



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 58

(1999, chapter 66)

An Act to amend the Highway Safety Code and other legislative provisions

Introduced 28 May 1999
Passage in principle 1 December 1999
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EXPLANATORY NOTES

This bill amends the Highway Safety Code to change the rules governing the disposal of road vehicles that are not claimed after being seized from a driver subject to a sanction or driving without a licence. Henceforth, responsibility for disposing of unclaimed road vehicles will be assumed by the Société de l'assurance automobile du Québec instead of the Public Curator.

In addition, the bill authorizes the Société de l'assurance automobile du Québec to enter into agreements with the Minister of Agriculture, Fisheries and Food and an association certified under the Farm Producers Act to facilitate the exchange of information for the purposes of farm vehicle registration.

The bill introduces new measures concerning the powers of highway controllers and on-road inspections.

Under the bill, a person driving a road train or a heavy vehicle with air brakes or manual transmission, but whose driver's licence does not include the required particulars for driving such a vehicle, is liable to a fine and seizure of the vehicle. The bill specifies that the special rules in the Highway Safety Code governing the owners and operators of heavy vehicles continue to apply even when the drivers and operators are exempted from registration under the Act respecting owners and operators of heavy vehicles, and also apply to the drivers of heavy vehicles and persons supplying driver services.

The bill authorizes a Native community represented by its band council to prosecute traffic violations committed in its territory and retain the amount of any fine imposed, provided an agreement to that effect has been entered into with the Government.

The bill also contains transitional provisions and consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

- Highway Safety Code (R.S.Q., chapter C-24.2) ;

- Act to amend the Highway Safety Code and other legislative provisions (1996, chapter 56);
- Act respecting owners and operators of heavy vehicles (1998, chapter 40).

Bill 58

AN ACT TO AMEND THE HIGHWAY SAFETY CODE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 21 of the Highway Safety Code (R.S.Q., chapter C-24.2), amended by section 56 of chapter 40 of the statutes of 1998, is again amended

(1) by striking out “an owner or operator of” in the third and fourth lines of the third paragraph of the English text ;

(2) by replacing “is not a person” in the fourth line of the third paragraph of the English text by “before the owner or operator is”.

2. Section 65 of the said Code, amended by section 61 of chapter 40 of the statutes of 1998, is again amended by adding “, and containing the particulars prescribed by regulation, if any” at the end.

3. Section 180 of the said Code is amended by replacing that part which precedes subparagraph 1 of the first paragraph by the following :

“180. Where a person is convicted under the Criminal Code of an offence committed with a road vehicle or an off-highway vehicle, that person’s learner’s licence, probationary licence or driver’s licence shall be cancelled if the offence is an offence under”.

4. Section 209.5 of the said Code is amended by replacing “If the owner was not present at the time of the seizure, the Société shall advise him” in the first line of the second paragraph by “The Société shall advise the owner”.

5. Section 209.10 of the said Code is amended by replacing “the period provided for in section 209.16, but, in the latter case, only with the permission of the Public Curator” in the fifth and sixth lines by “the period provided for in section 209.17 but, in the latter case, only with the permission of the Société”.

6. Section 209.16 of the said Code is repealed.

7. The heading of Division III of Chapter III of Title V and sections 209.17 to 209.22 of the said Code are replaced by the following :

“DIVISION III**“DISPOSAL OF THE ROAD VEHICLE BY THE SOCIÉTÉ**

“209.17. If within ten days after the end of the period of seizure, the road vehicle is not claimed, the Société shall dispose of it in accordance with the rules set out in this division. The disposal costs shall be borne by the owner.

“209.18. Where the value of the road vehicle is greater than \$2,500, the Société shall dispose of it by auction.

The vehicle may be sold only after prior notice of at least ten days has been sent to the owner of the vehicle and to each person holding a right in the vehicle published in the register of personal and movable real rights, and after prior notice of at least ten days has been published in a newspaper circulated in the locality where the owner of the vehicle resides or, in the case of a legal person, in the locality where the legal person’s establishment is situated. Prior notice given under this section must specify, in particular, the year, make, model and registration number of the vehicle, the name of its owner, the owner’s right to claim the vehicle at any time prior to the sale on payment to the custodian of the vehicle of the towing and impounding charges and on payment of the charges that may be imposed by the Société pursuant to subparagraph 13.1 of the first paragraph of section 624.

The rules set out in the Civil Code pertaining to voluntary auction sales apply, in all other matters, to a sale made by the Société pursuant to this section.

