



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 119

(1997, chapter 64)

An Act to amend the Act respecting the use of petroleum products and other legislative provisions

**Introduced 8 May 1997
Passage in principle 21 May 1997
Passage 23 October 1997
Assented to 11 November 1997**

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EXPLANATORY NOTES

This bill introduces several amendments to the provisions of the Act respecting the use of petroleum products to ensure concordance with new measures designed to ensure the quality and safety of petroleum products and equipment.

The content of the standards imposed regarding petroleum equipment and the degree of control exercised under the permit system will be made more flexible to better reflect the level of risk presented by various types of equipment.

Following the repeal of certain provisions, the holding of registration certificates will no longer be required and permits will be required only for petroleum equipment presenting a higher level of risk.

The bill makes provision for private initiatives and recognizes their value in ensuring the protection of the public, property and the environment; included are measures relating to the inspection of petroleum equipment by qualified persons, measures to recognize standards, measures or methods as at least equivalent to those prescribed by regulation and measures to allow the recognition of individual inspection and quality control programs for petroleum equipment.

The bill also provides for the creation of an advisory committee made up of members from various backgrounds, with responsibility for advising the Minister on various matters connected with the application of the legislation in force as regards the quality and safety of petroleum products and equipment.

The bill is designed to eliminate the overlapping of various forms of state intervention, especially as regards professional qualifications and the regulation of petroleum product transportation.

Lastly, the bill increases the amounts of the fines that offenders may be required to pay and introduces measures to facilitate the transition from the previous system, in particular as regards the issue of permits.

LEGISLATION AMENDED BY THIS BILL :

- Building Act (R.S.Q., chapter B-1.1);
- Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-25.2);
- Fuel Tax Act (R.S.Q., chapter T-1);
- Act respecting the use of petroleum products (R.S.Q., chapter U-1.1);
- Act respecting administrative justice (1996, chapter 54).

Bill 119

AN ACT TO AMEND THE ACT RESPECTING THE USE OF PETROLEUM PRODUCTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. The Act respecting the use of petroleum products (R.S.Q., chapter U-1.1) is amended by replacing the title by the following title :

“Act respecting petroleum products and equipment”.

2. The said Act is amended by replacing Chapters I, II and III by the following chapters :

“CHAPTER I

“PRELIMINARY PROVISIONS

“**1.** The objects of this Act are

(1) to ensure the safety of persons and the protection of property and the environment from the risks arising from the use of petroleum products and equipment ;

(2) to ensure the quality of petroleum products and equipment ;

(3) to ensure control of the sale price of petroleum products.

“**2.** In this Act,

“petroleum product” means gasoline, diesel fuel, heating oil and oil previously used in a motor vehicle or hydraulic equipment, and any liquid mixture of hydrocarbons used as a motor fuel or combustible substance except liquefied gases and other used oil ;

“petroleum equipment” means any installation, container, pipe, apparatus or other equipment that may be used for the handling, transfer or storage of petroleum products, except the tanks of motorized vehicles or equipment that contain petroleum products for the supply of the vehicle or equipment ;

“high-risk petroleum equipment” means petroleum equipment possessing one or more of the following characteristics :

(1) petroleum equipment, one or more components of which is partially or completely buried, and having a capacity of

(a) 500 or more litres, if it is used for gasoline, diesel fuel or used oil from a motor vehicle or hydraulic equipment;

(b) 4,000 or more litres, if it is used for heating oil, except equipment used for residential heating;

(2) aboveground petroleum equipment that has a capacity of 2,500 or more litres, if it is used for gasoline;

(3) petroleum equipment that has a capacity of 10,000 or more litres, except if it is used for used oil from a motor vehicle or hydraulic equipment;

(4) petroleum equipment used for the sale or distribution of petroleum products for profit, otherwise than in a context of accommodation.

The capacity of petroleum equipment that is joined or linked to or used with other petroleum equipment is determined by adding their respective capacities.

“3. This Act is binding on the Government, government departments and the bodies which are mandataries thereof.

“CHAPTER II

“QUALITY AND SAFETY STANDARDS

“4. Petroleum products must be composed and petroleum equipment must be manufactured, installed, used and maintained in order to ensure that, in normal conditions of use and when used as intended, they provide satisfactory levels of performance while minimizing the danger to persons, property and the environment.

“5. The Government may determine, by regulation, quality and safety standards applicable to petroleum products. The standards may prohibit or require the presence of certain elements in a petroleum product; they may also prescribe the acceptable quantity or proportion of such elements.

No person may manufacture, sell or store in high-risk petroleum equipment a petroleum product that does not meet the regulatory standards.

“6. Petroleum equipment must, to meet the requirements of section 4,

(1) be manufactured and installed in such a way as to safely contain the petroleum products intended to be placed in it, and to resist wear, normal handling, fire and shocks;

(2) be sufficiently leakproof to ensure against the risk of explosion, fire, spillage or other accidents, and be maintained in good working order ;

(3) be housed, or installed in such a way as to prevent unauthorized persons from gaining access to it and to prevent objects that could increase the risk of accident from coming into contact with it ;

(4) be equipped with the necessary protection devices, and be installed in such a way as to ensure maximum safety to persons having access to it or being supplied from it ;

(5) be manufactured and installed in such a way as to be easily maintained, repaired or dismantled.

