



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 421

(1998, chapter 29)

**An Act to amend the Act respecting the
conservation and development of wildlife
and the Act respecting commercial
fisheries and aquaculture**

Introduced 5 May 1998

Passage in principle 2 June 1998

Passage 17 June 1998

Assented to 17 June 1998

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EXPLANATORY NOTES

This bill amends the Act respecting the conservation and development of wildlife to transfer to the Minister certain powers of the Government concerning the establishment of wildlife areas and the determination of standards relating to the conditions for the harvesting of wildlife, in particular hunting and trapping periods and capture limits, given the variable nature of the standards.

The bill also gives the Minister the power to determine, by regulation, the conditions on which and the period during which the holder of a trapping licence may damage a beaver dam or open a muskrat den to set a trap. Under the bill, the Minister may, for scientific, educational or wildlife management purposes, issue a licence authorizing a person to disregard a prohibition of the law concerning the modification of a component of a wildlife habitat.

Amphibians are exempted from the application of the law pertaining to fish-breeding activities. Dressed pelts and ranch-raised pelts are exempted from the application of the provisions applicable to the sale and trade of pelts.

The bill empowers the Government to fix, by regulation, the amount of fees payable for the registration of animals and fish and allows the Minister to authorize a person, partnership or association to register animals or fish and to retain a portion of the fees collected for the registration.

The bill transfers responsibility for applying the standards concerning the operation of fishing ponds for commercial purposes, in particular the issuing of licences and the development of regulatory standards for this sector of activities, to the Minister of Agriculture, Fisheries and Food. The Act respecting commercial fisheries and aquaculture is amended accordingly.

Lastly, the bill contains transitional provisions and consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

– Act respecting land use planning and development (R.S.Q., chapter A-19.1);

- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- Act respecting commercial fisheries and aquaculture (R.S.Q., chapter P-9.01).

Bill 421

AN ACT TO AMEND THE ACT RESPECTING THE CONSERVATION AND DEVELOPMENT OF WILDLIFE AND THE ACT RESPECTING COMMERCIAL FISHERIES AND AQUACULTURE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 26.1 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is replaced by the following :

“26.1. Notwithstanding section 26, the holder of a trapping licence may, during the period and on the conditions determined by regulation of the Minister, damage a beaver dam to ascertain the presence of beavers or to set a trap.

Moreover, the holder of a trapping licence may, during the period and on the conditions determined by regulation of the Minister, open a muskrat den to set a trap.”

2. Section 47 of the said Act, amended by section 2 of chapter 95 of the statutes of 1997, is again amended

(1) by adding “, or a provision of the first paragraph of section 128.6” at the end of the first paragraph ;

(2) by replacing “2, 3 and 5” in the third line of the second paragraph by “2 and 3”.

3. Section 48 of the said Act is amended by striking out “a fishing pond,” in the first line.

4. Section 49 of the said Act is amended by striking out “or amphibians” wherever those words appear in that section.

5. Section 51 of the said Act is amended by inserting “or a fishing pond” after “plant” in the first line.

6. Section 53 of the said Act is amended

(1) by replacing “trade or dress pelts” in the second line of the first paragraph by “trade in or dress undressed pelts from an animal that has been hunted or trapped” ;

(2) by replacing, in the French text, “en apprêter” in the second line of the first paragraph by “l’apprêter”;

(3) by inserting “such” before “pelts” in the second line of the first paragraph.

7. Section 54.1 of the said Act is replaced by the following:

“**54.1.** The Minister may, by regulation,

(1) fix the kinds and classes of licences and certificates, in particular for residents and non-residents, and limit the number of licences of each class for an area, territory or place the Minister indicates;

(2) determine the content and term of a licence or certificate and the manner of issuing, replacing and renewing a licence or certificate according to the category of persons concerned or according to the species of wildlife sought or the age or sex of animals.”

