



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 123

(2000, chapter 26)

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

**Introduced 10 May 2000
Passage in principle 1 June 2000
Passage 16 June 2000
Assented to 16 June 2000**

**Québec Official Publisher
2000**

EXPLANATORY NOTES

This bill amends the Agricultural Products, Marine Products and Food Act to integrate the dairy products and substitutes sector currently governed by the Dairy Products and Dairy Products Substitutes Act. The provisions of the Agricultural Products, Marine Products and Food Act as amended under this bill will then apply to all food products, including dairy products and dairy product substitutes.

The bill introduces new measures dealing with the safety, traceability and recall of food products.

Various powers to intervene are granted under the bill to both the Minister and the authorized persons as a means of ensuring food safety. The bill also proposes in that regard certain modifications to existing powers.

The permit system in existence in the agri-food sector is revised under the bill, as is the current registration system.

The bill contains various legislative provisions conferring powers, in particular to allow for smooth integration of the dairy products and substitutes sector and for the recovery of certain costs.

The bill proposes a revamping of the penal provisions, especially to reflect increased risks to the health of consumers.

Lastly, the bill contains various amending, consequential and transitional provisions.

LEGISLATION AMENDED BY THIS BILL :

- Cities and Towns Act (R.S.Q., chapter C-19);
- Highway Safety Code (R.S.Q., chapter C-24.2);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);
- Tourist Establishments Act (R.S.Q., chapter E-15.1);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1);
- Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29);
- Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30);
- Plant Protection Act (R.S.Q., chapter P-39.01);
- Animal Health Protection Act (R.S.Q., chapter P-42);
- Marine Products Processing Act (R.S.Q., chapter T-11.01).

Bill 123

AN ACT TO AMEND THE AGRICULTURAL PRODUCTS, MARINE PRODUCTS AND FOOD ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

AGRICULTURAL PRODUCTS, MARINE PRODUCTS AND FOOD ACT

1. The title of the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) is replaced by the following title :

“FOOD PRODUCTS ACT”.

2. Section 1 of the said Act is amended

(1) by inserting the following subparagraphs after subparagraph *a.2* of the first paragraph :

“(a.3) “dairy product”: milk, or any derivative of milk, and any food product made with milk as the sole ingredient or the main ingredient ;

“(a.4) “dairy product substitute”: any food product which may be substituted for a dairy product and which, in its external characteristics or its mode of use, resembles a dairy product ;” ;

(2) by inserting “, a dairy product, a dairy product substitute” after “water product” in subparagraph *c* of the first paragraph ;

(3) by inserting the following subparagraphs after subparagraph *c* of the first paragraph :

“(c.1) “dairy producer”: any person who sells or delivers milk or cream from a herd operated by the person ;

“(c.2) “dairy plant”: an establishment or a vehicle where raw milk or cream is received or where a dairy product is prepared for wholesale ;” ;

(4) by inserting the following subparagraph after subparagraph *j* of the first paragraph :

“(j.1) “dairy distributor”: any person, other than a retailer operating a retail establishment or a restaurateur who delivers or causes to be delivered milk or cream to customers;”;

(5) by adding the following paragraph after the second paragraph:

“For the purposes of this Act and unless the context indicates a different meaning, “person” includes a partnership, an association, a cooperative or a body.”

3. Section 2 of the said Act is repealed.

4. Section 3 of the said Act is amended

(1) by inserting “receive, purchase for resale,” after “remuneration,” in the second line;

(2) by replacing “or that is deteriorated so that it is” in the fifth line by “, that is so deteriorated as to be”;

(3) by inserting “, whose safety for human consumption is uncertain,” after “consumption,” in the sixth line.

5. Section 3.1 of the said Act is amended

(1) by inserting “a packing-house, an establishment,” after “operating” in the first line of the first paragraph;

(2) by inserting, in the first paragraph, “received,” after “unloaded,” in the second line, by inserting “animals whose products are intended for human consumption are found or where” after “where” in the fifth line and by replacing “premises” in the sixth line by “packing-house, establishment, premises, places, vehicle”;

(3) by inserting “, any storing of products or any other operation” after “procedure” in the second line of the second paragraph.

6. The said Act is amended by inserting the following sections after section 3.1:

“3.2. Every operator referred to in section 3.1 shall

(1) use equipment or facilities that are in good working order and designed, constructed, manufactured, maintained and arranged in a manner that permits them to function in accordance with their intended use, permits the cleaning and disinfecting of all surfaces and does not contaminate the products;

(2) use premises, places or vehicles that are designed, constructed and maintained in a manner that permits the operations therein to be performed

under sanitary conditions, permits the cleaning and disinfecting of all surfaces and does not contaminate the products ;

(3) lay out and maintain the areas surrounding the packing-house, establishment or premises in a manner that does not contaminate the places, equipment or products.

“3.3. Every operator referred to in section 3.1 shall ensure that the persons present in the areas where products, material and packaging are handled or stored, or in the product preparation areas, and in any place where animals whose products are intended for human consumption are found, comply with the rules of hygiene and sanitation prescribed by regulation. The operator shall ensure that all personnel, including the operator, present in those areas and places comply with the measures prescribed by regulation.

“3.4. Every operator referred to in section 3.1 shall withdraw or recall any product intended for human consumption that is unfit for human consumption, that is so deteriorated as to be unfit for human consumption, whose safety is uncertain, for which there is no information or for which the information appearing on the product or its packaging does not enable the product to be consumed safely.

To that end, the operator must have a traceability system that meets the requirements prescribed by regulation.