“7. Petroleum equipment must, in addition, meet such standards as the Government may prescribe, by regulation, concerning its manufacture, installation, maintenance, use, draining, dismantling and removal.

“8. Furthermore, to allow for the rapid detection and correction of any problem or defect, the operating performance of high-risk petroleum equipment must be tested periodically by the person holding the permit for that equipment, and the equipment must be inspected periodically by a certified inspector registered in the register established under section 42.

The Government shall determine, by regulation, the content, frequency and other conditions of the required tests and inspections.

“9. No person may manufacture or sell petroleum equipment that does not meet the manufacturing standards referred to in paragraph 1, 4 or 5 of section 6 or those prescribed under section 7.

However, a person who manufactures or sells petroleum equipment intended for use outside Québec is exempted from the obligation of complying with the manufacturing standards referred to in the first paragraph.

No person may install petroleum equipment that does not meet those manufacturing standards or the installation standards referred to in paragraph 1, 3, 4 or 5 of section 6 or those prescribed under section 7.

“10. No person may store petroleum products in petroleum equipment that does not meet the requirements of paragraphs 2, 3 and 4 of section 6 and the manufacturing, installation or maintenance standards prescribed under section 7.

“11. The following persons must use safe procedures and equipment, correctly use every safety device placed at their disposal and take all necessary precautions to prevent the risk of explosion, fire, spillage or other accidents :

(1) every person who handles petroleum products, in particular every person who delivers, pumps or transfers such products;

(2) every person who performs work on petroleum equipment, or who drains, dismantles or removes petroleum equipment;

(3) every person who uses petroleum equipment.

Such persons must, in addition, observe the standards applicable to the maintenance, use, draining, dismantling and removal prescribed under section 7.

“12. A person having entered into a contract for the performance of work involving petroleum equipment may, on becoming aware that the work has been or very likely will be performed in contravention of the standards prescribed under this Act or the regulations, institute proceedings to have the contract declared null.

“13. The annulment of the contract confers on the plaintiff the right to monetary restitution of all the prestations he has made under the contract without his being required to make any restitution to the defendant.

However, the court may, by way of exception, deny the plaintiff the right to restitution of the prestations where restitution would have the effect of affording the plaintiff an excessive advantage, having regard to the circumstances.

“14. Every person who delivers petroleum products or stores petroleum products in petroleum equipment and who is aware of facts indicating the existence of a product leak or spillage, an equipment defect or failure or any other accident must report those facts to the Minister in the circumstances determined by government regulation.

The Government may, by regulation, prescribe the form and content of a report and the manner in which and time within which it must be forwarded, which may vary according to the nature and site of the accident or to the person required to report it to the Government.

“15. No person may demolish a petroleum product manufacturing plant or any part thereof except with the prior authorization of the Minister and only on the conditions fixed by the Minister, if any.

“CHAPTER III

“SPECIAL STANDARDS FOR HIGH-RISK PETROLEUM EQUIPMENT

“DIVISION I

“PERMITS

“16. A permit is required for the use of high-risk petroleum equipment.

However, no permit is required if the petroleum equipment is used exclusively for the transportation of petroleum products.

“17. No person may deliver petroleum products to high-risk petroleum equipment that is not covered by a valid permit issued under this Act.

“18. The permit shall be issued to the owner of the high-risk petroleum equipment or to a person designated by the owner and to whom the owner has entrusted the responsibility of maintaining and repairing the equipment.

“19. Any owner who entrusts the custody of petroleum equipment to a third person must ensure that the third person holds a valid permit and has the qualifications required to meet the requirements of section 11.

The owner must take all the steps that are reasonable in the circumstances to ensure that the third person performs the required maintenance and repair work on the equipment.

“20. The holder of a permit who is not the owner of the equipment covered by the permit must allow the owner to have access, at all reasonable times, to the site where the equipment is located and to the documents concerning the equipment to enable the owner to verify the maintenance and repair work performed on the equipment.

“21. A permit shall be issued for each unit of petroleum equipment or for each combination of equipment located at the same address.

“22. The Minister shall issue a permit if

(1) a certificate of inspection in respect of the equipment, where required by regulation, has been issued by a certified registered inspector attesting that the equipment has been inspected;

(2) all fees payable have been paid;

(3) the applicant has shown that all the other conditions prescribed by government regulation have been fulfilled.

The Minister may require the applicant to provide all the relevant information or documents required for consideration of the application.

“23. The period of validity of permits, the fees payable and the terms and conditions of payment shall be determined by government regulation.

“24. The Minister may refuse to issue or renew a permit

(1) if the applicant or, in the case of a legal person, a director or officer has, in the five preceding years,

- (a) had his or its permit revoked;
 - (b) been found civilly or criminally liable for a failure to meet safety requirements in connection with petroleum equipment unless, in the case of a conviction, a pardon has been obtained;
- (2) if the certificate of inspection submitted with the application was issued on the basis of inaccurate or misleading information;
 - (3) if regulatory inspection standards were not complied with;
 - (4) if the inspector was in a situation of conflict of interest, as defined in section 47, when he issued the certificate.

