annual subscription:

	Printed version	Internet
Partie 1 “Avis juridiques”:	\$185	\$163
Partie 2 “Lois et règlements”:	\$253	\$219
Part 2 “Laws and Regulations”:	\$253	\$219

2. Acquisition of a printed issue of the *Gazette officielle du Québec*: \$9.54 per copy.

3. Downloading of documents from the Internet version of the *Gazette officielle du Québec* Part 2: \$6.74.

4. Publication of a notice in Partie 1: \$1.29 per agate line.

5. Publication of a notice in Part 2: \$0.85 per agate line. A minimum rate of \$186 is applied, however, in the case of a publication of fewer than 220 agate lines.

\* Taxes not included.

### General conditions

The Division of the *Gazette officielle du Québec* must receive manuscripts, **at the latest, by 11:00 a.m. on the Monday** preceding the week of publication. Requests received after that time will appear in the following edition. All requests must be accompanied by a signed manuscript. In addition, the electronic version of each notice to be published must be provided by e-mail, to the following address: [gazette.officielle@cspq.gouv.qc.ca](mailto:gazette.officielle@cspq.gouv.qc.ca)

For information concerning the publication of notices, please call:

**Gazette officielle du Québec**  
**1000, route de l’Église, bureau 500**  
**Québec (Québec) G1V 3V9**  
**Telephone: 418 644-7794**  
**Fax: 418 644-7813**  
**Internet: [gazette.officielle@cspq.gouv.qc.ca](mailto:gazette.officielle@cspq.gouv.qc.ca)**

### Subscriptions

Internet: [www.publicationsduquebec.gouv.qc.ca](http://www.publicationsduquebec.gouv.qc.ca)

Printed:

**Les Publications du Québec**  
Customer service – Subscriptions  
1000, route de l’Église, bureau 500  
Québec (Québec) G1V 3V9  
Telephone: 418 643-5150  
Toll free: 1 800 463-2100  
Fax: 418 643-6177  
Toll free: 1 800 561-3479

**All claims must be reported to us within 20 days of the shipping date.**

---

## Table of Contents

---

Page

---

### Acts 2009

---

15	An Act to amend the Courts of Justice Act and the Act respecting municipal courts with regard to court security . . . . .	4169
24	An Act to amend various legislative provisions concerning health . . . . .	4175
56	An Act to amend the Act respecting health services and social services with regard to the certification of certain resources offering lodging to vulnerable clientele . . . . .	4193
59	An Act to amend the Tobacco Tax Act and other legislative provisions primarily to counter tobacco smuggling . . . . .	4199
	List of Bills sanctioned (19 November 2009) . . . . .	4167



**PROVINCE OF QUÉBEC**

1ST SESSION

39TH LEGISLATURE

QUÉBEC, 19 NOVEMBER 2009

## OFFICE OF THE LIEUTENANT-GOVERNOR

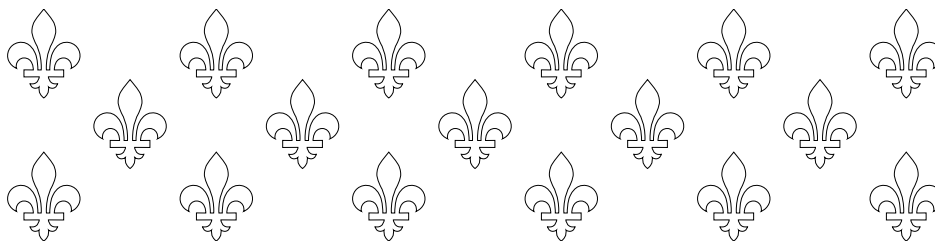
*Québec, 19 November 2009*

This day, at nineteen minutes past four o'clock in the afternoon, His Excellency the Lieutenant-Governor was pleased to sanction the following bills:

- 15 An Act to amend the Courts of Justice Act and the Act respecting municipal courts with regard to court security
- 24 An Act to amend various legislative provisions concerning health
- 56 An Act to amend the Act respecting health services and social services with regard to the certification of certain resources offering lodging to vulnerable clientele (*modified title*)
- 59 An Act to amend the Tobacco Tax Act and other legislative provisions primarily to counter tobacco smuggling

To these bills the Royal assent was affixed by His Excellency the Lieutenant-Governor.





---

---

# NATIONAL ASSEMBLY

---

---

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 15  
(2009, chapter 44)

**An Act to amend the Courts of Justice Act  
and the Act respecting municipal courts  
with regard to court security**

---

---

**Introduced 12 March 2009  
Passed in principle 15 September 2009  
Passed 12 November 2009  
Assented to 19 November 2009**

---

**Québec Official Publisher  
2009**

## **EXPLANATORY NOTES**

*This Act amends the Courts of Justice Act to specify the responsibilities of the Minister of Justice and the Minister of Public Security with regard to security in buildings occupied or used by the Court of Appeal, the Superior Court and the Court of Québec. To this end, it prohibits the possession on such premises, except by lawfully authorized persons, of firearms or other objects that may be used to cause bodily harm to or threaten or intimidate a person. It also makes it obligatory to submit to security screening in order to gain access to and move through such premises.*

*The new provisions list the screening measures that may be used, establish a framework for their use, and exempt certain persons from being screened.*

*Finally, municipalities are granted the power to implement security screening measures in their municipal courts.*

## **LEGISLATION AMENDED BY THIS ACT:**

- Act respecting municipal courts (R.S.Q., chapter C-72.01);
- Courts of Justice Act (R.S.Q., chapter T-16).



## Bill 15

### AN ACT TO AMEND THE COURTS OF JUSTICE ACT AND THE ACT RESPECTING MUNICIPAL COURTS WITH REGARD TO COURT SECURITY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** The Courts of Justice Act (R.S.Q., chapter T-16) is amended by inserting the following after Part VII:

#### “PART VII.1

#### “COURT SECURITY

“**282.0.1.** The Minister of Justice and the Minister of Public Security are responsible, in their respective spheres of authority, for security in the buildings or parts of buildings occupied or used by the Court of Appeal, the Superior Court and the Court of Québec.

“**282.0.2.** In a building or part of a building described in section 282.0.1, no person may be in possession of a firearm within the meaning of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or of any other object that could be used to cause bodily harm to or threaten or intimidate a person.

A peace officer engaged in security screening may authorize a person to be in possession of such an object, other than a firearm, if the peace officer has reasonable grounds to believe that it will not be used to cause bodily harm to or threaten or intimidate a person.

The first paragraph does not apply to persons lawfully authorized to carry a weapon.

“**282.0.3.** No person may enter a building or part of a building described in section 282.0.1 without submitting to the security screening measures in effect.

“**282.0.4.** A person who refuses to comply with section 282.0.3 may not be admitted to the building or part of the building where security screening measures are in effect, and, if applicable, must leave the premises immediately. A person who refuses to leave may be ejected.

**“282.0.5.** The Ministers may establish security screening measures in the buildings or parts of buildings described in section 282.0.1 to determine whether persons entering are in possession of an object prohibited under section 282.0.2.

Such measures are to be established in consultation with the chief justice or chief judge of each of the courts concerned and, if the measures bear upon them, with the Barreau du Québec, the Chambre des notaires du Québec and the Chambre des huissiers de justice du Québec.

**“282.0.6.** As appropriate in the circumstances, security screening may include one or more of the following measures:

- (1) requiring passage through an upright metal detector;
- (2) submitting briefcases, handbags and personal effects to fluoroscopic or visual inspection;
- (3) conducting a pat-down frisk search or a search with a hand-held metal detector;
- (4) any other screening measure prescribed by joint ministerial regulation.

Once inside the building or part of the building, persons may be re-screened if a peace officer has reasonable grounds to suspect that the safety of users or the public is at risk or that a person is in possession of an object prohibited under section 282.0.2.