“209.19. Where the value of the road vehicle is equal to or less than \$2,500, the Société may classify the vehicle as discarded and sell it or dispose of it by any other means, in particular by giving it to the custodian in payment of the latter’s claim for the cost of towing and impounding the vehicle.

The vehicle may be disposed of only after prior notice of at least five days has been sent to the owner of the vehicle and to every holder of a right in the vehicle published in the register of personal and movable real rights. Prior notice given under this section must specify, in particular, the year, make, model and registration number of the vehicle, the name of its owner, the owner’s right to claim the vehicle at any time prior to the sale on payment to the custodian of the vehicle of the towing and impounding charges and on payment of the charges that may be imposed by the Société.

“209.20. For the purposes of sections 209.18 and 209.19, the value of a road vehicle is the average wholesale price indicated, for a vehicle of the make, model and equipment concerned, in the current edition of the road vehicle value guide recognized by the Société and of which the Société gives notice in the *Gazette officielle du Québec*.

Where the model year of the vehicle is earlier than the years covered in the current edition, the price used is the price appearing in the current edition for the year closest to the model year of the vehicle; the value of the vehicle is that price less 1% for each complete month between the model year of the vehicle and that closest year appearing in the current edition.

Where the make or model of the vehicle is not covered in the guide, the Société shall assess the value of the vehicle or have it assessed.

“209.21. Every disposal of a vehicle by the Société pursuant to the rules of this division entails the extinction of all reserves of ownership, rights of redemption, hypothecs and other rights or charges encumbering the vehicle.

The Société shall forward a notice of any disposal of a vehicle to the registrar who shall, in each case, cancel the relevant entries.

“209.22. When a road vehicle is sold, the Société shall allocate the proceeds to payment of the costs of the sale, to payment of the claim of the custodian for the cost of towing and impounding, and then to payment of the charges imposed by the Société, if any, pursuant to subparagraph 13.1 of the first paragraph of section 624. The remaining proceeds shall be allocated, in order, to payment of the following claims on the vehicle :

- (1) the claim of the lessor or holder of a reserve of ownership ;
- (2) prior claims ;
- (3) hypothecary claims.

Any remaining proceeds shall be remitted to the owner of the vehicle at the time of the seizure.

“209.22.1. Even where the proceeds of the sale prove insufficient, the Société is bound to pay the costs of the sale and the claim of the custodian.

“209.22.2. To cover any loss that may be incurred by the custodian when a vehicle is given in payment, the Société shall pay the custodian the amount fixed by regulation for every vehicle given in payment.

“209.22.3. A custodian who acquires a road vehicle in payment of a claim shall, when the vehicle is purchased to be put back into operation, provide the purchaser with a certificate of mechanical inspection issued pursuant to Title IX.”

8. Section 291 of the said Code, replaced by section 84 of chapter 40 of the statutes of 1998, is amended by replacing “to maintain the highway or to install or maintain public utilities on the highway” in the third paragraph by “under a special permit expressly giving the vehicle access to that highway.”

9. Section 315.2 of the said Code, enacted by section 89 of chapter 40 of the statutes of 1998, is amended by adding the following paragraph at the end:

“In the case of a contravention of a sign or signal limiting the authorized load on a bridge or viaduct, the owner or operator of the vehicle is liable to a fine of \$600 plus

- (a) \$100 per excess 1,000 kg up to 5,000 kg in excess;
- (b) \$150 per excess 1,000 kg between 5,000 kg and 10,000 kg in excess;
- (c) \$200 per excess 1,000 kg over 10,000 kg in excess.”

10. Section 439 of the said Code is replaced by the following section:

“439. No person may drive a road vehicle in which a television set or a display screen is so placed that the image broadcast on the screen is directly or indirectly visible to the driver, except in the cases or on the conditions determined by regulation.”

11. The said Code is amended by inserting the following section after section 470:

“470.1. When required to do so by a peace officer or by a sign or signal, the driver of a road vehicle or combination of road vehicles must drive it to an inspection station and facilitate such inspection as may be required under this Code.”

12. Section 513 of the said Code, replaced by section 112 of chapter 40 of the statutes of 1998, is amended

(1) by replacing “on a bridge or viaduct on which the heavy vehicle is not authorized to travel according to a sign or signal specifying the limit on the structure” in subparagraph 4 of the third paragraph by “without special authorization on a bridge or viaduct where a sign or signal prohibits overweight vehicles”;

(2) by striking out the sixth paragraph.

13. Section 517.1 of the said Code, enacted by section 115 of chapter 40 of the statutes of 1998, is amended by striking out paragraph 7.