“25. A permit may be renewed if

- (1) the application for renewal is received by the Minister and the prescribed fees are paid before the date of expiry of the permit;
- (2) the permit holder attests, where required by regulation, that he or it has complied with the regulatory standards governing the testing of the operating performance of the petroleum equipment covered by the permit;
- (3) a certificate of inspection in respect of the equipment, where required by regulation, has been issued by a certified registered inspector attesting that the equipment has been inspected;
- (4) the permit holder has complied with the provisions of this Act and the regulations; and
- (5) the permit holder establishes that he or it has complied with such other conditions as the Government may prescribe by regulation.

The Minister may require the applicant to provide all the relevant information or documents required for consideration of the application.

“26. A permit shall remain valid beyond its date of expiry, if an application for renewal has been received at least 30 days before that date, until a decision is made by the Minister.

The renewal is effective from the date of expiry of the permit.

“27. No permit may be transferred except with the authorization of the Minister.

The Minister may temporarily authorize a person other than the permit holder to act under the authority of a permit in order to facilitate a transition or other acts made necessary owing to the death, liquidation of the property of or bankruptcy of the permit holder, to the transfer or sale of the property of the

permit holder, or to any other similar situation. The person to whom temporary authorization is granted must fulfill all obligations incumbent on the permit holder under this Act.

An application for temporary authorization or for the transfer of a permit is subject to the payment of the fees fixed by government regulation.

The Minister may require the applicant to provide all the relevant information or documents required for consideration of the application.

“28. A permit holder must advise the Minister of any change that renders any information, certificate or document submitted to the Minister inaccurate or incomplete.

“29. The permit or duplicate issued to the permit holder by the Minister must be posted in view of the public on a unit of petroleum equipment, at the entrance to the place where the equipment is located or in a place that is visible from outside the building used by the permit holder as a place of business, if the equipment is located at the same address.

“30. The Minister may revoke a permit at the request of the permit holder, provided he has no serious cause to revoke the permit otherwise. Such revocation shall entitle the permit holder to receive a refund of the fees paid in proportion to the number of months remaining between the revocation of the permit and the end of its period of validity.

“31. Where, during the period of validity of a permit, a tank is added or replaced or other material changes are made to other parts of petroleum equipment, thereby invalidating the permit or inspection certificates issued, the permit shall be amended or replaced by a new permit, at the option of the permit holder.

If the permit holder opts for an amended permit, the permit holder must provide the Minister with an inspection certificate for the new equipment, in accordance with the regulatory standards, and pay any additional amount of fees applicable.

If the permit holder opts for a new permit, the application shall be dealt with as an application for renewal.

“32. The Minister may suspend or revoke a permit where the permit holder

(1) no longer fulfills the conditions for obtaining or renewing a permit ;

(2) does not comply with the provisions of this Act and the regulations or with a private petroleum equipment inspection program approved by the Minister ;

(3) refuses or neglects to remedy any deficiency observed in accordance with the conditions and within the time limit determined pursuant to section 33.

“33. Where a permit holder fails to comply with the provisions of this Act or of a regulation, or of a private petroleum equipment inspection program, the Minister may require the permit holder to remedy his or its failure in accordance with the conditions and within the time limit fixed by the Minister before the permit is maintained or reinstated following a suspension.

“34. Before suspending, revoking, refusing to renew or imposing conditions for the maintenance or reinstatement of a permit, the Minister must notify the permit holder, in writing, as prescribed in section 5 of the Act respecting administrative justice (1996, chapter 54) and grant him or it at least 10 days to present observations.

The Minister may, where urgent action is required or so as to prevent irreparable damage being caused to persons, property or the environment, suspend a permit without being bound by such prior obligations.

In such a case, the permit holder may, within 10 days of being notified of the decision, present observations to the Minister for a review of the decision.

Unfavourable decisions concerning a permit made by the Minister may be contested by the interested person before the Administrative Tribunal of Québec in accordance with the Act respecting administrative justice.

“DIVISION II

“OBLIGATIONS OF PERMIT HOLDERS

“35. A permit holder who allows another person to operate the equipment covered by the permit is required to take all reasonable steps to ensure that that other person observes the requirements of section 11.

“36. A permit holder must, as soon as possible after it has been brought to his or its knowledge, correct any defect in petroleum equipment that imperils public safety or constitutes a serious threat to the environment.

“37. The Government may determine, by regulation, the information that must be entered in a register and the information or documents that must be retained by a permit holder, as well as the prescribed period of retention.

The Minister may require that a permit holder produce a report on all activities relating to the petroleum equipment covered by his or its permit, in the form and at the time determined by the Minister, and that all the required information be included in the report.

“DIVISION III**“CERTIFICATION AND OBLIGATIONS OF INSPECTORS**

“38. Only a person registered as a certified inspector in the register kept by the Minister may carry out an inspection of high-risk petroleum equipment required under this Act and issue a certificate.

“39. Certification shall be granted to a person who

(1) has passed the examination, has the training or possesses the qualifications required by government regulation or, on the conditions prescribed by regulation, has established by any other means the Minister considers appropriate that he possesses equivalent knowledge or experience in the field of petroleum products and equipment;

(2) has paid the fees payable for the consideration of his application and paid the fees required for registration;

(3) has met any other conditions prescribed by government regulation.