A pat-down frisk search may be conducted only if there are reasonable grounds to suspect that the person concerned is in possession of an object prohibited under section 282.0.2. A pat-down frisk search must be conducted by a person of the same sex as the person being searched, except in cases of necessity.

**“282.0.7.** Security screening measures may vary depending on the building or part of the building where they apply.

**“282.0.8.** Security screening is conducted by peace officers, who may be assisted by security officers, as determined by the Minister of Public Security.

**“282.0.9.** Despite section 282.0.3, the following persons may, after having identified themselves and proved their status to security screening officers, enter a building or part of a building where security screening is conducted without being screened:

- (1) persons entered on the roll of one of the following professional orders, and their articulated students: the Barreau du Québec, the Chambre des notaires du Québec and the Chambre des huissiers de justice du Québec;

(2) peace officers;

(3) any other person who shows a special authorization issued by the Minister of Justice or the Minister of Public Security or a delegate of the Minister of Justice or the Minister of Public Security; and

(4) persons included in the categories of persons who may use security devices, determined by joint regulation of the Ministers, to gain access to a building or part of a building.

The Ministers may, by joint order and after consultation with the professional orders concerned, cancel the exemptions provided for in the first paragraph, except with regard to the persons specified in subparagraph 2 of that paragraph, in the building or part of the building designated in the order.

**“282.0.10.** The Ministers may, by joint regulation, determine the security devices by which a person may gain access to a building or part of a building without being subject to security screening, and prescribe the conditions for their application and use.

The regulation may specify the categories of persons who may use such security devices.

Despite section 282.0.3, persons who use such security devices are not subject to security screening.

**“282.0.11.** Persons referred to in section 282.0.9 are not exempted from the re-screening measures that may be applied once a person is inside a building, if a peace officer has reasonable grounds to suspect that the safety of users or the public is at risk or that a person is in possession of an object prohibited under section 282.0.2.

**“282.0.12.** A notice informing users and the public of the prohibitions and security screening measures in effect must be prominently posted in the building or part of the building where the prohibitions and measures apply. The notice must state that persons who do not wish to submit to security screening will not be admitted to the premises or must leave the premises, as the case may be. The notice must also state that refusing to submit to security screening or leaving the premises does not release a person from any obligation to be on the premises, for instance for the purposes of legal proceedings.

**“282.0.13.** This Part does not affect the right of judges of the courts to uninhibited access to buildings or parts of buildings where security screening is in effect.”

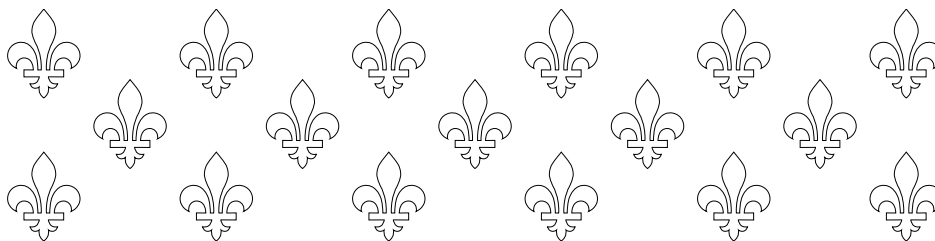
**2.** The Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by inserting the following section after section 88:

**“88.1.** The municipality responsible for the administration of a municipal court may, by a resolution and after consultation with the judge of the court, the judge responsible for the court or the president judge, as the case may be, render Part VII.1 of the Courts of Justice Act (chapter T-16) applicable in any building or part of a building where the court holds its sittings. In such a case, the municipality or its delegate exercises, with the necessary modifications, the powers granted under that Part to the Minister of Justice and the Minister of Public Security.

Security screening costs shall be assumed by the municipality that established the court or by the municipalities that are party to the agreement to establish the court, as the case may be.”

**3.** The expression “security officer” in section 282.0.8, enacted by section 1, is replaced by “security guard agent” as of the coming into force of paragraph 1 of section 17 of the Private Security Act (R.S.Q., chapter S-3.5).

**4.** This Act comes into force on 19 November 2009.



---

---

# NATIONAL ASSEMBLY

---

---

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 24  
(2009, chapter 45)

## **An Act to amend various legislative provisions concerning health**

---

---

**Introduced 12 March 2009**  
**Passed in principle 19 May 2009**  
**Passed 18 November 2009**  
**Assented to 19 November 2009**

---

**Québec Official Publisher**  
**2009**

## EXPLANATORY NOTES

*This Act proposes various amendments to health legislation.*

*It introduces a plan to compensate victims of products distributed by Héma-Québec, regardless of liability.*

*The Act provides for the establishment of a public health ethics committee by the Institut national de santé publique du Québec. It broadens the government plan to protect the public against disease to cover all vector-borne diseases, including the West Nile virus. The Act also makes certain clarifications regarding the transmission of information pertaining to public health threats.*

*Lastly, amendments are made to the Health Insurance Act, the Youth Protection Act, the Act respecting prehospital emergency services and the Act respecting health services and social services. With respect to the latter Act, certain provisions are clarified relating in particular to the use of information for the purpose of soliciting gifts, the complaints examination procedure, in-patients' committees and users' committees.*

## LEGISLATION AMENDED BY THIS ACT:

- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting Héma-Québec and the haemovigilance committee (R.S.Q., chapter H-1.1);
- Act respecting Institut national de santé publique du Québec (R.S.Q., chapter I-13.1.1);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting medical laboratories, organ, tissue, gamete and embryo conservation, and the disposal of human bodies (R.S.Q., chapter L-0.2);
- Youth Protection Act (R.S.Q., chapter P-34.1);

- 
- Public Health Act (R.S.Q., chapter S-2.2);
  - Act respecting health services and social services (R.S.Q., chapter S-4.2);
  - Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);
  - Act respecting prehospital emergency services (R.S.Q., chapter S-6.2);
  - Act to amend the Act respecting health services and social services and other legislative provisions (2005, chapter 32).





## Bill 24

### AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING HEALTH

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### HEALTH INSURANCE ACT

**1.** Section 3 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by replacing the first sentence in the last paragraph by the following sentence: “A service provided by a physician who is in a period of training in family medicine or to obtain a specialist’s certificate for the first time is not an insured service unless it is provided in a facility maintained by an institution other than the facility where the physician undergoes the training or for the Corporation d’urgences-santé.”

**2.** Section 65 of the Act is amended by replacing the tenth paragraph by the following paragraph:

“The Board may also transmit to the Ministère de la Sécurité publique and the Commission québécoise des libérations conditionnelles, on request, the address, telephone number, language code and, if applicable, the date of death of a person entered in its register of beneficiaries to allow the information described in section 175 of the Act respecting the Québec correctional system (chapter S-40.1) to be released.”

**3.** Section 67 of the Act is amended by inserting the following paragraph after the ninth paragraph:

“It does not prohibit the communication to the Minister of Health and Social Services, in accordance with the conditions and formalities prescribed by the Act respecting Access to documents held by public bodies and the Protection of personal information, of information required to assess and evaluate health and social services under subparagraph 13 of the second paragraph of section 431 of the Act respecting health services and social services (chapter S-4.2).”

#### ACT RESPECTING HÉMA-QUÉBEC AND THE HAEMOVIGILANCE COMMITTEE

**4.** The Act respecting Héma-Québec and the haemovigilance committee (R.S.Q., chapter H-1.1) is amended by inserting the following chapter after section 54:

**“CHAPTER II.1****“COMPENSATION FOR VICTIMS OF A HÉMA-QUÉBEC PRODUCT**

**“54.1.** In this chapter, unless the context indicates otherwise,

“bodily injury” means any physical or mental injury suffered by a victim, including death but excepting any adverse effects determined by regulation;

“Héma-Québec product” means any product distributed by Héma-Québec, except products used for research or clinical trials, unless the Minister decides otherwise;

“victim” means a person who received a Héma-Québec product through a transfusion or graft, a person who contracted a disease from a person who received a Héma-Québec product, or a child conceived and born alive and viable of either of such persons or, if death occurs, the person who is entitled to a death benefit.