“3.5. Every person who keeps, for commercial or philanthropic purposes or to be given, for promotional purposes, a product that is recalled shall comply with the recall.”

7. Section 4 of the said Act is replaced by the following sections :

“4. No person shall use on a product, its container, label or package, on any sign relating thereto or in any document concerning the advertising, keeping, handling or distribution of a product for sale, any inaccurate, false or misleading indication or indication that could confuse the purchaser as to the source, nature, category, class, quality, condition, quantity, composition, preservation or safe use of the product.

The absence of an indication, or an incomprehensible or illegible indication, on any of the elements described in the first paragraph is considered to be an inaccurate, false or misleading indication.

“4.1. In addition, no person shall

(1) use the words “milk”, “cream”, “butter”, “cheese” or a derivative of any of those words to designate a dairy product substitute ;

(2) use any words, trademarks, names or images that evoke the dairy industry to designate a dairy product substitute.”

8. Section 5 of the said Act is repealed.

9. Section 7 of the said Act is amended by replacing “an establishment, vehicle or premises” in the second and third lines by “a packing-house, an establishment, premises or a vehicle” and by replacing “*l.1* or *m* to *p*” in the fourth line by “*n.1* to *n.4*”.

10. The said Act is amended by inserting the following sections after section 7:

“7.1. No person shall mix a dairy product or constituent of a dairy product with a dairy product substitute, except to the extent provided by regulation.

“7.2. No person shall prepare, offer for sale, sell, deliver, process or keep, display or transport for the purpose of sale any dairy product substitute that is not designated by regulation.

“7.3. If the holder of a permit required under subparagraph *k.4* of the first paragraph of section 9 ceases, permanently or for at least 10 consecutive months, to prepare or sell by wholesale any class of dairy product substitutes covered by the permit, the holder must inform the Minister not later than 30 days thereafter.

“7.4. The Minister shall modify the permit required under subparagraph *k.4* of the first paragraph of section 9 if the holder ceases to prepare or sell by wholesale a class of products covered by the permit or more than one class of such products.

“7.5. Every dairy product substitute must meet the standards respecting composition, colour, quality, form and format determined by regulation, and the recipient, packaging or wrapping containing the dairy product substitute must bear the name, origin, quantity and composition of the product.

“7.6. In any establishment where food is served for remuneration, no person shall offer or serve a dairy product substitute without informing the consumer by means of an indication on the menu or, if there is no menu, a sign or label.”

11. Section 8 of the said Act is amended by adding the following paragraphs at the end:

“Notwithstanding the first paragraph, a farm producer within the meaning of the Farm Producers Act (chapter P-28) who is in possession of a product intended for human consumption for the purposes of sale or the furnishing of services for remuneration must register with the Minister. For that purpose, the farm producer must furnish information concerning the farm producer’s identity, location and operations.

The second paragraph does not apply to a farm producer who has consented in writing to have the information furnished by the farm producer pursuant to the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (chapter M-14) stand in lieu of registration."

12. The said Act is amended by inserting the following sections after section 8:

"8.1. Processing operations in a dairy plant must be directed by a person holding a certificate attesting that the person has the qualifications required for that purpose, issued by the Institut de technologie agricole de Saint-Hyacinthe, or any other certificate recognized as equivalent by the Minister.

"8.2. Milk and cream collecting at the farm must be carried out by a person holding

(1) a certificate attesting that the person has the qualifications required for that purpose, issued by the Institut de technologie agricole de Saint-Hyacinthe, or any other certificate recognized as equivalent by the Minister;

(2) a tester's permit.

However, an operator of a dairy plant who receives or uses milk or cream that has not been collected in accordance with the first paragraph must have in the operator's service a person who holds the permit and the certificate required under that paragraph."

13. Section 9 of the said Act is amended

(1) by replacing subparagraphs *a* to *d* of the first paragraph by the following subparagraphs:

"(a) operate an establishment or a vehicle where mammals or birds are slaughtered;

"(b) operate an establishment or a vehicle where meat or meat products intended for human consumption are prepared, for the purpose of sale by wholesale, by the operator or the person retaining the operator's services for remuneration;

"(c) operate an establishment where inedible products are prepared or stored, unless the person holds the permit required under subparagraph *k.1* for the establishment;

"(d) salvage inedible products, unless the person already holds the permit required under subparagraph *c*;"

(2) by striking out subparagraphs *g* to *j* of the first paragraph;

(3) by replacing subparagraph *k* of the first paragraph by the following subparagraph :

“(k) operate an establishment or a vehicle where agricultural products of vegetable origin intended for human consumption are prepared, for the purpose of sale by wholesale, by the operator or the person retaining the operator’s services for remuneration, unless the person holds the permit required by subparagraph *k.4* in relation to the preparation of dairy product substitutes for the establishment;”;

(4) by inserting the following subparagraphs after subparagraph *k* of the first paragraph :

“(k.1) operate a dairy plant ;

“(k.2) transport or cause to be transported milk or cream from a dairy producer’s farm to a dairy plant ;

“(k.3) act as a dairy distributor, unless the person holds the permit required under subparagraph *k.1* for the establishment ;

“(k.4) operate an establishment where a dairy product substitute is prepared or sold by wholesale ;”;

(5) by replacing subparagraphs *l* to *n* of the first paragraph by the following subparagraphs :

“(l) operate a food plant ;

“(m) transport spring water or mineral water in a tank or operate an establishment where water is bottled, for the purpose of sale by wholesale, by the operator or the person retaining the operator’s services for remuneration ;

“(n) operate an establishment or a vehicle where ice is made or packaged, for the purpose of sale by wholesale, by the operator or the person retaining the operator’s services for remuneration ;