The applicant must, in addition, provide any relevant information or document required by the Minister.

Upon granting an application for certification, the Minister shall provide the applicant with a certificate attesting his capacity as a certified inspector and his registration. Where the Minister refuses to grant certification, the fees paid for registration are refunded to the applicant.

“40. The Minister may refuse to grant certification if, in the preceding five years,

(1) the applicant’s certification was revoked;

(2) the applicant was convicted of an offence related to his activities as an inspector, unless he has obtained a pardon.

“41. The fees required for the consideration of an application for certification, and the annual fees required for registration, shall be determined by government regulation.

The Government may also determine, by regulation, the fees payable upon an application for re-registration following a revocation of registration.

“42. The Minister shall keep a register of the names and addresses of certified inspectors.

Failure to pay the annual fees by the date on which they become payable entails, by operation of law, revocation of registration.

The information contained in the register is public information.

“43. A certified inspector must advise the Minister of any change that renders the information or documents submitted to the Minister inaccurate or incomplete.

“44. The Minister may require a certified inspector to undergo an examination or training specified by the Minister where

(1) the Minister considers it necessary in light of new developments in the field of petroleum products and equipment;

(2) the inspector has failed to comply with the provisions of this Act or the regulations;

(3) the inspector's registration has been suspended or must be renewed following a revocation of registration.

“45. The Minister may suspend or revoke the certification of a certified inspector where the inspector

(1) no longer fulfills the conditions for certification;

(2) obtained certification by fraud or on false representation;

(3) fails to comply with the provisions of this Act or the regulations;

(4) has failed, or refused to undergo, the examination or training required by the Minister;

(5) is negligent or dishonest in the performance of his activities.

The suspension or revocation of certification entails, by operation of law, a corresponding suspension or revocation of registration.

“46. Before suspending or revoking certification, or requiring an inspector to pass an examination or training, the Minister must notify the inspector in writing, as prescribed in section 5 of the Act respecting administrative justice (1996, chapter 54) and allow him at least 10 days to present observations.

The Minister may, where urgent action is required or so as to prevent irreparable damage being caused to persons, property or the environment, suspend certification without being bound by such prior obligations.

In such a case, the inspector may, within 10 days of being notified of the decision, present observations to the Minister for a review of the decision.

Unfavourable decisions concerning certification made by the Minister may be contested by the interested person before the Administrative Tribunal of Québec in accordance with the Act respecting administrative justice.

“47. A certified inspector must safeguard his professional independence and avoid any situation in which the inspector would be in a conflict of interest.

A conflict of interest arises, in particular, where an inspector

(1) inspects petroleum equipment belonging to an enterprise by which he is employed, unless he is required, by law, to adhere to a code of professional conduct;

(2) performs work on petroleum equipment or decontamination work on sites polluted by petroleum products, or supervises such work, in the capacity of a contractor or employee;

(3) has a direct or indirect interest in an enterprise that performs work on petroleum equipment, designs or manufactures petroleum equipment, or engages in activities in the field of petroleum product sales, storage or transportation.

In addition, a certified inspector must, in exercising his functions, comply with such standards of ethics as the Government may prescribe by regulation.

“48. The information obtained by a certified inspector in exercising his functions is confidential; it may not be disclosed or made accessible to persons not legally entitled thereto except with the written authorization of the person concerned.

“49. A certified inspector may not use confidential information to obtain, directly or indirectly, an advantage for himself or for others.

“50. The Government may determine, by regulation, the information that must be entered in a register and the information and documents that must be retained by a certified inspector, as well as the prescribed period of retention.

The Minister may require that a certified inspector produce a report on his activities in the form and at the time determined by the Minister, and that all the required information be included in the report.

“DIVISION IV

“INSPECTION OF HIGH-RISK PETROLEUM EQUIPMENT

“51. The inspection of high-risk petroleum equipment by a certified inspector must be carried out in accordance with the standards prescribed by government regulation.

The standards may include a requirement to test for soil contamination in the vicinity of the equipment.

The standards may, in particular, vary with regard to

- (1) the characteristics of the petroleum equipment, its location or its use;
- (2) the fact that the petroleum equipment is being brought into service for the first time;
- (3) the work carried out since the last inspection;
- (4) the extent of the last inspection or last testing of operating performance, the date on which it was carried out and the results obtained;
- (5) the results of the last leak test;
- (6) any complaints received in connection with the condition of the petroleum equipment that the Minister considers justified, and the inspection reports;
- (7) any recommendations joined to the last certificate issued;
- (8) the times or frequency at which the petroleum equipment must be inspected;
- (9) the facts observed during the inspection;
- (10) the management of the petroleum equipment and the training of the persons operating the equipment.

“52. Not later than ten days after the completion of the inspection, the certified inspector shall issue a certificate attesting that the inspection has been passed if, in the opinion of the inspector, all the prescribed requirements have been met. In other cases, the certified inspector shall give the applicant or permit holder a notice setting out the deficiencies observed or the other grounds for his refusal to issue a certificate.

“53. The inspector must, without delay, forward to the Minister a copy of every certificate issued and every notice given to a permit holder.

“54. A certificate must contain a description of the equipment inspected and its location, and the other information required by government regulation.