**“54.2.** The Minister must compensate, regardless of liability, a victim of bodily injury caused by a defect in or contamination, by known or unknown pathogens, of a Héma-Québec product.

The medical act leading to the injury must have taken place in Québec.

**“54.3.** Compensation under this chapter is the same as that provided for by the Automobile Insurance Act (chapter A-25) and its regulations, with the necessary modifications.

**“54.4.** Entitlement to compensation is prescribed three years after the date on which the bodily injury becomes apparent.

However, if an injury becomes apparent gradually, the time limit runs from the day the injury first becomes apparent.

**“54.5.** Compensation under this chapter stands in lieu of all rights and remedies against Héma-Québec, the members of its governing board and its employees by reason of bodily injury.

However, in cases where it is not otherwise prohibited by law, the victim may institute civil proceedings against any other person liable for the bodily injury.

**“54.6.** The Minister is subrogated by operation of law to the rights and actions of the victim against the person liable for the bodily injury up to the amount of the compensation paid by the Minister or of the capital representing the pension to be paid by the Minister.

The subrogation is prescribed three years after the date of the Minister's decision to compensate the victim.

**“54.7.** A claimant who believes he or she has been wronged by a decision of the Minister under section 54.2 or 54.3 may, within 60 days of the date of notification of the decision, contest the decision before the Administrative Tribunal of Québec.

**“54.8.** A proceeding before the Administrative Tribunal of Québec does not suspend the payment of compensation.

**“54.9.** The sums necessary for the purposes of this chapter are taken out of the consolidated revenue fund.

**“54.10.** The Minister may, by agreement, entrust to a public body the management of all or part of a compensation plan for victims of a Héma-Québec product.

**“54.11.** The Government must, by regulation,

(1) determine the conditions that must be met by a person claiming compensation under this chapter; and

(2) determine which adverse effects are not bodily injuries.

**“54.12.** This chapter applies to victims of Héma-Québec products administered after 27 September 1998. However, a victim whose right of recourse is prescribed when this section comes into force is not entitled to the compensation provided for in section 54.2.”

#### ACT RESPECTING INSTITUT NATIONAL DE SANTÉ PUBLIQUE DU QUÉBEC

**5.** The Act respecting Institut national de santé publique du Québec (R.S.Q., chapter I-13.1.1) is amended by inserting the following sections after section 19:

**“19.1.** The institute is to establish a public health ethics committee.

**“19.2.** The main function of the ethics committee is to give its opinion on the ethics of the proposed surveillance plans and surveys on health and social issues drawn up under the Public Health Act (chapter S-2.2) and submitted to it by the Minister and public health directors.

The committee may, in particular, give its opinion on

(1) the purpose of ongoing surveillance and the indicators or health determinants selected for a surveillance plan or a survey; and

(2) the type of information it will be necessary to collect, the sources of information to be used and the analytic study envisaged.

“**19.3.** The ethics committee may also give its opinion on any ethical question that may arise in the application of the Public Health Act, in particular, on the activities or actions provided for in the national public health program or in regional or local public health action plans.

“**19.4.** The composition and the operating procedures of the ethics committee are determined by the institute.

The committee, however, must include

- (1) an ethicist;
- (2) three representatives of the general public who have no professional ties to the health and social services system;
- (3) a public health director; and
- (4) two public health professionals, including one who practises in a health and social services institution; and
- (5) a lawyer.

“**19.5.** The opinions of the ethics committee are public, subject to the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

#### ACT RESPECTING ADMINISTRATIVE JUSTICE

**6.** Section 5 of Schedule 1 to the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by inserting the following paragraph after paragraph 5:

“(5.1) proceedings against decisions pertaining to compensation for victims, brought under section 54.7 of the Act respecting Héma-Québec and the haemovigilance committee (chapter H-1.1);”.

#### ACT RESPECTING MEDICAL LABORATORIES, ORGAN, TISSUE, GAMETE AND EMBRYO CONSERVATION, AND THE DISPOSAL OF HUMAN BODIES

**7.** Division IV.1 of the Act respecting medical laboratories, organ, tissue, gamete and embryo conservation, and the disposal of human bodies (R.S.Q., chapter L-0.2), comprising sections 24.1 to 24.6, is repealed.

## YOUTH PROTECTION ACT

**8.** Section 32 of the Youth Protection Act (R.S.Q., chapter P-34.1) is amended by inserting the following paragraphs after the first paragraph:

“Despite the first paragraph, the director may, if the director considers that the situation warrants it, authorize, in writing and to the extent the director specifies, a person who is not a member of the director’s staff to assess a child’s situation and living conditions as provided for in subparagraph *b* of the first paragraph if the person is

(a) a member of the personnel of an institution operating a child and youth protection centre;

(b) a member of the personnel of an institution operating a rehabilitation centre for young persons with adjustment problems; or

(c) a member of a Native community designated by the director within the scope of an agreement between an institution operating a child and youth protection centre and the Native community.

Authorization granted to a person who is not a member of the director’s staff is valid only for the purposes of the assessment and not for the purpose of deciding whether the child’s security or development is in danger. The director may withdraw the authorization at any time.”

**9.** Section 81 of the Act is amended by replacing the second paragraph by the following paragraphs:

“The child, the child’s parents and the director are parties to the hearing.

The Commission may, *ex officio*, intervene at the proof and hearing as if it were a party to it. The same applies to the Public Curator if a tutorship is concerned.”

**10.** Section 85 of the Act is amended by replacing “and 321 to 331” by “, 321 to 331, 863.3 and 886”.

**11.** Section 96 of the Act is amended by inserting the following subparagraphs at the end of the first paragraph:

“(j) the tutor appointed under section 70.1 or replaced under section 70.4, with regard to the record of the tribunal kept under sections 70.1 to 70.6;

“(k) the Public Curator, with regard to the record of the tribunal kept under sections 70.1 to 70.6.”

## PUBLIC HEALTH ACT

**12.** Chapter III of the Public Health Act (R.S.Q., chapter S-2.2), comprising sections 19 to 32, is repealed.

**13.** Section 36 of the Act is amended by replacing “ethics committee” in the first and second paragraphs by “ethics committee of the Institut national de santé publique du Québec”.

**14.** Section 43 of the Act is amended by replacing “ethics committee” in the first paragraph by “ethics committee of the Institut national de santé publique du Québec”.

**15.** The Act is amended by inserting the following section after section 51:

**“51.1.** The Minister may, in order to identify real or apprehended health threats for the population of two or more regions, make regulations to determine the information that public health directors must send the Minister and the conditions on which they are to do so.

The information sent must be provided in a form that ensures anonymity.”

**16.** Section 52 of the Act is amended by inserting “the information,” after “assume the management of” and by striking out “of the systems and registries”.

**17.** Section 95 of the Act is amended

(1) by striking out “a physician,” in the second paragraph;

(2) by inserting “, other than a physician,” after “health professional” in the second paragraph.

**18.** The Act is amended by inserting the following division after section 130:

**“DIVISION IV****“GOVERNMENT PLAN OF ACTION TO PROTECT THE PUBLIC FROM VECTOR-BORNE DISEASES, INCLUDING THE WEST NILE VIRUS**

**“130.1.** If the health of the public is threatened by vectors capable of transmitting a disease such as that caused by the West Nile virus, the Government may establish and implement a plan of action to control the vectors, on a joint proposal of the Minister of Health and Social Services, the Minister of Sustainable Development, Environment and Parks and the Minister of Agriculture, Fisheries and Food, after consultation with the Minister of Municipal Affairs, Regions and Land Occupancy.

**“130.2.** The measures provided for in the government plan of action may call for the use of chemical pesticides only if the other measures available are considered to be insufficient.