“(n.1) operate an establishment where products for human consumption are stored, for the purpose of sale by wholesale, by the operator or the person retaining the operator’s services for remuneration, unless the person holds the permit required under subparagraph *a*, *b*, *e*, *f* or subparagraphs *k* to *n* for the establishment ;

“(n.2) purchase products intended for human consumption, for the purpose of resale by wholesale, unless the person holds the permit required under subparagraph *a*, *b*, *e*, *f*, *k*, *k.1*, *k.3* or *k.4* in relation to the dairy product substitute wholesaler’s permit or subparagraphs *l* to *n.1* ;

“(n.3) operate an establishment or a vehicle where products are prepared for the purpose of furnishing services for remuneration, in respect of products

intended to be consumed by the owner of the products, unless the person holds the permit required under subparagraph *a, k.1* or *k.4* in relation to the preparation of dairy product substitutes for the establishment or vehicle, as applicable;

“(n.4) operate an establishment, premises or a vehicle where retail or restaurant activities are engaged in or where products are prepared or stored to be used for such activities in another establishment, other premises or another vehicle operated by the operator or by the person retaining the operator’s services for remuneration, unless the person holds the permit required under subparagraph *a, k.1, k.3* or *k.4* in relation to the preparation of dairy product substitutes for the establishment or vehicle, as applicable;”;

(6) by striking out subparagraphs *o* and *p* of the first paragraph;

(7) by striking out the second paragraph.

14. Section 10 of the said Act is amended

(1) by replacing, in the French text, “ou” in the last line of the third paragraph by “et”;

(2) by replacing “subparagraphs *e* and *f*” in the third line of the fourth paragraph by “subparagraph *e*” and by striking out “or fresh water products” in the ninth line of that paragraph;

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

“The Minister may not, however, issue a dairy plant permit unless the Minister has obtained a favourable opinion from the Régie des marchés agricoles et alimentaires du Québec concerning the particulars mentioned in section 43.1 of the Act respecting the marketing of agricultural, food and fish products (chapter M-35.1). The same applies to the permit prescribed by subparagraph *l* of the first paragraph of section 9 where the applicant is applying to operate a dairy plant.”

15. Section 11.1 of the said Act is amended

(1) by replacing “*c.4, d* to *e.3, e.6* to *h* and *j* to *l*” in the fourth line of the first paragraph by “*a.2, a.4* to *c.3, d* to *e.3, e.5.1, e.6, e.8* to *g, h, j* to *l* and *m.1*”;

(2) by adding the following sentence at the end: “The holder of the authorization must also pay to the Government the costs incurred to open and examine the file and all other costs incurred by the Minister in relation to the authorization.”

16. Section 13 of the said Act is amended

(1) by inserting “, packing-house” after “establishment” in the first line;

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

“A document from the Minister or an authorized person that relates to the permit holder’s operations must be posted up by the permit holder in compliance with such conditions as the Minister may determine by regulation.”

17. Section 15 of the said Act is amended

(1) by replacing paragraph *a* by the following paragraph :

“(a) who has been convicted of or has pleaded guilty to an offence against this Act or the regulations, unless the holder has received a pardon for the offence;”;

(2) by inserting the following paragraph after paragraph *b.1* :

“(b.2) who repeatedly fails to comply with this Act or a regulation under this Act;”;

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

“In addition, the Minister may refuse to issue a permit if the applicant is or has been an officer, director or partner of an association, partnership or person whose permit is suspended or cancelled at the time the permit is applied for.”

18. Section 32 of the said Act is amended by replacing “shall provide” in the second line of the first paragraph by “may provide”.

19. Section 33 of the said Act is amended

(1) by replacing “premises where a product is prepared, packed, processed, packaged, stored, unloaded,” in the second and third lines by “a packing-house or an establishment, premises or a vehicle where a product is prepared, conditioned, processed, packed, stored, unloaded, received,”;

(2) by inserting “or where animals whose products are intended for human consumption or inedible products are found” after “slaughtered” in the eighth line;

(3) by replacing “such premises” in paragraph 1 by “such packing-house, establishment, premises or vehicle”;

(4) by replacing “the premises, equipment” in the first line of paragraph 2 by “in the packing-house, establishment, premises or vehicle, the places, equipment, material, apparatus”;

(5) by replacing “in which such a product is transported” in paragraph 3 by “used for transporting such a product”;

(6) by replacing “premises or equipment” in the first line of paragraph 4 by “packing-house, establishment, premises, vehicle, places, material, apparatus or equipment”.

20. The said Act is amended by inserting the following section after section 33:

“33.0.1. Where a living animal is seized under a regulation made pursuant to paragraph c.3 or c.5 of section 40, the provisions of the Animal Health Protection Act (chapter P-42) apply to the seizure.”

21. Section 33.1 of the said Act is amended

(1) by replacing “or is deteriorated so that it is unfit for human consumption” in the fifth line by “or is so deteriorated as to be unfit for human consumption or that the safety of the product for human consumption is uncertain”;

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

“In addition, the authorized person may seize any product intended for animal consumption if the authorized person has reasonable grounds to believe that the product constitutes a danger to the life or health of consumers.”

22. Section 33.1.3 of the said Act is amended by inserting “the product shall be confiscated by an authorized person and” after “to do so,” in the fifth line.

23. Section 33.2 of the said Act is amended by replacing “33.3, 33.4” in the second line of the second paragraph by “33.2.1, 33.3, 33.4, 33.4.1”.