14. Section 519.1 of the said Code, replaced by section 119 of chapter 40 of the statutes of 1998, is again replaced by the following section:

“519.1. This Title applies to heavy vehicles and to the following persons:

(1) owners and operators of heavy vehicles within the meaning of section 2 of the Act respecting owners and operators of heavy vehicles;

(2) drivers of heavy vehicles and persons supplying the services of such drivers.”

15. Section 519.13 of the said Code, enacted by section 119 of chapter 40 of the statutes of 1998, is amended by replacing the first paragraph by the following paragraph :

“519.13. A driver of a bus, of a minibus or of a heavy vehicle carrying dangerous substances in quantities requiring hazard signs to be installed on the vehicle pursuant to a regulation respecting the transportation of dangerous substances must stop the vehicle at least 5 metres from a level crossing and then proceed only after ascertaining that it is safe to proceed.”

16. Section 519.14 of the said Code is repealed.

17. Section 519.50 of the said Code, enacted by section 119 of chapter 40 of the statutes of 1998, is amended by inserting “, 519.13” after “519.7” in the first line.

18. Section 519.52 of the said Code, enacted by section 119 of chapter 40 of the statutes of 1998, is amended by replacing subparagraph 3 of the third paragraph by the following subparagraph :

“(3) \$175 to \$525, \$350 to \$1,050 or \$700 to \$2,100 for an offence under paragraph 4 of that section according to the seriousness of the offence as determined by regulation.”

19. Section 519.67 of the said Code, amended by section 122 of chapter 40 of the statutes of 1998, is again amended by replacing “every public servant who supervises” by “the public servants who supervise”.

20. Section 519.68 of the said Code is replaced by the following section :

“519.68. The Société may, with the approval of the Minister of Transport, enter into an agreement with the Minister of Public Security in order that highway controllers may act as special constables, in particular, when they enforce the Act respecting motor vehicle transport by extra-provincial undertakings (Revised Statutes of Canada, 1985, chapter 29, 3rd Supplement) or when they ascertain the commission of an offence under the Criminal Code in the performance of their duties.”

21. The said Code is amended by inserting the following section after section 520 :

“520.1. A peace officer may, within the scope of an on-road inspection program established by the Société, conduct or order a mechanical inspection on a road vehicle, including a vehicle subject to a periodic mechanical inspection or a road vehicle to which a preventive maintenance program applies pursuant to the provisions of this Title.”

22. The heading of Division III of Chapter II of Title X of the said Code is amended by adding “OR NATIVE COMMUNITY” at the end.

23. Section 597 of the said Code is replaced by the following section :

“597. Penal proceedings for an offence under a provision of this Code may be instituted by a municipality if the offence was committed within its territory.

Such proceedings may be instituted by a Native community, represented by its band council, where an agreement for that purpose has been entered into by the Government and the council, if the offence was committed

(1) on the reserve attributed to that community,

(2) within a territory in respect of which particular conditions for the provision of police services to the community have been ordered by the Minister of Public Security or agreed on between the community and the Government pursuant to the Police Act, or

(3) within the territory over which a Cree or Naskapi village, formed of the members of the community, has jurisdiction under Division IV.1 of that Act.

Fines collected pursuant to this section belong to the prosecutor.”

24. The said Code is amended by inserting the following section before section 602 :

“601.1. Sections 112, 587.1 and 649 are applicable to a Native community that has entered into an agreement concerning the right to institute proceedings, as stipulated therein.”

25. The said Code is amended by inserting the following section after section 611.1 :

“611.2. The Minister of Agriculture, Fisheries and Food and an association certified under the Farm Producers Act may, after entering into agreements with the Société, communicate to the Société, for the registration of road vehicles, the information needed to verify farmer status and membership in such an association or the status of holder of an agricultural operation registration card issued pursuant to a regulation made under section 36.15 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (chapter M-14).

The agreements must include provisions specifying the nature of the information to be communicated, the steps to be taken to ensure confidentiality and the relevant security measures.

The agreements must be submitted for an opinion to the Commission d’accès à l’information in accordance with the procedure set out in section 70

of the Act respecting Access to documents held by public bodies and the Protection of personal information.”

26. Section 621 of the said Code, amended by section 144 of chapter 40 of the statutes of 1998, is again amended

(1) by replacing “\$100 to \$200, or \$300 to \$600 for an owner to whom Chapter I.1 of Title IX applies or \$350 to \$1,050 or \$700 to \$2,100 if Title VIII.1 applies to the owner” in paragraph 23 by “\$90 to \$270, \$175 to \$525 or \$350 to \$1,050 for a driver, owner or lessee or \$175 to \$525, \$350 to \$1,050 or \$700 to \$2,100 for an operator to whom Title VIII.1 applies”;

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

“(51) determine in what cases and on what conditions a road vehicle may be equipped with a television set or a display screen.”