Measures that call for the use of pesticides are exempt from the application of any general or special legislative or regulatory provision, including a municipal by-law, that prevents or delays their implementation. However, Division IV.1 of the Environment Quality Act (chapter Q-2), which deals with the environmental impact assessment and review of certain projects, continues to apply to the measures provided for in the government plan of action, as does the Regulation respecting environmental impact assessment and review (R.R.Q., 1981, chapter Q-2, r. 9).

Furthermore, when the measures provided for in the government plan of action call for a pesticide treatment from the air or in an aquatic environment with a surface outlet flowing towards a drainage basin, the Minister of Health and Social Services must notify the Minister of Natural Resources and Wildlife, the Minister of Sustainable Development, Environment and Parks and the Minister of Agriculture, Fisheries and Food one week before application is to begin.

**“130.3.** Using the means considered to be the most efficient, the Minister of Health and Social Services must give the municipalities and the public concerned prior notification of the planned application of pesticides and information on the measures affording the best protection against the harmful effects of the pesticides.

**“130.4.** No person may hinder the implementation of the measures provided for in the government plan of action. The owner, lessee or occupant of a parcel of land is required to give free access to the land at all times so that the measures, in particular the use of pesticides, may be implemented.

**“130.5.** The government plan of action must be updated annually, if necessary, and made public.

As soon as the plan of action is made public, the competent committee of the National Assembly must allow any interested person, group or organization to submit a brief or written comments on the plan, and may hold hearings.

**“130.6.** A report on the measures implemented to protect the public from the threat posed by disease-bearing vectors must be filed, within three months after the measures have been taken, with the Minister of Health and Social Services, who must immediately send a copy of the report to the other ministers concerned. The Minister must make the report public within 30 days after it is received.”

**19.** Section 137 of the Act is amended by striking out paragraph 3.

## ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

**20.** Section 19 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), amended by section 19 of chapter 30 of the statutes of 2007, is again amended

(1) by replacing “third paragraph of section 185.1” in paragraph 7 by “second paragraph of section 185.1”;

(2) by adding the following paragraph at the end:

“(11) to a person or body if the information is held by an institution operating a child and youth protection centre or a rehabilitation centre and is required for the purposes of the Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1), for the rehabilitation or social reintegration of the user or for the protection of the public.”

**21.** Section 27.3 of the Act is amended by adding the following paragraph at the end:

“If the user is under 14 years of age, the institution may use the name and address of the user’s father or mother for the same purpose. The other provisions of this section then apply in respect of that person as though the person were a user.”

**22.** Section 42 of the Act is amended by adding the following paragraph at the end:

“The medical examiner is answerable to the board of directors for the application of the complaint examination procedure in cases involving a physician, dentist or pharmacist, or a resident.”

**23.** Section 82 of the Act is amended by replacing “Act respecting young offenders (Revised Statutes of Canada, 1985, chapter Y-1)” in the first paragraph by “Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1)”.

**24.** Section 87 of the Act is amended by adding the following paragraph after paragraph 3:

“(4) rehabilitation centres for persons with language impairment.”

**25.** Section 91 of the Act is amended by striking out “subparagraph 1 of” in the first paragraph.

**26.** Section 108 of the Act is amended by replacing “second” in the fifth paragraph by “fourth”.

**27.** Section 129 of the Act is amended by replacing “users’ committee of the institution” in paragraph 2 by “institution’s users’ committee or committees”.



**28.** Section 182 of the Act is amended

- (1) by striking out “38,” in the first paragraph;
- (2) by inserting “42, 43,” after “39,” in the first paragraph.

**29.** Section 209 of the Act is amended by inserting the following paragraph after the first paragraph:

“However, an institution operating a residential and long-term care centre that has facilities in more than one region of Québec may choose to set up one users’ committee for each region or a single users’ committee for two or more regions, the committee members being elected by the users of the region or regions concerned.”

**30.** The Act is amended by inserting the following section after section 209:

**“209.0.1.** Despite the third paragraph of section 209, an institution may choose not to set up an in-patients’ committee for a facility that provides lodging to fewer than 10 users or that expects to provide lodging to most of its users for a period of less than six months.

In such a case, after consulting its users’ committee, the institution must either entrust the exercise of the functions set out in section 212.1 to the users’ committee, or group the facility together with one or more other facilities maintained by the institution in order to establish a single in-patients’ committee for all those facilities.

Sections 209 to 212.1 then apply, with the necessary modifications.

Each year, the institution must assess the effectiveness of the measure chosen under the second paragraph and, if need be, modify it in accordance with this section.”

**31.** Section 212 of the Act is amended by inserting the following subparagraph after subparagraph 5 of the first paragraph:

“(6) to assess the effectiveness of any measure implemented under section 209.0.1.”

**32.** Section 343 of the Act is amended by inserting “and in-patients committees” after “committees” in the first paragraph.

**33.** Section 370.1 of the Act is amended by replacing subparagraph 6 of the second paragraph by the following subparagraph:

“(6) one nurse designated by the members referred to in subparagraphs 1 to 5, recognized for leading-edge expertise in clinical nursing practice.”

**34.** Section 372 of the Act is amended by adding “who shall also act as the head of any clinical department of public health” at the end of the first paragraph.

**35.** Section 392 of the Act is amended by replacing “Parliamentary Committee on Social Affairs” in the second paragraph by “competent parliamentary committee of the Assembly”.

**36.** Section 518 of the Act is amended by replacing “Act respecting young offenders (Revised Statutes of Canada, 1985, chapter Y-1)” by “Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1)”.

**37.** Section 530.80 of the Act is amended by replacing “Parliamentary Committee on Social Affairs” in the third paragraph by “competent parliamentary committee of the Assembly”.

#### ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

**38.** Section 152 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5) is amended

(1) by replacing “Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1)” in the first paragraph by “Youth Criminal Justice Act (Statutes of Canada, 2002, chapter 1)”;

(2) by replacing “Young Offenders Act” in the second paragraph by “Youth Criminal Justice Act”.

#### ACT RESPECTING PREHOSPITAL EMERGENCY SERVICES

**39.** Section 3 of the Act respecting prehospital emergency services (R.S.Q., chapter S-6.2) is amended by adding the following paragraph at the end:

“The Minister may, by agreement, mandate health and social services agencies to collect, record or update specified data, on behalf of the Minister, for the establishment or maintenance of the registry referred to in subparagraph 10 of the second paragraph.”

**40.** The Act is amended by inserting the following section after section 25:

**“25.1.** Every health communication centre must enter into a management agreement containing at least the following elements with the agencies whose area of jurisdiction it serves:

(1) the centre’s operational objectives, the measures to be taken to achieve them, policy directions for consolidation and technological development, the staffing plan, the financial resources and the main indicators to be used in measuring results; and

(2) the manner in which periodic reports are to be produced.

In addition, the agency designated by and from among the agencies that sign the agreement must ensure compliance with the agreement and the achievement of the centre's objectives. The agreement is a public document that the designated agency must send to the Minister."

**41.** Section 30 of the Act is replaced by the following section:

**"30.** In order to enable an agency whose area of jurisdiction it serves to conduct the verifications necessary for the exercise of its functions and to ensure the availability of resources and the accessibility of services, the health communication centre shall, on request, collect and provide the agency with any information or reports relating to the pre-hospital operations carried out in that area of jurisdiction, including those carried out by the ambulance and first responder services."

**42.** The Act is amended by inserting the following section after section 64:

**"64.1.** An ambulance technician's name, the technician's practice status, the continuing education activities in which the technician has taken part and the date of the technician's first and subsequent registrations in the national workforce registry are entered in the national workforce registry and are public information.

In addition, the Government may, by regulation, determine which of the other information in the registry is public information."

**43.** The Act is amended by inserting the following section after section 171:

**"171.1.** Any person who, on (*insert the date of coming into force of this section*), does not hold a valid ambulance technician qualification card issued by an agency or the Corporation d'urgences-santé de la région de Montréal métropolitain but held such a card in the three years preceding the coming into force of the regulation respecting the conditions to be met by an ambulance technician for registration in the national workforce registry made by the Government under section 64, and who trains ambulance technicians or works in quality assurance or pre-hospital service management, may be registered in the national workforce registry."

#### ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AND OTHER LEGISLATIVE PROVISIONS

**44.** Section 339 of the Act to amend the Act respecting health services and social services and other legislative provisions (2005, chapter 32) is amended by replacing "hours" by "months".

## OTHER PROVISIONS

**45.** The members of the public health ethics committee, established under the Public Health Act (R.S.Q., chapter S-2.2), who are in office on 19 November 2009 are deemed to have been designated by the Institut national de santé publique du Québec as members of the ethics committee established under the Act respecting Institut national de santé publique du Québec (R.S.Q., chapter I-13.1.1). The members remain in office until replaced or reappointed.

**46.** A permanent public servant designated by the national public health director under section 27 of the Public Health Act to attend the meetings of the ethics committee and act as secretary becomes an employee of the Institut national de santé publique du Québec, subject to the provisions of the collective agreement applicable to that public servant.

The employee occupies the position and exercises the functions assigned by the institute, subject to the applicable provisions of the collective agreement.

**47.** An employee referred to in section 46 of this Act may also apply for a transfer to a position in the public service or enter a competition for promotion in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Section 35 of that Act applies if the employee enters such a competition for promotion.

**48.** An employee referred to in section 46 of this Act who applies for a transfer or enters a competition for promotion may apply to the chair of the Conseil du trésor for an assessment of the classification that would be assigned to the employee in the public service. The assessment must take account of the classification that the employee had in the public service on the date on which the employee left the public service, as well as the years of experience and the level of schooling attained while in the employ of the Institut national de santé publique du Québec.

If the employee is transferred following an application under the first paragraph, the deputy minister of the department or chief executive officer of the body must assign to the employee a classification compatible with the assessment provided for in the first paragraph.

If promoted, the employee must be given a classification on the basis of the criteria set out in the first paragraph.

**49.** Where some or all of the operations of the Institut national de santé publique du Québec are discontinued or if there is a shortage of work, the employee referred to in section 46 of this Act is entitled to be placed on reserve in the public service with the same classification the employee had on the date on which the employee left the public service.

In such a case, the chair of the Conseil du trésor must establish the employee's classification, where applicable, on the basis of the criteria set out in the first paragraph of section 48 of this Act.

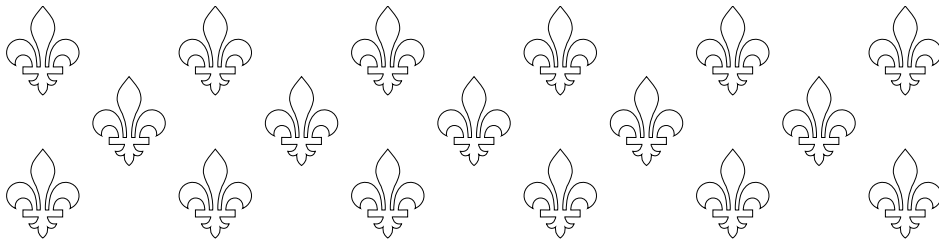
**50.** An employee placed on reserve under section 49 of this Act remains in the employ of the Institut national de santé publique du Québec until the chair of the Conseil du trésor is able to assign the employee a position.

**51.** Subject to any remedy available under a collective agreement, an employee referred to in section 46 of this Act who is dismissed may bring an appeal under section 33 of the Public Service Act.

**52.** The records and documents of the public health ethics committee established under the Public Health Act become the records and documents of the ethics committee established under the Act respecting Institut national de santé publique du Québec.

**53.** The provisions of this Act come into force on 19 November 2009, except sections 4, 6, 39 and 43, which come into force on the date or dates to be set by the Government.





---

---

# NATIONAL ASSEMBLY

---

---

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 56  
(2009, chapter 46)

**An Act to amend the Act respecting  
health services and social services with  
regard to the certification of certain  
resources offering lodging to vulnerable  
clienteles**

---

---

**Introduced 18 June 2009  
Passed in principle 1 October 2009  
Passed 12 November 2009  
Assented to 19 November 2009**

### **EXPLANATORY NOTES**

*This Act extends the certification process in place for residences for the elderly to certain health and social service resources offering lodging to vulnerable clientele; these resources are to be determined by government regulation.*

*Certification is now valid for three years; to obtain certification, the resources concerned, as is the case for residences for the elderly, must satisfy health and social criteria as well as requirements determined by regulation. Moreover, the complaints mechanism that applies to residences for the elderly under the Act respecting health services and social services will also apply to these resources.*

### **LEGISLATION AMENDED BY THIS ACT:**

– Act respecting health services and social services (R.S.Q., chapter S-4.2).



## Bill 56

### AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES WITH REGARD TO THE CERTIFICATION OF CERTAIN RESOURCES OFFERING LODGING TO VULNERABLE CLIENTELES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 60 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended

(1) by replacing “or in a residence for the elderly referred to in section 346.0.1, regarding the services the person received or ought to have received from the organization or nursing home” in paragraph 1 by “by a resource offering lodging referred to in section 346.0.21 or in a residence for the elderly referred to in section 346.0.1, regarding the services the person received or ought to have received from the organization, nursing home, resource or residence”;

(2) by inserting “, resources offering lodging referred to in section 346.0.21” after “454” in paragraph 3.

**2.** The heading of subdivision 2.1 of Division II of Chapter I of Title I of Part III of the Act is amended by adding “*and certain resources offering lodging to vulnerable clienteles*” at the end.

**3.** Section 346.0.1 of the Act is amended by replacing “Such information is public information.” in the third paragraph by “In addition, if a residence is administered by a board of directors, the agency shall draw up a list of board members comprising the name, address, occupation and function of each member, as well as the nature of any family relationships between the members themselves or between members and persons working at the residence. This information, with the exception of that concerning any family relationships between the members or between members and persons working at the residence, is public information.”

**4.** Section 346.0.6 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 2 of the first paragraph:

“(2.1) the conditions that must be satisfied by the staff members and volunteers of a residence for the elderly and by the persons working on behalf of such a residence, in accordance with the responsibilities they assume, particularly with regard to the required training and to safety;”;

(2) by adding the following subparagraph after subparagraph 4 of the first paragraph:

“(5) any other certification measure.”

**5.** Section 346.0.8 of the Act is amended by adding “, has taken the corrective measures described in paragraph 2 of section 346.0.12 and avoids any practice or situation that could pose a threat to the health or safety of the persons to whom the operator provides services” at the end.

**6.** Section 346.0.10 of the Act is amended

(1) by replacing “two” by “three”;

(2) by replacing “90 days” in paragraph 1 by “six months”.

**7.** Section 346.0.11 of the Act is amended

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

“(1.1) has not taken the corrective measures ordered by the agency within the period it prescribes;”;

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

“(3) has been convicted of an indictable or criminal offence related to the abilities and conduct required to operate a residence of the same category, or has a director or officer who has been so convicted, unless a pardon has been obtained.”

**8.** Section 346.0.12 of the Act is amended

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

“(2) failed to take the corrective measures ordered by the agency within the prescribed period, in particular further to recommendations formulated as part of the complaint examination process;”;

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

“(4) has been convicted, during the period of validity of the certificate, of an indictable or criminal offence related to the abilities and conduct required to operate a residence of the same category, or has a director or officer who has been so convicted, unless a pardon has been obtained;”;

(3) by adding the following paragraph at the end:

“(5) engages in practices or tolerates a situation that could pose a threat to the health or safety of the persons to whom the operator provides services.”

**9.** Section 346.0.19 of the Act is amended

(1) by inserting “, or whose certificate has been suspended or revoked or has not been renewed,” after “activities”;

(2) by adding the following paragraph at the end:

“The agency must take the means necessary to inform the residents of any refusal to issue or renew a certificate or of any suspension or revocation of a certificate. To this end the agency may require the residence to provide it with the contact information of the residents and of any persons acting on their behalf.”