24. The said Act is amended by inserting the following section after section 33.2:

“33.2.1. Where the thing seized is perishable or likely to depreciate rapidly and its safety is ensured, the judge may, on the application of the seizer, authorize the sale of the thing.

At least one clear day’s prior notice of the application must be served on the person from whom the thing was seized and on the persons who claim to have a right in the thing. However, the judge may exempt the seizer from service if deterioration of the thing seized is imminent.

The sale shall be made on the conditions fixed by the judge. The proceeds of sale shall be deposited with the Ministère des Finances in accordance with the Deposit Act (chapter D-5).”

25. Section 33.3 of the said Act is amended by inserting “or the proceeds of the sale thereof” after “seized” in the first line.

26. Section 33.4 of the said Act is amended

(1) by inserting “or the proceeds of the sale thereof” after “thing” in the second line of the first paragraph;

(2) by replacing “thing is maintained and its release” in the second and third lines of the third paragraph by “thing or the proceeds of the sale thereof is maintained and release”.

27. The said Act is amended by inserting the following section after section 33.4:

“33.4.1. Notwithstanding sections 33.4 and 33.7, where a thing seized or the proceeds of the sale thereof cannot be returned as a result of unlawful possession to the person from whom the thing was seized or to a person who claims to have a right therein, the judge shall, on the application of the seizer or the prosecutor, order the confiscation of the thing or proceeds; if unlawful possession is not proved, the judge shall designate the person to whom the thing or the proceeds may be returned.

Prior notice of the application must be served on the person from whom the thing was seized and on the other person entitled to make such an application, except where they are in the presence of the judge. Such prior notice may, where applicable, be given with the statement of offence, specifying that the application for confiscation is to be made at the time of the judgment.

The Minister shall prescribe the procedure for disposing of the thing confiscated.”

28. Section 33.5 of the said Act is amended by inserting “or the proceeds of the sale thereof” after “seized” in the first line.

29. Section 33.7 of the said Act is amended

(1) by adding “or of the proceeds of the sale thereof” at the end of the first paragraph;

(2) by inserting “or of the proceeds of the sale thereof” after “confiscated” in the first line of the third paragraph.

30. Section 33.8 of the said Act is amended

(1) by replacing “or deteriorated so that it is unfit for human consumption” in the second and third lines of the first paragraph by “or is so deteriorated as to be unfit for human consumption or that the safety of the product for human consumption is uncertain”;

(2) by replacing “the authorized” in the first line of the second paragraph by “an authorized”;

(3) by replacing “or deteriorated so that it is unfit for human consumption” in the first and second lines of the third paragraph by “or so deteriorated as to be unfit for human consumption, or any product whose safety for human consumption is uncertain,” and by replacing “by the” in the third line of the third paragraph by “by an”.

31. Section 33.9 of the said Act is amended by replacing “his supervision” in the fourth line by “an authorized person’s supervision and as the Minister directs”.

32. The said Act is amended by inserting the following sections after section 33.9:

“33.9.1. An authorized person may, in the exercise of the authorized person’s functions and for a maximum period of five days, order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease the operation of an apparatus or equipment if the authorized person has reasonable grounds to believe that owing to the operation or condition of the apparatus or equipment, the safety of products for human consumption is uncertain.

The order shall state the grounds for the authorized person’s decision.

The order takes effect when a written statement of the order is given to the operator or a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

“33.9.2. An authorized person may, in the exercise of the authorized person’s functions and for a maximum period of five days, order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease or restrict, to the extent determined by the authorized person, the operation of the packing-house, establishment, premises or vehicle if the authorized person has reasonable grounds to believe that the operation results in an imminent danger to the life or health of consumers.

The order shall state the grounds for the authorized person’s decision.

The order takes effect when a written statement of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.”

33. Section 33.10 of the said Act is amended

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

“33.10. The Minister may, for a maximum period of 30 days, extend the order provided for in section 33.9.2 or order the operator of a packing-house, an establishment, premises or a vehicle referred to in section 33 to cease or restrict, to the extent the Minister determines, the operation of the

packing-house, establishment, premises or vehicle if the Minister is of the opinion that the operation results in an imminent danger to the life or health of consumers.”;

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

“The order takes effect upon the giving of a copy of the order to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.”

34. Section 33.11 of the said Act is amended

(1) by replacing “served personally or on any person responsible for an establishment, on any person” in the third and fourth lines of the first paragraph by “notified, personally to the operator or to a person responsible for a packing-house, establishment or vehicle, to any person”;

(2) by replacing “the preparation, production” in the fourth and fifth lines of the first paragraph by “in the production, preparation”;

(3) by replacing “to his” in the sixth line of the first paragraph by “to the packing-house or”;

(4) by inserting “at the person’s expense” after “dispose of it” in the seventh line of the first paragraph;

(5) by inserting the following paragraph after the first paragraph:

“The Minister may also, where the Minister considers it necessary and urgent for the protection of the public in the case of a contravention of a provision of section 4 in relation to an inaccurate, false or misleading indication concerning the safe use of a product, or in the absence of any indication concerning the safe use of a product, by written notice notified, personally to a person referred to in the first paragraph, order the person to recall the product to the packing-house or establishment, to retain it, to bring the product into compliance or to dispose of it at the person’s expense within the time and in accordance with the conditions determined by the Minister.”;

(6) by inserting “provided for in the first paragraph” after “order” in the first line of the second paragraph;

(7) by replacing the last paragraph by the following paragraph:

“An order under this section takes effect when a copy of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.”