8. Section 56 of the said Act is amended

(1) by replacing “Government” in the first line of the second paragraph by “Minister” and by replacing “it determines” in the second line by “determined by the Minister”;

(2) by inserting “or age” after “sex” in the first line of subparagraph 1 of the third paragraph;

(3) by replacing “territory or the area” in subparagraph 3 of the third paragraph by “area, territory or place”;

(4) by inserting “and” at the end of subparagraph 3 of the third paragraph and by striking out “and” at the end of subparagraph 4 of that paragraph;

(5) by striking out subparagraph 5 of the third paragraph;

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

“The Minister may also, by regulation,

(1) determine the means and their specifications, and the animals, including domestic animals and dogs, with which hunting, trapping or capturing an animal the Minister indicates is permitted;

(2) determine the maximum number of animals that may be killed or captured by a person or group of persons during a period and in an area, territory or place the Minister indicates.”

9. Section 56.1 of the said Act is replaced by the following:

“56.1. The Minister may, on the conditions determined by the Minister, authorize a person, partnership or association to register animals or fish. The authorization may provide that all or some of the fees collected for the registration devolve upon the holder of the authorization.”

10. Section 71 of the said Act is amended by replacing “, a regulation made under section 56 or a ministerial order issued under section 56.1” in paragraph 3 by “or a regulation made under section 56”.

11. Section 73 of the said Act is amended

(1) by replacing paragraph 1 by the following :

“(1) determine the fish or classes of live fish that may be produced, used for stocking purposes, kept in captivity, propagated or transported in a fish-breeding area;”;

(2) by striking out “a fishing pond,” in the second line of paragraph 2 ;

(3) by striking out “or amphibians” wherever those words appear in paragraph 3 ;

(4) by striking out “a fishing pond,” in the second line of paragraph 5 ;

(5) by striking out “a fishing pond,” in the second line of paragraph 6.

12. The said Act is amended by adding, at the end of Chapter III, the following :

“DIVISION VII

“TERRITORIES DELIMITED FOR WILDLIFE HARVESTING

“84.1. The Minister may divide Québec into hunting areas, fishing areas or trapping areas, and delimit the areas.

The Minister may also delimit a territory for the purposes of paragraph 1 of section 54.1, subparagraph 3 of the third paragraph and subparagraph 2 of the fourth paragraph of section 56, and paragraphs 18 and 19 of section 162.

“84.2. The Minister may, after consultation with the Minister of Agriculture, Fisheries and Food, divide Québec into fish-breeding areas and delimit the areas.

“84.3. An order made by the Minister under section 84.1 or 84.2 shall be published in the *Gazette officielle du Québec*, together with a plan of the area or territory delimited, and comes into force on the date of its publication or on any later date indicated therein.”

13. Section 85 of the said Act is amended

(1) by replacing “Government may designate and delimit areas on land in the public domain in view of” in the first and second lines by “Minister may, after consultation with the Minister of Natural Resources, delimit areas on land in the public domain with a view to”;

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

“An order made by the Minister under this section shall be published in the *Gazette officielle du Québec*, together with the plan of the areas of land delimited, and comes into force on the date of its publication or on any later date indicated therein.”

14. Section 86.2 of the said Act is amended by striking out “designated and” in the fourth line of the portion of the first paragraph before subparagraph 1.

15. Section 89 of the said Act is amended

(1) by replacing “Government repeals or amends an order that has designated and delimited” in the first and second lines by “Minister repeals, amends or replaces the instrument delimiting”;

(2) by replacing, in the French text, “le ministre” in the second line by “il”;

(3) by replacing “or amendment” in the fourth line by “, amendment or replacement”.

16. Section 93 of the said Act is amended

(1) by replacing “regulation designating and” in the second and third lines of the second paragraph by “instrument”;

(2) by replacing “or amended” in the third and fourth lines of the second paragraph by “, amended or replaced”.