**10.** Section 346.0.20 of the Act is amended by adding “except with the written permission of the agency” at the end.

**11.** The Act is amended by adding the following section after section 346.0.20:

**“346.0.21.** The provisions of this subdivision apply, with the necessary modifications, to all resources and categories of resource offering lodging determined by government regulation except intermediary resources, family-type resources and specialized medical centres within the meaning of this Act.

However, subparagraph 4 of the first paragraph of section 346.0.6 does not apply in the case of a resource established for non-profit purposes.”

**12.** Section 489 of the Act is amended by replacing “for which a permit is required by this Act are carried on” in the first paragraph by “are carried on for which a permit or a certificate of compliance is required under this Act”.

**13.** Section 530.8 of the Act is amended

(1) by replacing “may, where the head office of that organization or nursing home” in the first paragraph by “, in a residence for the elderly referred to in section 346.0.1 or by a resource offering lodging referred to in section 346.0.21 may, where the head office of that organization, nursing home, residence or resource”;

(2) by replacing “or nursing home” at the end of the first paragraph by “, nursing home, residence or resource”;

(3) by replacing “organization or nursing home” in the second and third paragraphs by “organization, nursing home, residence or resource”.

**14.** Section 531.1 of the Act is amended by inserting “referred to in section 346.0.1 or a resource offering lodging referred to in section 346.0.21” after “elderly” in the first paragraph.

## TRANSITIONAL AND FINAL PROVISIONS

**15.** If an operator of a resource working in the drug addiction field and offering lodging that is subject to a regulation made under section 346.0.21 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), enacted by section 11 of this Act, does not, on 30 June 2010, hold a certificate issued by the Minister of Health and Social Services under the certification program for private or community organizations working in the drug addiction field and offering lodging, the operator must apply for a certificate under that Act, as amended by this Act, and provide the required documents before 1 July 2011.

**16.** The operator of a resource referred to in section 15 that, on 30 June 2010, holds a certificate issued by the Minister of Health and Social Services under the certification program for private or community organizations working in the drug addiction field and offering lodging must apply for a certificate under the Act respecting health services and social services, as amended by this Act, and provide the required documents

(1) before 1 July 2011, if the operator's certificate expires in the 12 months preceding that date;

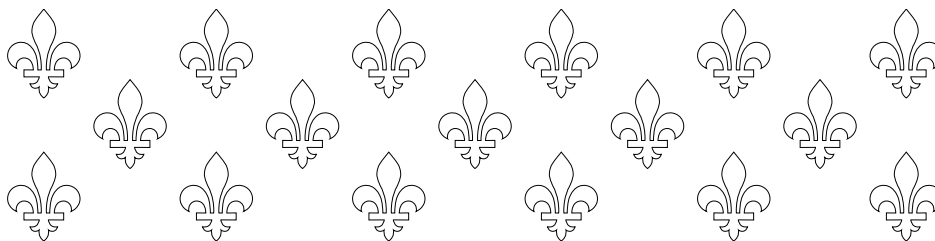
(2) in the 12 months preceding the expiry date of the certificate if that date is later than 30 June 2011.

**17.** A certificate of compliance for a residence for the elderly for which a renewal application is pending on 19 November 2009 or for which the operator is required by law to file a renewal application before 1 February 2010 is extended for one year as of the date of expiry of the certificate.

**18.** If an application to obtain a first certificate of compliance for a residence for the elderly is pending on 1 February 2010 and no certificate has been issued by that date, the application is deemed to have been filed under sections 346.0.1 to 346.0.21 of the Act respecting health services and social services, as amended by this Act.

**19.** If a certificate of compliance for a residence for the elderly expires between 1 May 2010 and 1 August 2010, the holder of the certificate must file a renewal application within six months after the coming into force of this section. Moreover, the certificate is deemed to be valid between 1 May 2010 and 1 August 2010.

**20.** This Act comes into force on 1 February 2010, except sections 12 and 17, which come into force on 19 November 2009, and sections 15 and 16, which come into force on 30 June 2010.



---

---

# NATIONAL ASSEMBLY

---

---

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 59  
(2009, chapter 47)

**An Act to amend the Tobacco Tax Act  
and other legislative provisions primarily  
to counter tobacco smuggling**

---

---

**Introduced 28 October 2009  
Passed in principle 4 November 2009  
Passed 18 November 2009  
Assented to 19 November 2009**

---

**Québec Official Publisher  
2009**

## EXPLANATORY NOTES

*This Act amends the Tobacco Tax Act and the Act respecting the Ministère du Revenu primarily to provide for various measures to counter tobacco smuggling.*

*The Tobacco Tax Act is amended, in particular to impose a moratorium on the issue of manufacturer's permits, set new conditions for their issue and maintenance in force, and provide for shorter validity periods.*

*The Tobacco Tax Act is further amended to increase the amount of certain fines, impose new fiscal penalties, introduce control measures for tobacco manufacturing equipment, give new intervention powers to police forces and allow the court, in certain circumstances, to order the suspension of the driver's permit of a person convicted of an offence under this Act. Moreover, local municipalities are empowered to institute penal proceedings before municipal courts for offences committed in their territory by consumers of contraband tobacco products.*

*The Act respecting the Ministère du Revenu is amended, in particular to set special rules for the confiscation of seized contraband tobacco.*

*Lastly, amendments similar to those made to the Tobacco Tax Act are made to the Fuel Tax Act, including the introduction of new conditions for the issue and maintenance in force of permits and the reduction of their validity period.*

## LEGISLATION AMENDED BY THIS ACT:

- Tobacco Tax Act (R.S.Q., chapter I-2);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Fuel Tax Act (R.S.Q., chapter T-1).

## Bill 59

### AN ACT TO AMEND THE TOBACCO TAX ACT AND OTHER LEGISLATIVE PROVISIONS PRIMARILY TO COUNTER TOBACCO SMUGGLING

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### TOBACCO TAX ACT

**1.** Section 2 of the Tobacco Tax Act (R.S.Q., chapter I-2), amended by section 8 of chapter 15 of the statutes of 2009, is again amended by inserting the following definition in alphabetical order:

““tobacco manufacturing equipment” means any machinery or equipment designed or modified specifically for the manufacture, production, mixing, preparation or packaging of tobacco intended for sale;”.

**2.** The Act is amended by inserting the following sections after section 6:

**“6.0.1.** Every person who is in possession of tobacco manufacturing equipment in Québec or brings such equipment or causes such equipment to be brought into Québec shall hold a manufacturer’s permit provided for in section 6.

If the person is not a manufacturer, the permit issued to the person shall be used only for the activities described in the first paragraph.

**“6.0.2.** No manufacturer’s permit may be issued after 27 October 2009.

However, the Government may, by order, suspend the application of the first paragraph or, if it considers it expedient, authorize the issue of a manufacturer’s permit.

The first paragraph does not apply to a permit applied for solely to engage in an activity described in section 6.0.1.”

**3.** Section 6.1 of the Act is amended

(1) by replacing “or by regulation.” in paragraph *h* by “, by regulation or by the Minister;”;

(2) by adding the following paragraph after paragraph *h*:

“(i) at the Minister’s request, enter into an agreement under section 17.”

**4.** Section 6.1.1 of the Act, enacted by section 9 of chapter 15 of the statutes of 2009, is replaced by the following section:

“**6.1.1.** The Minister may require, as a condition for the issue or maintenance in force of a permit, security of a value, in a form and under terms determined by the Minister.”

**5.** Section 6.3 of the Act is amended

(1) by striking out “other” after “the Minister or any”;

(2) by adding the following paragraph:

“Despite the first paragraph, a permit may be issued or renewed for a period of less than two years.”

**6.** Section 6.4 of the Act is repealed.

**7.** The Act is amended by inserting the following section after section 7.10:

“**7.10.1.** The holder of a manufacturer’s permit shall keep, in the manner prescribed by regulation, a register setting out the inventory of the tobacco manufacturing equipment in the permit holder’s possession, its origin and the manner in which it was disposed of, if such is the case, as well as any other information prescribed by regulation.”