35. The said Act is amended by inserting the following sections after section 33.11:

“33.11.1. The Minister may, where the Minister considers it necessary and urgent for the protection of the public in the case of a contravention of a provision of section 4 other than the provision relating to the safe use of a product, or where a product is unfit for human consumption or is so deteriorated as to be unfit for human consumption but does not constitute a health risk, by written notice notified personally to a person responsible for a packing-house, establishment, premises or vehicle or to any person who engages in the production, preparation, conditioning, packaging, storing, selling, supplying or distribution of a product, order the person to recall the product to the packing-house or establishment, to retain it, to take the appropriate corrective action or to dispose of it at the person’s expense within the time and in accordance with the conditions determined by the Minister.

The person subject to the order may apply in writing to the Minister, within the time indicated in the order, for authorization to take the appropriate corrective action.

The order takes effect when a copy of the order is given to the operator or to a person responsible for the packing-house, establishment, premises or vehicle or upon notification to either of those persons.

“33.11.2. The Minister may, by regulation, where the Minister considers it necessary for the protection of the public, determine that a product is a danger to the health or safety of consumers and indicate how the product is to be disposed of or eliminated safely.

Any person in possession of a product subject to the regulation must comply with the regulation.

The provisions of Divisions III and IV of the Regulations Act (chapter R-18.1) relating to the publication and coming into force of proposed regulations and regulations do not apply to such a regulation. The regulation shall be published in the *Gazette officielle du Québec*. However, it shall come into force on the date it is made by the Minister and shall be disseminated by any other means the Minister considers necessary.”

36. Section 33.12 of the said Act is amended by replacing “33.10 or 33.11” in the first and second lines by “, 33.9.1 to 33.11.1”.

37. The said Act is amended by inserting the following section after section 33.12:

“33.13. The Minister or the person designated by the Minister may, in the public interest, disclose any information held by the Minister which is necessary for the protection of the health or safety of consumers.

The Minister or the person designated by the Minister may also, in the public interest, disclose any information held by the Minister which is necessary

for the protection of the interests of consumers in the case of a contravention of section 4, after informing the person to whom the information relates.

The first and second paragraphs apply, notwithstanding paragraphs 5 and 9 of section 28 and section 53 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

38. Section 34 of the said Act is amended by replacing “a slaughter-house or plant contemplated” in the first and second lines by “an establishment or a vehicle referred to”.

39. Section 35 of the said Act is amended

(1) by replacing “in charge of a place or of a vehicle” in the first line by “responsible for a packing-house, an establishment, premises or a vehicle or for any other place”;

(2) by replacing “in his inquiry, facilitate his access to the product and” in the third and fourth lines by “in the exercise of his functions, facilitate access to the product, the packing-house, establishment, premises or vehicle or to the place, and to”.

40. Section 40 of the said Act is amended

(1) by replacing “or the preparation” in the first line of paragraph *a* by “, the production, preservation, handling, preparation” and by replacing “or for the furnishing of a service for remuneration” in the third and fourth lines by “, the furnishing of a service for remuneration or the display of a product”;

(2) by inserting the following paragraph after paragraph *a* :

“(a.01) regulate the preparation processes, in particular pasteurization, canning, aseptic packaging and sterilization;”;

(3) by replacing paragraph *a.1* by the following paragraph :

“(a.1) establish, in particular for the purposes of sanitation, the rules respecting the construction, layout, installation, material, equipment, location and maintenance of slaughter-houses or packing-houses, establishments, premises or vehicles where operations referred to in paragraph *a*, operations relating to inedible products or operations relating to premises in which there are animals whose products are intended for human consumption, are carried on;”;

(4) by inserting the following paragraphs after paragraph *a.2* :

“(a.3) determine, for the purposes of subparagraph *a.3* of the first paragraph of section 1, the cases in which milk or any derivative of milk ceases to be a dairy product after being treated, modified, processed or reconstituted, and the

criteria whereby milk is to be considered the main ingredient in the making of a dairy product ;

“(a.4) authorize standardization of the proportion of fat and other solids of any dairy product it indicates, subject to the conditions and according to the processes it determines, including skimming;”;

(5) by striking out, in paragraph *b*, “, in the production of a product,” in the first line, and by replacing “such” in the second line by “a” ;

(6) by inserting the following paragraphs after paragraph *b* :

“(b.1) prohibit, to the extent it indicates, the adding of dairy product substitutes or other ingredients to any dairy product or constituent of a dairy product ;

“(b.2) designate the dairy product substitutes that may be prepared, offered for sale, sold, delivered, processed, held, displayed or transported for sale ;” ;

(7) by replacing paragraph *c* by the following paragraph :

“(c) prohibit or regulate the sale, holding, transportation, salvaging, distribution, preparation, denaturation, packaging, labelling, use, disposal or elimination of inedible products, the slaughtering of animals in an establishment where inedible products are prepared or stored or where operations relating to inedible products held by a salvager or by the operator of such an establishment are carried on ;” ;

(8) by striking out paragraph *c.1* ;

(9) by striking out “in a slaughter-house,” in the first line of paragraph *c.3* and by inserting “or inedible” after “consumption” in the seventh line ;

(10) by striking out paragraph *c.4* ;

(11) by striking out “where the Minister considers it necessary and urgent for the protection of the public in any region he determines,” in the first and second lines of paragraph *c.5* and by inserting “or inedible” after “consumption” in the seventh line ;

(12) by inserting “, wholesomeness, colour, proportion of constituents, presentation” after “quality” in the third line of paragraph *e* ;

(13) by striking out paragraph *e.1* ;

(14) by replacing paragraph *e.2* by the following paragraph :

