



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 156

(1997, chapter 68)

**An Act to amend the Agricultural
Products, Marine Products and Food Act**

Introduced 22 October 1997
Passage in principle 28 October 1997
Passage 4 November 1997
Assented to 11 November 1997

**Québec Official Publisher
1997**

EXPLANATORY NOTES

The object of this bill is to amend the Agricultural Products, Marine Products and Food Act in order to enable the Minister of Agriculture, Fisheries and Food to authorize the owner or possessor of a seized product who applies therefor to submit the product to an operation or treatment designed to ensure that the product is safe. The conditions of authorization as well as the control and certification procedures will be established by the Minister.

In addition, the bill enables the Minister to dispense a person, for scientific or experimental purposes, from holding a permit or from complying with certain regulatory provisions. The holder of an authorization is required to meet the conditions determined by the Minister. If the holder fails to comply with those conditions, the Minister may revoke the authorization and impose a fine.

The bill also modifies the sanctions relating to offences concerning products unfit for human consumption and introduces the notion of health hazard as aggravating factor in the determination of a fine.

Lastly, the bill contains consequential amendments.

Bill 156

AN ACT TO AMEND THE AGRICULTURAL PRODUCTS, MARINE PRODUCTS AND FOOD ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. The Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) is amended by inserting, after section 11, the following sections :

“11.1. The Minister may, for scientific or experimental purposes, issue, for the period indicated by the Minister, an authorization allowing a person to disregard a provision of the first paragraph of section 9 or of a regulation made under any of paragraphs *a* to *c.4*, *d* to *e.3*, *e.6* to *h* and *j* to *l* of section 40.

The holder of the authorization must comply with the conditions determined therein by the Minister.

“11.2. The Minister may revoke the authorization of a holder who fails to comply with the conditions set out therein.”

2. The said Act is amended by inserting, after section 33.1, the following sections :

“33.1.1. The Minister may, if considered appropriate by the Minister, authorize, upon application, the owner of a seized product or the person who had possession of it to subject the product to an operation or treatment to ensure the safety of the product.

The application shall be made in writing to the Minister not later than 30 days after the date of the seizure and shall include

(1) a detailed description of the proposed operation or treatment to which the product is to be subjected ;

(2) the duration of the operation or treatment and the date on which the operation or treatment is scheduled to be carried out ;

(3) an undertaking to pay the costs of the operation or treatment and to repay to the Government the costs of the examination of the application and, where applicable, the costs incurred by the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation for analysis, inspection or assessment in relation to an authorized operation or treatment and for the verification of the safety of the product after the operation or treatment.

The authorization shall be granted by the Minister, in particular with respect to the packaging, labelling, transportation, sale or transfer of the product, subject to the conditions determined by the Minister.

“33.1.2. Where the holder of the authorization furnishes, to the satisfaction of the Minister, proof that establishes the safety of the product subjected to an operation or treatment or of any product containing such a product, the Minister shall certify that fact in writing.

The seizure is lifted on the date of receipt of the safety certificate. The product treated may then be used for human consumption in accordance with such conditions as may be determined by the Minister.

“33.1.3. Where the holder of an authorization fails to comply with any of the conditions set out therein, the Minister may revoke the authorization. Revocation of the authorization entails the obligation for the holder to destroy the product, at the holder’s expense, within the time limit and in accordance with the instructions determined by the Minister. If the holder fails to do so, the Minister shall destroy the product in the holder’s place and at the holder’s expense.

“33.1.4. The Minister may designate a person to exercise the powers provided for in sections 33.1.1 to 33.1.3.”

3. Section 33.2 of the said Act is amended by inserting the figures “33.1.2, 33.1.3,” after the word “section” in the first line of the second paragraph.

4. Section 33.3 of the said Act is amended by replacing the word “instituted;” in the second line of paragraph 1 by the words “instituted or an authorization has been granted under section 33.1.1;”.

5. The said Act is amended by inserting, after section 33.3, the following section:

“33.3.1. No person may use, sell or dispose of a product for which an authorization to proceed with an operation or a treatment to ensure the safety of the product has been granted, except in the manner set out in the authorization, until the holder of the authorization obtains a safety certificate.”

6. Section 33.4 of the said Act is amended by adding the words “, except where the owner or person has applied for an authorization under section 33.1.1” after the word “thing” in the second line of the first paragraph.

7. Section 33.11 of the said Act is amended

(1) by replacing the word “treat” in the sixth line of the first paragraph by the words “retain it”;

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

“The person concerned by the order may apply in writing to the Minister, within the time indicated in the order, for authorization to subject the product to an operation or treatment to ensure the safety of the product. Sections 33.1.1 to 33.1.3 and 33.3.1, adapted as required, apply to the authorization.”

8. Section 40 of the said Act, amended by section 9 of chapter 50 of the statutes of 1996, is again amended by replacing the words “establish a model for” in the second line of paragraph *i* by the words “prescribe the form and content of”.

9. Section 45 of the said Act is amended

(1) by replacing the words “or 11” in the second line by the words “, 11 or any condition for an authorization issued under section 11.1”;

(2) by inserting the figure “33.3.1,” after the figure “33.2,” in the second line.

10. Section 45.1 of the said Act, amended by section 12 of chapter 50 of the statutes of 1996, is again amended by striking out the words “section 3 with regard to a product unfit for human consumption or deteriorated so that it is unfit for human consumption,” in the first and second lines.

11. The said Act is amended by inserting, after section 45.1, the following section:

“45.1.1. Every person who contravenes a provision of section 3 with regard to a product unfit for human consumption or deteriorated so that it is unfit for human consumption is liable to a fine of \$750 to \$2,000 and, for a subsequent contravention, to a fine of \$2,250 to \$6,000.

Where a person is convicted for an offence under section 3 in relation to a product unfit for human consumption or deteriorated so that it is unfit for human consumption and the product constitutes a health hazard, the amount of the fine is \$2,000 to \$15,000, and \$6,000 to \$45,000 for a subsequent conviction.”

12. Section 46 of the said Act, amended by section 13 of chapter 50 of the statutes of 1996, is again amended by inserting the figure “45.1.1,” after the figure “45.1,” in the eleventh line.

13. This Act comes into force on 11 November 1997.