27. Section 624 of the said Code is amended

(1) by inserting the following subparagraph after subparagraph 13 of the first paragraph:

“(13.1) fix the amount of the fee exigible from the person who, at the time of the seizure, was the owner of the road vehicle, for the management of the vehicle disposal record;”;

(2) by striking out “electronic” in subparagraph 18 of the first paragraph;

(3) by inserting the following subparagraph after subparagraph 19 of the first paragraph:

“(20) fix the amount to be paid to a custodian for any loss that may be incurred by the custodian when a vehicle is given in payment pursuant to section 209.22.2 and the terms and conditions governing payment of the amount.”

28. The said Code is amended by inserting the following section after section 636.2:

“636.3. The person to whom custody of an impounded road vehicle has been entrusted by a highway controller in accordance with sections 536 and 636.2 shall act with care and prudence.

The custodian is entitled to retain the road vehicle until all towing and impounding charges have been paid.

Where an impounded road vehicle has not been claimed 40 days after the date of impoundment, the Société shall dispose of it in accordance with the rules set out in sections 209.17 to 209.22.3, substituting “impounding” for “seizure”, with the necessary modifications, in sections 209.17 and 209.22.”

29. Section 646 of the said Code is replaced by the following section :

“646. Every driver of a heavy vehicle who contravenes a regulatory provision the violation of which constitutes an offence under subparagraph 8 of the first paragraph of section 622 is guilty of an offence and is liable to a fine of \$90 to \$270, \$175 to \$525 or \$350 to \$1,050 according to the seriousness of the offence as determined by regulation.

The person who offers dangerous substances for transport, the owner or operator of a heavy vehicle and the carrier of dangerous substances who contravenes a regulatory provision the violation of which constitutes an offence under subparagraph 8 of the first paragraph of section 622 is guilty of an offence and is liable to a fine of \$175 to \$525, \$350 to \$1,050 or \$700 to \$2,100 according to the seriousness of the offence as determined by regulation.”

30. Section 647 of the said Code is amended by adding the following paragraph at the end :

“The fine must be \$175 to \$525 where the offence prescribed by a municipal by-law made under paragraph 5 of the said section involves a truck or tool vehicle.”

31. Section 648 of the said Code is amended by replacing paragraph 1 by the following paragraphs :

“(1) the fines belonging to the prosecuting municipality or Native community ;

“(1.1) the costs relating to proceedings brought before a municipal court that belong to the municipality in which the court has jurisdiction ;”.

32. Section 158 of the Act to amend the Highway Safety Code and other legislative provisions (1996, chapter 56) is amended by replacing “39” in the English text of paragraph 1 by “37”.

33. Section 39 of the Act respecting owners and operators of heavy vehicles (1998, chapter 40) is amended

(1) by inserting “and section 209.23” after “209.10” in the first paragraph ;

(2) by replacing “may be obtained in accordance with the provisions of sections 209.11 to 209.16 of the Highway Safety Code, adapted as required and replacing therein, except in sections 209.15 and 209.16” in the second paragraph by “or recovery of the vehicle may be obtained in accordance with the provisions of sections 209.11 to 209.15 of the Highway Safety Code, adapted as required and replacing therein, except in section 209.15” ;

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

“The provisions of sections 209.17 to 209.22.3 and 209.24 to 209.26 and the regulatory provisions under paragraph 50 of section 621 of that Code, adapted as required, also apply to the seizure.”

34. Chapter III of Title V of the Highway Safety Code comprising sections 209.1 to 209.26, as in force on (*insert here the date preceding the date of coming into force of section 7*), shall continue to apply to seizures effected before (*insert here the date of coming into force of section 7*).

35. The first regulation made under subparagraphs 13.1 and 20 of the first paragraph of section 624 of the Highway Safety Code, enacted by section 27 of this Act, is not subject to the publication requirement under section 8 of the Regulations Act (R.S.Q., chapter R-18.1).

36. Section 1 has effect from 20 June 1998 and section 32 has effect from 23 December 1996.

37. This Act comes into force on 13 December 1999 except

(1) sections 4 to 7, paragraphs 1 and 3 of section 27 and sections 28, 33 and 34, which come into force on 1 May 2000;

(2) sections 8 to 10, 12, 13, 15, 18, 20, 22 to 24, 26 and 29 to 31, which come into force on the date or dates to be fixed by the Government.