“(e.2) require the operator of a packing-house, establishment, premises or vehicle to submit the packing-house, establishment, premises or vehicle to a

quality and sanitation control inspection in accordance with the conditions determined by the Minister;”;

(15) by inserting the following paragraph after paragraph *e.2* :

“(e.2.1) determine apparatus calibration methods and the persons or classes of persons who are to use them;”;

(16) by inserting the following paragraph after paragraph *e.3* :

“(e.3.1) identify the diseases or germs of diseases that may be communicated by food;”;

(17) by replacing paragraph *e.4* by the following paragraph :

“(e.4) prescribe the rules of hygiene and sanitation applicable to any person who is in contact with food or with the material or equipment that is in contact with food in a packing-house, an establishment, premises or a vehicle referred to in section 33, require such a person to furnish a statement of health to the person’s employer and to undergo such examinations as are necessary to establish that the person is not affected with a disease or is not a carrier of germs of diseases referred to in paragraph *e.3.1* and, on conditions it determines, prescribe that the employer hold a medical certificate attesting that the person is not affected with such a disease and is not a carrier of such germs;”;

(18) by replacing paragraph *e.5* by the following paragraph :

“(e.5) prescribe withdrawal measures and the cases in which they are to be applied as well as special hygiene or sanitation measures applicable to any person affected with a disease or carrying germs of a disease referred to in paragraph *e.3.1*, who is in contact with food or with the material or equipment that is in contact with food in a packing-house, an establishment, premises or a vehicle referred to in section 33;”;

(19) by inserting the following paragraphs after paragraph *e.5* :

“(e.5.1) determine the minimum training or learning experience necessary, in particular with respect to hygiene, sanitation or the monitoring of the processes involved in food processing;

“(e.5.2) determine the functions to be exercised by a person holding a tester’s permit;”;

(20) by replacing “require from a person referred to in paragraph *e.4* appropriate training in matters of hygiene and cleanliness and that he” in the first and second lines of paragraph *e.6* by “determine the persons or classes of persons that must undergo the training referred to in paragraph *e.5.1* and, where applicable, that they”;

(21) by inserting by the following paragraphs after paragraph *e.6* :

“(e.7) prescribe the rules of hygiene and sanitation applicable to the persons who are present in the areas or places referred to in section 3.3 ;

“(e.8) prescribe the conditions to be fulfilled by a person required to register with the Minister, the documents or the information to be furnished by the person, the books or registers to be kept and retained by the person, the reports to be submitted by the person and the annual fees to be paid by the person for registration ;” ;

(22) by replacing paragraph *f* by the following paragraph :

“(f) determine the conditions of issue, renewal, suspension or cancellation of a permit, the documents or the information to be furnished by an applicant or holder, the books or registers to be kept and retained by the applicant or holder, the cases in which a permit may be issued for a period of less than 12 months, the fees payable for the permits according to the period of validity, the nature or the category, subcategory or class of the holders or permits, the costs for the opening and examination of an application for a permit or authorization ;” ;

(23) by inserting the following paragraph after paragraph *g* :

“(g.1) determine, in addition to the persons referred to in section 3.4, the persons required to have a traceability system and prescribe the minimum system standards, which may vary according to the activity or product and pertain, in particular, to the reception, shipping and production register, lot identification and recall and control procedures ;” ;

(24) by replacing “the containers,” in the first line of paragraph *j* by “containers and in particular their size, capacity and characteristics, the” and by replacing “meat unfit for human consumption” in the third and fourth lines by “inedible products” ;

(25) by replacing “to operate an establishment” in the second and third lines of paragraph *k* by “require registration of the hours,” ;

(26) by replacing “or classification” in the first line of paragraph *k.1* by “, inspection, classification or stamping” ;

(27) by inserting the following paragraph after paragraph *k.1* :

“(k.2) determine the cases in which analyses or controls are required and data is to be entered by the operator in a register made available to authorized persons ;” ;

(28) by replacing paragraph *l* by the following paragraph :

“(l) define, for the purposes of this Act and the regulations, “canning”, “packing-house”, “cream”, “denaturation”, “inedible product”, “water by volume”, “spring water”, “bottled water”, “mineral water”, “aseptic packaging”, “establishment”, “bottled water dispenser”, “milk”, “pasturization”, “preparation”, “prepare”, “salvager”, “salvaging”, “sterilisation” and “food plant”;;

(29) by inserting the following paragraph after paragraph *m* :

“(m.1) prescribe the rules to be complied with by the holder of a tester’s permit relating to milk or cream collecting at the farm and the taking of samples;”.

41. Sections 40.1 and 40.2 of the said Act are repealed.

42. Section 42 of the said Act is amended by replacing “\$750” in the second line by “\$2,000”, and “\$2 250” in the third line by “\$6,000”.

43. Section 43 of the said Act is replaced by the following section :

“43. Every person who contravenes a provision of a regulation under paragraph *a*, *a.1*, *d*, *e.4* or *e.7* of section 40 relating to the washing of hands, the processes of heating or cooling of products, defrosting methods or the temperature of products, or relating to insects, rodents or their excrements is liable to a fine of \$250 to \$3,000 and, for any subsequent contravention, to a fine of \$750 to \$9,000.”