**8.** Section 13.1.1 of the Act is amended by replacing “a valid manufacturer’s or importer’s permit” in subparagraph *b* of the second paragraph by “a manufacturer’s permit, other than a permit issued for the activities described in section 6.0.1, or by a person holding an importer’s permit”.

**9.** The Act is amended by inserting the following section after the heading of Division III.1:

“**13.2.0.1.** A member of the Sûreté du Québec or of a municipal police force may enforce sections 9.2 and 9.2.1 throughout the territory in which that member provides police services.

That member may, despite the second paragraph of section 72.4 of the Act respecting the Ministère du Revenu (chapter M-31), sign and issue a statement of offence for any offence under those sections committed in that territory.”

**10.** Section 13.3 of the Act, amended by section 18 of chapter 15 of the statutes of 2009, is again amended



(1) by replacing “section 6.2, and examine the identification of the packages of tobacco being transported” in the first paragraph by “section 6.2, examine the identification of the packages of tobacco being transported and, for that purpose, inspect the vehicle, enter it and open, or order the opening of, any passenger compartment, shipping container, compartment, container or vessel”;

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

“The person may also order that the vehicle not be moved where the owner, driver or person in charge of it or a passenger refuses to submit to any inspection or examination provided for in the first paragraph, does not hold the documents referred to in that paragraph or produces a manifest or way-bill containing inaccurate or incomplete information or where the person has reasonable grounds to believe that an offence is being or has been committed under paragraph *a* of section 14.1 where it refers to sections 6.2 and 17.10, under subparagraph *a* of the first paragraph of section 14.2 where it refers to sections 6 and 6.0.1, or under section 14.3 where it refers to section 9.2. In any such case, the owner, driver or person in charge of the vehicle or the passenger shall produce identification and surrender for examination the vehicle registration certificate.”

**11.** Section 13.3.1 of the Act, amended by section 19 of chapter 15 of the statutes of 2009, is again amended by inserting “, or under subparagraph *a* of the first paragraph of section 14.2 where it refers to section 6.0.1,” after “17.10” in the first paragraph.

**12.** The Act is amended by inserting the following section after section 13.3.1:

**“13.3.2.** In the cases covered by section 13.3 or 13.3.1, a member of the Sûreté du Québec, a member of a municipal police force or a person authorized by the Minister for such purposes may cause a road vehicle stopped in contravention of Division II of Chapter II of Title VIII of the Highway Safety Code (chapter C-24.2) to be removed and impounded in the nearest suitable place.”

**13.** The heading of Division IV of the Act is replaced by the following heading:

“PENALTIES AND PENAL PROVISIONS”.

**14.** The Act is amended by inserting the following sections after the heading of Division IV:

**“13.9.** Any person who contravenes section 3 incurs a penalty equal to the greater of \$1,000 and three times the amount of tax payable under this Act in respect of the tobacco sold contrary to that section.

“**13.10.** Any person who contravenes section 6 incurs a penalty which,

(a) if the activity that is contrary to section 6 involved tobacco, is equal to the greater of \$1,000 and three times the amount of tax that would have been payable under this Act if the tobacco had been sold by retail sale in Québec; and

(b) if the activity that is contrary to section 6 involved raw tobacco, is equal to the greater of \$1,000 and five times the amount of tax that would have been payable under this Act if each gram of the raw tobacco had been a cigarette sold by retail sale in Québec.

“**13.11.** Any person who contravenes section 7 incurs a penalty equal to the greater of \$1,000 and three times the amount of tax that would have been payable under this Act if the tobacco sold or delivered contrary to that section had been sold by retail sale in Québec.

“**13.12.** Any person who contravenes section 7.0.1 incurs a penalty equal to the greater of \$1,000 and five times the amount of tax that would have been payable under this Act if each gram of raw tobacco sold or delivered contrary to that section had been a cigarette sold by retail sale in Québec.

“**13.13.** Any person who contravenes section 7.0.2 incurs a penalty equal to the greater of \$1,000 and five times the amount of tax that would have been payable under this Act if each gram of raw tobacco sold or delivered contrary to that section had been a cigarette sold by retail sale in Québec.

“**13.14.** Any person who contravenes section 7.1 incurs a penalty equal to the greater of \$1,000 and three times the amount of tax that would have been payable under this Act if the tobacco sold or delivered contrary to that section had been sold by retail sale in Québec.

“**13.15.** Any manufacturer who contravenes section 7.1.2 incurs a penalty equal to the greater of \$1,000 and three times the amount of tax that would have been payable under this Act if the tobacco involved in the activity that is contrary to that section had been sold by retail sale in Québec.

“**13.16.** Any person who sells, delivers or is in possession of tobacco intended for retail sale in Québec and contained in a package not identified in accordance with section 13.1 incurs a penalty equal to the greater of \$1,000 and three times the amount of tax that would have been payable under this Act if the tobacco had been sold by retail sale in Québec.

“**13.17.** For the purposes of section 13.9, paragraph *a* of section 13.10, section 13.11 and sections 13.14 to 13.16, the following rules apply:

(a) the penalty incurred is equal to the greater of \$2,000 and five times the amount of any tax that, under this Act, is payable in respect of tobacco sold by retail sale in Québec or would have been payable if the tobacco had been sold by retail sale in Québec, if the quantity of tobacco involved in the activity that is contrary to one of those sections is greater than

i. 10,000 cigarettes, tobacco sticks, rolls of tobacco or other pre-rolled tobacco products designed for smoking; or

ii. 10 kilograms of loose tobacco, leaf tobacco or tobacco products other than cigars or tobacco products referred to in subparagraph *i*; and

(b) the penalty incurred is equal to the greater of \$1,000 and 300% of the purchase price determined by the Minister in accordance with section 8.1, if cigars are involved in the activity that is contrary to one of those sections.

**“13.18.** A person who is found guilty of an offence under section 14.1, 14.2 or 15 does not incur, in respect of the same facts, a penalty provided for in the second paragraph of section 13.2 or in any of sections 13.9 to 13.17 unless it was imposed on the person before proceedings were instituted against the person under section 14.1, 14.2 or 15.”

**15.** Section 14.1 of the Act is amended by replacing “\$3,000” and “\$37,500” in the portion after paragraph *f* by “\$5,000” and “\$50,000”, respectively.

**16.** Section 14.2 of the Act, amended by section 21 of chapter 15 of the statutes of 2009, is again amended

(1) by replacing “\$3,000” in the portion after subparagraph *e* of the first paragraph by “\$5,000”;

(2) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) contravenes section 6, 6.0.1, 7, 7.0.1, 7.0.2, 7.1.1, 7.1.2 or 7.9.”;

(3) by replacing “three times” in the second paragraph by “four times”.

**17.** Section 14.3 of the Act is amended by replacing “\$300” by “\$350”.

**18.** The Act is amended by inserting the following sections after section 15:

**“15.0.1.** Despite section 72 of the Act respecting the Ministère du Revenu (chapter M-31), penal proceedings may be instituted by a local municipality for an offence under section 14.3 committed in its territory.

Proceedings instituted by a municipality are brought before the competent municipal court.

The fine imposed belongs to the municipality if it instituted the proceedings.

The costs relating to proceedings instituted before a municipal court belong to the municipality in which the court has jurisdiction, except the costs remitted to the defendant or imposed on the prosecuting municipality under article 223 of the Code of Penal Procedure (chapter C-25.1).

**“15.0.2.** The provisions of the Act respecting the Ministère du Revenu (chapter M-31) concerning the prescription of penal proceedings, the seizure of a thing and the custody, retention, return, confiscation, sale or destruction of the thing apply, with the necessary modifications, to a member of the Sûreté du Québec, a member of a municipal police force and the municipality empowered to act under this Act.