“55. The inspector may, where advisable, join his recommendations to the certificate issued to maintain certification throughout the period of validity of the permit.

“56. The fact that an inspection has been carried out and that a certificate issued by a certified inspector has been accepted by the Minister does not relieve a permit holder or any other person governed by this Act from the responsibilities that are incumbent upon them. More specifically, they shall not be considered to be a general attestation or a guarantee of the safety of the petroleum equipment concerned, or of its conformity with any applicable legislative or regulatory provision.

“DIVISION V

“PRIVATE INSPECTION PROGRAMS FOR HIGH-RISK PETROLEUM EQUIPMENT

“57. The Minister may approve a private inspection program for high-risk petroleum equipment submitted by a permit holder as an alternative to the tests and inspections required under section 8.

“58. A program may, in particular, include clauses concerning

- (1) the required performance levels for the petroleum equipment used;
- (2) the human and financial resources allocated to the testing and inspection of the petroleum equipment, and to the work performed on the equipment;
- (3) the training of the personnel assigned to activities related to petroleum equipment;
- (4) the exchange of information between the permit holder and the Minister;
- (5) the frequency of prescribed inspections, tests and analyses and reports;
- (6) the procedure for grouping applications for the renewal of the permit holder’s permits, where the permit holder has undertaken to apply more than one program;
- (7) the conditions or procedure for terminating the program.

The period of validity of a program may not exceed five years. The program must be set out in writing and be signed by the permit holder. The same conditions apply to the renewal of the program and to any amendment to the program made with the Minister’s approval.

“59. The Government may, by regulation, set conditions for the approval of a program and determine the minimum content of a program. The Government may also determine, by regulation, the amount of the fees payable by a permit holder for the consideration of his or its application.

“60. Compliance with the clauses of a program dispenses a permit holder from the requirements relating to the tests of the operating performance of petroleum equipment and the inspections of the equipment that are required for the renewal of a permit under subparagraphs 2 and 3 of the first paragraph of section 25.

“61. A program may be terminated in accordance with the conditions set out in the program.

In addition, the Minister may terminate a program prematurely without compensation where, in the Minister’s opinion, the permit holder

(1) no longer has the necessary resources to perform the obligations set out in the program ;

(2) no longer fulfills the conditions for the approval of a program prescribed by regulation ;

(3) does not comply with the provisions of this Act or the regulations, or with the obligations incumbent upon him or it under the program ;

(4) has made false or misleading statements to the Minister.

Before terminating a program, the Minister must notify the permit holder in writing as prescribed by section 5 of the Act respecting administrative justice (1996, chapter 54) and allow the permit holder at least ten days to present observations.

The Minister may, where urgent action is required or so as to prevent irreparable damage being caused to persons, property or the environment, terminate a program without being bound by such prior obligations.

In such a case, the permit holder may, within 10 days of being notified of the decision, present observations to the Minister for a review of the decision.

“62. Where a program is not renewed or is prematurely terminated and the permit is to remain valid for more than six months, the Minister may request that the permit holder provide, within the time fixed by the Minister, an inspection certificate as required for a permit renewal.

“63. The Minister shall keep a register of approved programs in which he shall enter the particulars of the permit holders, the address where the equipment covered by each program is located, and the period of validity. Where applicable, the Minister shall also indicate if the programs have been renewed, amended or prematurely terminated.

The information contained in the list is public information.

“CHAPTER IV**“EXEMPTIONS FROM REGULATORY PROVISIONS**

“64. The Minister, on the conditions he determines, may authorize alternatives to the equipment, processes or standards prescribed by regulation, if it can be shown that the resulting level of quality or safety would be at least equivalent to the level obtained through compliance with the regulatory provisions.

“65. A person who complies with the conditions of the Minister’s authorization under section 64 does not contravene the regulatory provision specified in the authorization.

“66. The Minister shall keep a register of all authorizations, in which he shall enter the names of the persons to whom the authorizations have been granted, the regulatory provisions concerned, the alternatives authorized and the location of the equipment concerned.

Such information is public information.”

3. Chapter IV.1 and section 45.1 of the said Act, enacted by section 139 of the Act respecting the Régie de l’énergie (1996, chapter 61), are renumbered as Chapter V and section 67, respectively.

4. Chapter V and sections 46 to 54 of the said Act are renumbered as Chapter VI and sections 68 to 76, respectively.

5. The said Act is amended by inserting, after the present Chapter V, the following chapter :

“CHAPTER VII**“ADVISORY COMMITTEE**

“77. The Minister may establish an advisory committee, charged with advising him on any question he submits in connection with this Act or on the means of promoting the development and dissemination of knowledge in the fields to which this Act applies.

The committee may also, on its own initiative, advise the Minister on the best means of improving the quality of petroleum products or petroleum equipment, and on the best means of installing and performing work on petroleum equipment in order to ensure the protection of persons, property and the environment.

“78. The committee shall consist of eleven members appointed by the Minister, and shall include

(1) two persons selected from among the persons responsible for the application of this Act;

(2) one person involved in the field of fire prevention;

(3) one person involved in the field of environmental protection;

(4) one person having recognized expertise in the field of petroleum equipment;

(5) five permit holders;

(6) one member of the personnel of a municipality who applies regulatory measures in the field of petroleum products or equipment.