44. Section 44 of the said Act is replaced by the following section :

“44. Every person who contravenes any of the following provisions is liable to a fine of \$500 to \$3,000 and, for any subsequent contravention, to a fine of \$1,500 to \$9,000 :

(1) a provision of section 4, except the provision concerning the safe use of a product, or a provision of section 4.1 or of sections 8 to 8.2 ;

(2) a provision of any of subparagraphs *k.2*, *k.3* and *k.4* of the first paragraph of section 9 in relation to, in the case of the latter subparagraph, a dairy product substitute wholesaler’s permit, or a provision of any of subparagraphs *n.1* to *n.4* of the first paragraph of that section ;

(3) a provision of section 13 ;

(4) a provision of a regulation under paragraph *e*, *h* or *j.1* of section 40 in relation to any false or misleading indication or falsification concerning a product, or a provision of a regulation under paragraph *e.2*, *e.5.1* or *e.6* of that section.”

45. Section 44.2 of the said Act is repealed.

46. Section 45 of the said Act is replaced by the following section :

“45. Every person who contravenes any of the following provisions is liable to a fine of \$1,000 to \$6,000 and, for any subsequent contravention, to a fine of \$3,000 to \$18,000 :

- (1) a provision of any of sections 3.3 to 3.5, 33.2, 33.3.1, 36 and 37 ;
- (2) a condition or restriction indicated on the person’s permit pursuant to section 10 or 11 or a condition of an authorization issued under section 11.1 ;
- (3) the second paragraph of section 32.1, or furnishes erroneous, falsified or misleading information or documents ;
- (4) a provision of a regulation under section 7 ;
- (5) a provision of a regulation under any of the following paragraphs of section 40 :
 - (a) paragraph *a*, *c* or *j* concerning the inscription of a production lot number ;
 - (b) paragraph *e.8*, *f*, *g.1* or *k.2* concerning registers other than registers relating to inedible products ;
 - (c) paragraph *g* concerning conditions or restrictions attaching to a category of permits ;
 - (d) paragraph *c*, *d* or *j* concerning the absence of inscription on the containers of inedible products and, in the case of the latter paragraph, on the means of transport of inedible products.”

47. Section 45.1 of the said Act is replaced by the following section :

“45.1. Every person who contravenes any of the following provisions is liable to a fine of \$2,000 to \$15,000 and, for any subsequent contravention, to a fine of \$6,000 to \$45,000 :

- (1) a provision of section 3 concerning a product whose safety is uncertain ;
- (2) a provision of section 3.1 ;
- (3) a provision of section 4 concerning the safe use of a product ;
- (4) a provision of any of subparagraphs *b* to *f*, *k*, *k.1* and *k.4* concerning dairy product substitute preparation permits, or *l*, *m* and *n* of the first paragraph of section 9 ;
- (5) a provision of section 34 concerning hours of operation ;

(6) a provision of a regulation under any of the following paragraphs of section 40:

(a) paragraph *a* or *c* concerning the exclusivity of operations relating to inedible products;

(b) paragraph *a.01* concerning preparation processes;

(c) paragraph *a.1* concerning the exclusive use of premises, apparatus or equipment;

(d) paragraph *c* concerning the denaturation or use of inedible products;

(e) paragraph *e* concerning sanitation standards for inedible products;

(f) paragraph *e.8*, *f*, *g.1* or *k.2* concerning registers relating to inedible products;

(g) paragraph *j* concerning restricted use containers for inedible products;

(h) paragraph *k* concerning the requirement to register permanent inspection hours.”

48. The said Act is amended by inserting the following section after section 45.1.1:

“45.1.2. Every person who contravenes a provision of a regulation under section 40 concerning physical, chemical or microbiological standards in relation to a product is liable to a fine of \$750 to \$2,000 and, for any subsequent contravention, to a fine of \$2,250 to \$6,000.

Where a person is found guilty of an offence described in the first paragraph and the product constitutes a health risk, the amount of the fine is \$2,000 to \$15,000 and, for any subsequent contravention, \$6,000 to \$45,000.”

49. Section 45.2 of the said Act is replaced by the following sections:

“45.2. Every person who contravenes subparagraph *a* of the first paragraph of section 9, an order under any of sections 33.9.1 to 33.11.1, a provision of a regulation under section 33.11.2, a provision of a regulation under section 6 in relation to stamping, or of paragraph *c* of section 40 in relation to the disposal of inedible meat is liable to a fine of \$5,000 to \$15,000 and, for any subsequent contravention, to a fine of \$15,000 to \$45,000.

“45.3. Every person who engages in an activity to which section 9 applies while the person’s permit is suspended or cancelled under section 15 is liable to a fine of \$5,000 to \$15,000 and, for any subsequent contravention, to a fine of \$15,000 to \$45,000.”

50. Section 46 of the said Act is replaced by the following sections :

“46. Where a legal person is guilty of an offence against section 3 in relation to a product unfit for human consumption, so deteriorated as to be unfit for human consumption or whose safety for human consumption is uncertain, section 9 or 11.1 in relation to the operation of a packing-house, establishment, premises or vehicle while its permit is suspended or cancelled under section 15, an order under any of sections 33.9.1 to 33.11.1 or a regulation under section 33.11.2, section 34 in relation to the operating hours fixed in that section, or contravenes the conditions or restrictions indicated in its permit or the provisions of regulations concerning stamping, the origin of products or inedible meat, every officer, director, partner, employee or mandatary of that legal person who prescribed or authorized the committing of the offence, or who consented thereto or acquiesced or participated therein, is deemed a party to the offence and is liable to the penalties provided for in section 44, 45, 45.1, 45.1.1, 45.1.2, 45.2 or 45.3, whether or not the legal person has been prosecuted or convicted.

“46.1. In determining the amount of the fine, the court shall take into account, in particular,

- (1) the seriousness of the risk to consumers' health ;
- (2) the benefits and revenues the offender has derived from the offence ;
- (3) the socio-economic consequences for society.”