**“15.0.3.** If a person uses a vehicle to transport or deliver tobacco or raw tobacco and is convicted of an offence under section 14.2 for doing so, the court, in addition to any other penalty that may be imposed, may, when pronouncing the sentence, order the Société de l'assurance automobile du Québec to suspend the driver's licence of the person for a period of

(a) not more than six months, for a first conviction; and

(b) at least six months, for a second or subsequent conviction.

If an order is issued under the first paragraph, the Société de l'assurance automobile du Québec shall suspend the driver's licence of the person in accordance with the order.”

#### ACT RESPECTING THE MINISTÈRE DU REVENU

**19.** Section 40.3 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), enacted by section 471 of chapter 15 of the statutes of 2009, is amended by adding the following paragraph after the second paragraph:

“Despite the first paragraph, if the name and address in Québec of the person at whose residence or in whose possession a thing has been seized in relation to an offence against the Tobacco Tax Act (chapter I-2) or a regulation made by the Government under it are unknown to the Minister or cannot be traced, the thing seized is deemed to be confiscated at the expiry of 90 days from the date of seizure. The sixth paragraph of section 68.0.2 applies to such a confiscated thing.”

**20.** Section 68.0.2 of the Act, enacted by section 472 of chapter 15 of the statutes of 2009, is amended by replacing the third paragraph by the following paragraphs:

“On application by the Minister within 30 days after a judgment is rendered in proceedings to impose a penal sanction for an offence against a fiscal law

or a regulation made by the Government under a fiscal law, or within 90 days after the date on which a defendant is deemed to have been convicted of such an offence, a judge may also order the confiscation of any thing seized under any of sections 40, 40.1, 40.1.0.1, 40.1.1 and 40.1.3, of the deposit referred to in the second paragraph of section 40.3 or of the sale proceeds referred to in section 40.4.

At the expiry of 30 days after a judgment is rendered in proceedings to impose a penal sanction for an offence against the Tobacco Tax Act or a regulation made by the Government under it or after the date on which a defendant is deemed to have been convicted of such an offence, a thing seized under any of sections 40, 40.1, 40.1.0.1 and 40.1.1 is confiscated by operation of law if the unlawful possession of the thing prevents it from being returned to the person from whom it was seized or to a person who claims to have a right in the thing, unless either of those persons objects within that period to the confiscation. A notice of such a confiscation by operation of law is given with the statement of offence.”

**21.** Section 72.1 of the Act is amended by adding the following paragraph:

“The same applies to the Deputy Minister in respect of a judgment rendered in relation to proceedings instituted by a local municipality under section 15.0.1 of the Tobacco Tax Act (chapter I-2).”

**22.** The Act is amended by inserting the following section after section 72.3:

**“72.3.1.** Where proceedings have been instituted by a local municipality under section 15.0.1 of the Tobacco Tax Act (chapter I-2), the Deputy Minister may

- (a) intervene in first instance to take charge of the prosecution;
- (b) intervene in appeal to take the place of the municipality who was the prosecutor in first instance;
- (c) order proceedings stayed before the rendering of judgment in first instance; or
- (d) allow the proceedings to be continued within six months of being stayed under subparagraph c.

The intervention, stay or continuation commences when the representative of the Deputy Minister notifies the clerk. The clerk shall notify the parties without delay.”

**23.** Section 72.4 of the Act is amended by adding the following paragraph after the second paragraph:

“A facsimile of the signature of a person referred to in the first or second paragraph that is affixed on the statement of offence has the same force as the person’s signature.”

#### FUEL TAX ACT

**24.** Section 27.1 of the Fuel Tax Act (R.S.Q., chapter T-1) is amended

(1) by replacing “or by regulation.” in paragraph *h* by “, by regulation or by the Minister; and”;

(2) by adding the following paragraph after paragraph *h*:

“(i) at the Minister’s request, enter into an agreement under section 51.”

**25.** The Act is amended by inserting the following section after section 27.1:

“**27.1.1.** The Minister may require, as a condition for the issue or maintenance in force of a permit, security of a value, in a form and under terms determined by the Minister.”

**26.** Section 27.3 of the Act is amended

(1) by striking out “other” after “the Minister or any”;

(2) by adding the following paragraph:

“Despite the first paragraph, a permit may be issued or renewed for a period of less than two years.”

**27.** Section 27.4 of the Act is repealed.

**28.** The Act is amended by inserting the following section after section 40:

“**40.0.1.** In the cases covered by section 39 or 40, a member of the Sûreté du Québec, a member of a municipal police force or a person authorized by the Minister for such purposes may cause any road vehicle stopped in contravention of Division II of Chapter II of Title VIII of the Highway Safety Code (chapter C-24.2) to be removed and impounded in the nearest suitable place.”

#### TRANSITIONAL AND FINAL PROVISIONS

**29.** A person to whom the second paragraph of section 6.0.1 of the Tobacco Tax Act (R.S.Q., chapter I-2), enacted by section 2, applies must, before 18 February 2010, send the Minister of Revenue an application for a manufacturer’s permit in accordance with the Tobacco Tax Act.

The person is deemed to hold the permit applied for until the date on which the Minister issues the permit or sends the decision denying the permit.

**30.** Section 6.0.2 of the Tobacco Tax Act, enacted by section 2, applies to any application for a manufacturer's permit made to the Minister of Revenue that is pending on 28 October 2009.

**31.** The new provisions enacted by sections 3, 4, 24 and 25 of this Act apply to any permit application made to the Minister of Revenue that is pending on 19 November 2009 and, in the case of sections 4 and 25, to any permit that expires after 18 November 2009.

**32.** This Act comes into force on 19 November 2009, except section 15.0.3 of the Tobacco Tax Act (R.S.Q., chapter I-2), enacted by section 18, which comes into force on 19 May 2010.





## Index

Abbreviations : **A**: Abrogated, **N**: New, **M**: Modified

	<b>Page</b>	<b>Comments</b>
Act respecting health services and social services with regard to the certification of certain resources offering lodging to vulnerable clientele, An Act to amend the... (2009, Bill 56)	4193	
Administrative justice, An Act respecting..., amended (2009, Bill 24)	4175	
Courts of Justice Act and the Act respecting municipal courts with regard to court security, An Act to amend the... (2009, Bill 15)	4169	
Courts of Justice Act, amended (2009, Bill 15)	4169	
Fuel Tax Act, amended (2009, Bill 59)	4199	
Health Insurance Act, amended (2009, Bill 24)	4175	
Health services and social services and other legislative provisions, An Act to amend the..., amended (2009, Bill 24)	4175	
Health services and social services for Cree Native persons, An Act respecting..., amended (2009, Bill 24)	4175	
Health services and social services, An Act respecting..., amended (2009, Bill 24)	4175	
Health services and social services, An Act respecting..., amended (2009, Bill 56)	4193	
Héma-Québec and the haemovigilance committee, An Act respecting..., amended (2009, Bill 24)	4175	
Institut national de santé publique du Québec, An Act respecting..., amended (2009, Bill 24)	4175	
List of Bills sanctioned (19 November 2009)	4167	
Medical laboratories, organ, tissue, gamete and embryo conservation, and the disposal of human bodies, An Act respecting..., amended (2009, Bill 24)	4175	
Ministère du Revenu, An Act respecting the..., amended (2009, Bill 59)	4199	
Municipal courts, An Act respecting..., amended (2009, Bill 15)	4169	
Prehospital emergency services, An Act respecting..., amended (2009, Bill 24)	4175	

---

Public Health Act, amended . . . . .	4175
(2009, Bill 24)	
Tobacco Tax Act and other legislative provisions primarily to counter tobacco smuggling, An Act to amend the . . . . .	4199
(2009, Bill 59)	
Tobacco Tax Act, amended . . . . .	4199
(2009, Bill 59)	
Various legislative provisions concerning health, An Act to amend . . . . .	4175
(2009, Bill 24)	
Youth Protection Act, amended . . . . .	4175
(2009, Bill 24)	