“79. The members shall be appointed for a term not exceeding three years. They shall remain in office on the expiry of their term until replaced or reappointed.

The term of a member who no longer has the qualification for which he was appointed is terminated.

“80. The Minister shall designate the chairman of the committee from among its members, with responsibility for the administration and general direction of the committee.

The term of the chairman’s administrative appointment may be of lesser duration than his term as a member of the committee.

“81. Any vacancy occurring during a term of appointment shall be filled in accordance with the rules set out in section 78.

If a member is absent or unable to act, the Minister shall designate a replacement for the duration of the absence or inability to act.

“82. The members of the committee shall receive no remuneration, except in the cases, on the conditions and to the extent determined by the Government.

The members are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, on the conditions and to the extent determined by the Government.

“83. The committee shall meet at the request of the chairman, of a majority of members or of the Minister.

The quorum at meetings of the committee is a majority of the members, including the chairman.

Any advice given by the committee must be supported by a majority of the members present.

“84. The committee may adopt internal management by-laws to regulate, in particular, the conduct of its business and the frequency of its meetings. The by-laws must be submitted to the Minister for approval.

“85. The Minister may temporarily assign departmental staff to the committee as needed to pursue its activities, or provide the committee with professional or technical support for certain operations or during certain periods.

“86. The Minister may require the committee to provide reports or information on its activities.”

6. Chapter VI of the said Act is renumbered as Chapter VIII.

7. Section 55 of the said Act is renumbered as section 87 and amended by adding, at the end, the following paragraph :

“The Minister may grant some or all of the powers of an inspector to other members of the public service. The provisions of this chapter that are applicable to inspectors shall, in such a case, be applicable to such persons as regards the exercise of such powers. The same applies where inspection duties are assigned to the members of the personnel of a municipality as part of a pilot project conducted under the provisions of the Cities and Towns Act (R.S.Q., chapter C-19) or the Municipal Code of Québec (R.S.Q., chapter C-27.1), as amended by sections 2 and 44 of the Act to amend the Cities and Towns Act, the Municipal Code of Québec and other legislative provisions (1996, chapter 27).”

8. Section 56 of the said Act is renumbered as section 88 and amended

(1) by replacing the words “in the performance of his duties” in the first line by the words “in order to ascertain whether this Act and the regulations thereunder, the private inspection programs and the conditions of the authorizations given under section 64 are being complied with”;

(2) by inserting the words “petroleum products or equipment are located or where “after the word “where” in the first line of paragraph 1 ;

(3) by adding, after paragraph 1, the following paragraph :

“(1.1) take photographs of the premises and of the petroleum products and equipment found there;”;

(4) by replacing the word “examine” in paragraph 2 by the word “test”;

(5) by inserting the words “and the petroleum products and equipment” after the word “activities” in paragraph 3 ;

(6) by adding, at the end, the following paragraph :

“(5) require any person present on the premises to provide any reasonable assistance.”

9. Section 57 of the said Act is renumbered as section 89.

10. Section 58 of the said Act is renumbered as section 90 and amended

(1) by striking out the words “a facility or any” in the first and second lines ;

(2) by inserting the words “or store” after the word “sell” in the third line ;

(3) by replacing the words “may order it to be closed or stopped or partly closed and, if necessary affix seals thereto and prohibit its use” in the fourth, fifth and sixth lines by the words “, may order the equipment or the place where the equipment is found to be closed or may prohibit its use and, where advisable, affix seals thereto”.

11. Section 59 of the said Act is renumbered as section 91 and amended

(1) by replacing the words “chief inspector” in the first line by the word “Minister” ;

(2) by replacing the word “facility” in the first line by the word “premises”.

12. Section 60 of the said Act is renumbered as section 92 and amended

(1) by striking out the words “or registration certificate” in the first line of the first paragraph ;

(2) by replacing the words “conform to the notice” in the third line of the first paragraph by the words “correct them”.

13. Sections 61, 62 and 63 of the said Act are renumbered as sections 93, 94 and 95, respectively.

14. Chapters VII, VIII and IX of the said Act are replaced by the following chapters :

“CHAPTER IX

“REGULATORY POWERS

“96. In addition to the regulatory powers provided for in the other provisions of this Act, the Government may, by regulation,

(1) determine the methods, conditions and procedure for taking samples and analyzing petroleum products or for testing petroleum equipment ;

(2) determine which provisions of a regulation are to be under the administration of the minister responsible for the Environment Quality Act (chapter Q-2);

(3) require that all or part of a report, study or analysis required under this Act be transmitted to the minister responsible for the Environment Quality Act or to a municipality ;

(4) determine, among the provisions of a regulation for which no penalty is otherwise provided, those the contravention of which constitutes an offence and specify among the fines prescribed by section 106 the fine to which the offender is liable.

No regulation may be made by the Government under subparagraph 2 or 3 of the first paragraph except on the joint recommendation of the minister responsible for the administration of this Act and the minister responsible for the administration of the Environment Quality Act (chapter Q-2).

“97. The standards and fees determined by regulation may vary according to the types of petroleum products and equipment, their use, the number of units of petroleum equipment, their capacity, the places where they are used and the persons who use them, or according to the activities of the permit holder.