17. Section 104 of the said Act is amended

(1) by replacing “Government may” in the first line of the first paragraph by “Minister may, after consultation with the Minister of Natural Resources,”;

(2) by replacing “Government” in the first line of the second paragraph by “Minister”;

(3) by replacing, in the French text, “du décret” in the second line of the fourth paragraph by “de l’arrêté”;

(4) by adding, at the end, the following:

“An order made by the Minister under this section shall be published in the *Gazette officielle du Québec*, together with a plan of the controlled zone delimited, and comes into force on the date of its publication or on any later date indicated therein.”

18. Section 111 of the said Act is amended

(1) by replacing “Government may” in the first line of the first paragraph by “Minister may, after consultation with the Minister of Natural Resources,”;

(2) by replacing “Government” in the first line of the second paragraph by “Minister”;

(3) by replacing, in the French text, “du décret” in the fourth line of the third paragraph by “de l’arrêté”;

(4) by adding, at the end, the following:

“An order made by the Minister under this section shall be published in the *Gazette officielle du Québec*, together with a plan of the wildlife sanctuary delimited, and comes into force on the date of its publication or on any later date indicated therein.”

19. Sections 113 to 117 of the said Act are repealed.

20. Section 122 of the said Act is amended

(1) by replacing “Government may” in the first line of the first paragraph by “Minister may, after consultation with the Minister of Natural Resources,”;

(2) by replacing “Government” in the first line of the second paragraph by “Minister”;

(3) by replacing, in the French text, “le ministre” in the second line of the second paragraph by “il”;

(4) by replacing, in the French text, “du décret” in the fourth line of the third paragraph by “de l’arrêté”;

(5) by adding, at the end, the following:

“An order made by the Minister under this section shall be published in the *Gazette officielle du Québec*, together with a plan of the wildlife preserve delimited, and comes into force on the date of its publication or on any later date indicated therein.”

21. Section 128.6 of the said Act is amended by adding “under this Act” after “Government” at the end of subparagraph 3 of the second paragraph.

22. Section 162 of the said Act is amended

(1) by striking out paragraphs 5, 6, 8 and 15;

(2) by replacing “the form, tenor and term of a licence or certificate, the mode and cost of its issue, replacement and renewal” in the first and second lines of paragraph 10 by “the cost of issuing, replacing and renewing a licence or certificate according to the kind or class of licence or certificate,” and by striking out “, and the obligations of holders respecting a change of address” in the fourth and fifth lines;

(3) by inserting “and fixing, according to species, the fees exigible for the registration” after “fish” in the second line of paragraph 16;

(4) by replacing “or territory” in the first line of paragraph 18 by “, territory or place”;

(5) by striking out “it delimits” in the first line of paragraph 19;

(6) by replacing “, for each pelt purchased or obtained, the duty that must be paid by the holder of a licence contemplated in section 53 and the conditions with which he” in the first, second and third lines of paragraph 21 by “the duties payable by the holder of a licence referred to in section 53 for each undressed pelt from an animal that has been hunted or trapped and for each pelt purchased, dressed or received on consignment as an intermediary for its sale or trade, as well as the conditions with which the holder”.

23. Section 164 of the said Act is replaced by the following:

“**164.** A regulation made by the Minister under sections 26.1, 54.1 and 56 is not subject to the publication requirements set out in section 8 of the Regulations Act (chapter R-18.1).”

24. Section 165 of the said Act is amended

(1) by striking out “or 5” in the second line of subparagraph 1 of the first paragraph;

(2) by striking out “, a ministerial order under section 56.1” after “56” in the second line of subparagraph 2 of the first paragraph;

(3) by replacing “paragraph 1, 2 or 3” in the fourth line of subparagraph 2 of the first paragraph by “subparagraph 1, 2 or 3 of the third paragraph”.

25. Section 167 of the said Act is amended by striking out “, a ministerial order under section 56.1” after “56” in the second line of subparagraph 1 of the first paragraph and by inserting, in the French text, “du troisième alinéa” after “3” in the fourth line of that subparagraph.