“CHAPTER X

“PENAL PROVISIONS

“98. The following persons are guilty of an offence and are liable to a fine of \$2,000 to \$20,000 :

(1) every person who contravenes the second paragraph of section 5 ;

(2) every person who contravenes section 73.

“99. Every person who contravenes the provisions of section 15 is guilty of an offence and is liable to a fine of \$2,000 to \$20,000, or to an amount equivalent to the cost of reconstruction, whichever is the higher.

“100. Every person who contravenes the provisions of section 9, 10 or 11 and every owner who contravenes the provisions of section 19 is guilty of an offence and is liable to a fine of \$500 to \$10,000 in the case of a natural person and \$1,000 to \$20,000 in the case of a legal person. Where the offence involves high-risk petroleum equipment, the minimum fines shall be \$1,000 and \$2,000, respectively.

“**101.** The following persons are guilty of an offence and are liable to a fine of \$2,000 to \$20,000:

(1) every person who uses high-risk petroleum equipment that is not covered by the permit required by law, or while such permit is suspended;

(2) every permit holder who contravenes the first paragraph of section 31 or the provisions of section 35 or 36;

(3) every person who contravenes section 93;

(4) every person who carries out an inspection of petroleum equipment required under this Act or issues an inspection certificate without being registered in the register of inspectors or while such registration is suspended.

In the case of a suspended permit referred to in subparagraph 1 of the first paragraph, the court may also order that the period of suspension be extended by a further 6 to 12 months. The decision shall be forwarded to the Minister by the clerk of the court.

“**102.** Every person who manufactures or acquires, or sells or procures to another person, petroleum equipment that has a capacity below the capacities specified in paragraph 1, 2 or 3 of the definition in section 2 of “high-risk petroleum equipment”, for the purpose of avoiding or enabling another person to avoid the obligation incumbent upon him or upon the other person to hold a permit, is guilty of an offence and is liable to a fine of \$2,000 to \$20,000.

“**103.** Every person who contravenes a provision of section 71, 72, 74, 75, 76 or 94, and every permit holder or inspector who, while bound by the obligations imposed by this Act, makes a false or misleading statement to the Minister or enters false or misleading data in a register, or who participates in or consents to such statements or entries, is guilty of an offence and is liable to a fine of \$500 to \$10,000 in the case of a natural person and \$2,000 to \$20,000 in the case of a legal person.

“**104.** The following persons are guilty of an offence and are liable to a fine of \$500 to \$5,000:

(1) every person who contravenes the first paragraph of section 14;

(2) every person who delivers petroleum products in contravention of section 17;

(3) every permit holder who fails to meet the obligations imposed under section 28, 29 or 37;

(4) every certified inspector who fails to meet the obligations imposed under section 43, 50, 52, 53 or 54.

“**105.** Every certified inspector who contravenes a provision of section 47, 48 or 49 is guilty of an offence and is liable to a fine of \$1,000 to \$5,000.

“**106.** Every person who contravenes a regulatory provision the violation of which constitutes an offence and for which no penalty is otherwise provided, is liable to a fine in one of the following ranges, as specified in the regulation :

- (1) \$500 to \$5,000;
- (2) \$1,000 to \$10,000;
- (3) \$2,000 to \$20,000.

“**107.** For any subsequent offence, the amount of the fine is doubled.

“**108.** Where an offence has resulted in a financial gain for the offender, the applicable minimum and maximum fines shall be either the fines fixed for the offence under this Act, or the amount of the financial gain and twice the amount of the financial gain, whichever is higher.

“**109.** The court may order an offender to remedy the failure for which he was convicted.

“**110.** Where an offence referred to in sections 98 to 106 has continued for more than one day, it shall be counted as a number of offences equal to the number of days during which the offence has continued.

“**111.** The directors, officers, representatives and employees of an enterprise or legal person who failed to take all reasonable steps, having regard to the circumstances, to prevent the commission of an offence, or who ordered, authorized, consented to or participated in the offence, are guilty of an offence and liable to the penalty prescribed for the offence, whether or not the enterprise or legal person has been prosecuted or convicted.

The same rule applies to a person who employs or retains the services of another person or enterprise to perform activities governed by this Act.

“**112.** In any proceedings, a report relating to the analysis of a petroleum product, signed by an analyst recognized by the Minister, shall, in the absence of any evidence to the contrary, be accepted as evidence of its content and of the authority of the person signing the report without further proof of appointment or signature.

The cost of such analysis shall form part of the costs of the offender.

“**113.** Penal proceedings must be instituted within two years of the commission of an offence.

However, where a false or misleading statement is made to the Minister or an inspector, penal proceedings must be instituted within two years from the date on which the investigation record was opened or from the date on which the inspection which led to the discovery of the offence began.

The certificate of the Minister, investigator or inspector, as the case may be, indicating the date on which the investigation or inspection began constitutes, in the absence of any evidence to the contrary, conclusive proof of such fact.

“CHAPTER XI

“MISCELLANEOUS PROVISIONS

“**114.** The Minister may, by order, delegate the powers conferred on him by sections 22, 24, 25, 27, 29, 30, 32, 33, 34, 37, 39, 40, 42, 44, 45, 46, 50, 57, 61, 62, 63, 64, 66, 70, 87, 91, 92, 112 and 113 to any person, any group of public servants or any body he designates.

“**115.** Interest shall be charged on any unpaid balance of fees payable under this Act at the rate determined under section 28 of the Act respecting the Ministère du Revenu (chapter M-31). The interest is capitalized monthly.

“**116.** The Minister of Natural Resources is responsible for the administration of this Act.”

AMENDING PROVISIONS

15. Section 185 of the Building Act (R.S.Q., chapter B-1.1) is amended

(1) by inserting the words “the Act respecting petroleum products and equipment” after the words “(chapter R-20),” in the fifth line of paragraph 19.1;

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

“Before making a regulation under subparagraph 16 or 17 of the first paragraph in respect of petroleum equipment installation contractors, the Board must obtain the opinion of the minister responsible for the Act respecting petroleum products and equipment. The minister’s opinion must be appended to his recommendation when the regulation is submitted to the Government for approval.”

16. Section 263 of the said Act is replaced by the following section:

“**263.** Section 12 of the Act respecting the Ministère des Ressources naturelles (chapter M-25.2) is amended by replacing paragraph 15 by the following paragraph:

“(15) monitoring the quality of energy products and petroleum equipment as well as the safe distribution and use of petroleum products;”.

17. Section 297.3 of the said Act is amended by inserting the words “against the Act respecting petroleum products and equipment,” after the words “(chapter Q-1),” in the sixth line.

18. Section 12 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-25.2) is amended by inserting the words “and petroleum equipment” after the word “products” in the first line of paragraph 15, and by inserting the words “and use” after the word “distribution”.

19. Section 10.2 of the Fuel Tax Act (R.S.Q., chapter T-1) is amended by replacing the words “a retailer’s permit issued under the Act respecting the use of petroleum products (chapter U-1.1)” at the end of the first paragraph by the words “a permit issued under the Act respecting petroleum products and equipment”.

20. Schedule IV to the Act respecting administrative justice (1996, chapter 54) is amended

(1) by inserting, after paragraph 15, the following paragraph:

“(15.1) section 34 or 46 of the Act respecting petroleum products and equipment;”;

(2) by striking out paragraph 26.

PROVISIONAL, TRANSITIONAL AND FINAL PROVISIONS

21. Until the coming into force of section 36 of the Act respecting administrative justice (1996, chapter 54), any unfavourable decisions made by the Minister in connection with permits or certification shall be governed by sections 16, 17 and 19 to 26 of the Act respecting the use of petroleum products, adapted as required, as they read before being repealed by this Act.

All proceedings instituted before the Court of Québec prior to the said coming into force shall be continued before that court pursuant to the former provisions.

22. In every Act, regulation, order in council, order, proclamation, ordinance, contract, agreement, memorandum of agreement or other document, a reference to the Act respecting the use of petroleum products or to any of its provisions shall be read as a reference to the Act respecting petroleum products and equipment or to the corresponding provision of that Act.

23. The provisions of the Petroleum Products Regulation shall remain in force as they stand until they are amended, replaced or repealed by a regulation made under the Act respecting petroleum products and equipment.

However, sections 92, 486, 487, 488, 490, 493, 494, 495, 497, 498, 499, 501, 502, 503, 506, 516 and 517 of the Petroleum Products Regulation, and their designation as provisions the violation of which constitutes an offence under section 529, are deemed, from the coming into force of section 16 of the Act respecting petroleum products and equipment, to have been made under section 622 of the Highway Safety Code (R.S.Q., chapter C-24.2). Until fixed pursuant to paragraph 8 of section 622 of the Highway Safety Code, the fines for an offence under the said sections shall be \$200 to \$5,000 and, for any subsequent offence, \$500 to \$6,000.

24. Every person who, on the date of coming into force of section 16 of the Act respecting petroleum products and equipment, holds a registration certificate or trading permit issued under provisions that are repealed by this Act is exempted from the obligation of holding a permit for the equipment concerned under the said section 16, until the earlier of

(1) the date on which the Minister issues a permit to the person under section 25 of this Act;

(2) one year after the date of coming into force of the said section 16.

The period of validity of the registration certificate or trading permit, as the case may be, shall be extended free of charge, until that date. The suspension, withdrawal or revocation of the certificate or permit shall be governed by the new provisions and shall, where applicable, affect the exemption to the same extent.

25. In the year following the coming into force of section 16 of the Act respecting petroleum products and equipment, the Minister shall, on the basis of the information at his disposal, replace the permits or certificates of the persons exempted under section 24 by issuing new permits for the high-risk petroleum equipment to which the said section 16 applies.

The period of validity of the permits so issued shall be fixed by the Minister at not less than six months and not more than 48 months. The fees payable shall be in proportion to the number of months for which the permit issued by the Minister is to remain valid.

The Government may, in exercising its regulatory powers relating to standards of inspection and operating performance, prescribe special standards that are to apply to the issue of a first permit or to the first renewal of a permit under the Act respecting petroleum products and equipment, applicable to the equipment existing on the date of coming into force of section 16 of this Act.

26. The provisions of this Act come into force on the date or dates to be fixed by the Government, except section 16, which comes into force on the date of coming into force of the section it amends.