26. Section 171 of the said Act is amended by striking out “or 5” in the second line of paragraph 1.

27. Section 191.1 of the said Act is amended by adding, at the end, the following :

“From 17 June 1998, those regulations may be replaced or repealed by order of the Minister of the Environment and Wildlife.”

28. Section 12 of the Act respecting commercial fisheries and aquaculture (R.S.Q., chapter P-9.01) is amended

(1) by adding “or a fishing pond” at the end of the first paragraph ;

(2) by replacing “For the purposes of this Act, a fish-breeding plant is” in the first line of the second paragraph by ““Fish-breeding plant” means” ;

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

““Fishing pond” means a body of water having an area of not more than 10 hectares containing exclusively farmed fish, closed on all sides to hold the fish captive, situated on private property and used for angling.”

29. Section 14 of the said Act, amended by section 398 of chapter 43 of the statutes of 1997, is again amended by adding, at the end, the following :

“The second and third paragraphs do not apply to a licence to operate a fishing pond.”

30. Section 47 of the said Act is amended

(1) by inserting “or a fishing pond” after “plant” in the second line of the first paragraph ;

(2) by inserting “or a fishing pond” after “plant” in the second line of the second paragraph.

31. Section 49 of the said Act is amended

(1) by adding “or a fishing pond” after “plant” in the second line of paragraph 4 ;

(2) by inserting “the keeping in captivity in a fishing pond,” after “relating to” in the first line of paragraph 5.

32. Section 149 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended by replacing subparagraph 5 of the first paragraph by the following :

“(5) delimits part of the lands in the public domain to foster the utilization of wildlife resources, or abolishes or changes such delimitation ;”.

33. Orders made by the Government under sections 85, 104, 111, 122 and 191.1 of the Act respecting the conservation and development of wildlife before 17 June 1998 remain in force until they are replaced or repealed by order of the Minister of the Environment and Wildlife.

34. Orders made by the Minister under sections 54.1 and 56.1 of the Act respecting the conservation and development of wildlife before 17 June 1998 remain in force until they are replaced, amended or repealed by order of the Minister of the Environment and Wildlife.

35. The provisions of the regulations made by the Government under section 56, paragraph 1 of section 73 in respect of the establishment of fish-breeding areas, paragraphs 5, 6, 8 and 10 in respect of the determination of the tenor and term of a licence or certificate, its mode of issue, replacement or renewal according to the category of persons concerned or according to the species of wildlife sought or the age or sex of animals, as well as paragraphs 14 and 15 of section 162 of the Act respecting the conservation and development of wildlife before 17 June 1998 remain in force until they are replaced or repealed by order of the Minister of the Environment and Wildlife.

36. Order in Council 1066-97 (1997, G.O. 2, 4529), made by the Government under section 4 of the Act respecting the conservation and development of wildlife as it read before 19 December 1997, remains in force until it is replaced by an order of the Minister of the Environment and Wildlife.

This section has effect from 19 December 1997.

37. The provisions of sections 6 to 10 and 35 of the Regulation respecting aquaculture and the sale of fish, made by Order in Council 1302-94 (1994, G.O. 2, 3951) respecting licences to operate a fishing pond, and the provisions of subparagraph 1 of the first paragraph of section 4.2 of the Regulation respecting the scale of fees and duties related to the development of wildlife, made by Order in Council 1291-91 (1991, G.O. 2, 3909), made under the Act respecting the conservation and development of wildlife, remain in force until they are replaced by a regulation under the Act respecting commercial fisheries and aquaculture. Those provisions are deemed to be made under paragraphs 8, 9 and 12 of section 49 of the Act respecting commercial fisheries and aquaculture.

38. The licences relating to the operation of fishing ponds referred to in section 48 of the Act respecting the conservation and development of wildlife are deemed to be issued under section 12 of the Act respecting commercial fisheries and aquaculture, as amended by section 28 of this Act, and are governed by the provisions of the Act respecting commercial fisheries and aquaculture.

39. This Act comes into force on 17 June 1998.