51. Section 53 of the said Act is amended

(1) by inserting “a packing-house or” after “operator of” in the first line of the first paragraph ;

(2) by inserting “a packing-house, of” after “operator of” in the first line of the third paragraph.

52. Section 56.1 of the said Act is amended by inserting “a packing-house,” after “in” in the fourth line of paragraph *b*.

ANIMAL HEALTH PROTECTION ACT

53. Section 1 of the Animal Health Protection Act (R.S.Q., chapter P-42) is amended by adding the following at the end: “The duties of the Minister include ensuring that an appropriate level of animal health protection is maintained.”

54. The said Act is amended by inserting the following section after section 2:

“2.0.1. A veterinary surgeon designated by the Minister or any other person authorized for that purpose by the Minister may enter, at any reasonable time, any premises, other than a dwelling-house, or any vehicle where there is an animal or animal carcass in order to take, free of charge, any samples of the animal’s products or tissues, in particular blood or semen, any samples of its secretion, its excreta or its dejecta or any samples of the animal’s immediate environment required to determine the state of health of the animal.

An injection administered to an animal to determine if the animal is affected with a disease, an infectious agent or a syndrome is considered to be a taking of a tissue sample.

Before taking a sample, the designated veterinary surgeon or the authorized person must produce identification and the certificate signed by the Minister attesting to the veterinary surgeon’s or the person’s authority and inform the owner or the person in charge of the premises or the vehicle or any person in such premises or vehicle of the compulsory character of the sample taking and state how the information collected and the results of the analyses will be used.

At the request of the designated veterinary surgeon or of the authorized person, the owner or custodian of the animal must provide any relevant information, in particular information on the age, origin and health history of the animal, that is required for the selection of the animals from which samples will be taken and for the determination of their representativeness and condition of health.

For the purposes of this section, the provisions of the first paragraph of section 55.11 and of section 55.12 apply, with the necessary modifications.”

55. Section 55.13 of the said Act is amended by inserting “a person authorized for the purposes of section 2.0.1,” after “surgeon,” in the first line.

56. Section 55.43 of the said Act, amended by section 236 of chapter 40 of the statutes of 1999, is again amended by inserting “2.0.1,” after “section” in the first line of the first paragraph.

OTHER AMENDING PROVISIONS

57. The Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1) is amended by inserting the following section after section 40.5:

“40.5.1. The Régie may determine by regulation any matter that relates to the payment of milk and cream by a milk dealer.”

58. Section 43.1 of the Act respecting the marketing of agricultural, food and fish products, enacted by section 12 of the Act to repeal the Grain Act and

to amend the Act respecting the marketing of agricultural, food and fish products and other legislative provisions (1999, chapter 50) is amended by replacing “32 of the Dairy Products and Dairy Products Substitutes Act (chapter P-30)” in the second and third lines by “10 of the Food Products Act”.

59. Section 410 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by replacing “Agricultural Products, Marine Products and Food Act (chapter P-29) or in the Dairy Products and Dairy Products Substitutes Act (chapter P-30)” in the second and third lines of the second paragraph by “Food Products Act”.

60. Section 519.65 of the Highway Safety Code (R.S.Q., chapter C-24.2) is amended

(1) by replacing “Agricultural Products, Marine Products and Food Act (chapter P-29)” in paragraph 4 by “Food Products Act”;

(2) by striking out paragraph 5.

61. Article 490 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing “Agricultural Products, Marine Products and Food Act (chapter P-29) or in the Dairy Products and Dairy Products Substitutes Act (chapter P-30)” in the second and third lines of the second paragraph by “Food Products Act”.

62. Section 153.1 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended

(1) by replacing “Agricultural Products, Marine Products and Food Act (chapter P-29) or with the Dairy Products and Dairy Products Substitutes Act (chapter P-30)” in the third, fourth and fifth lines of subparagraph 3 of the first paragraph by “Food Products Act”;

(2) by replacing “Agricultural Products, Marine Products and Food Act or an inspector within the meaning of the Dairy Products and Dairy Products Substitutes Act” in the second, third and fourth lines of subparagraph 5 of the first paragraph by “Food Products Act”.

63. Sections 11 and 11.1 of the Tourist Establishments Act (R.S.Q., chapter E-15.1) are amended by replacing “Agricultural Products, Marine Products and Food Act (chapter P-29) or the Dairy Products and Dairy Products Substitutes Act (chapter P-30)” in their respective paragraphs 2 by “Food Products Act”.

64. Schedule IV to the Act respecting administrative justice (R.S.Q., chapter J-3), amended by section 32 of chapter 32 and section 68 of chapter 50 of the statutes of 1999, is again amended

(1) by replacing “Agricultural Products, Marine Products and Food Act (chapter P-29)” in paragraph 15 by “Food Products Act”;

(2) by striking out paragraph 15.1.

65. Sections 1 to 3, 5 to 12, 23 to 37, 42, 48 to 51, 53, 55 to 59 and 63 of the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) are repealed.

66. Section 18 of the Plant Protection Act (R.S.Q., chapter P-39.01) is amended, in the French text, by replacing “le modèle” in the third line by “la forme et la teneur”.

67. Section 3 of the Marine Products Processing Act (R.S.Q., chapter T-11.01) is amended by replacing “Agricultural Products, Marine Products and Food Act (chapter P-29)” in the fifth and sixth lines of the second paragraph by “Food Products Act”.

TRANSITIONAL AND FINAL PROVISIONS

68. In any other Act and in any regulation, order in council, order or document, unless the context indicates a different meaning and subject to the necessary modifications, a reference to the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) or to any of its provisions becomes a reference to the Food Products Act or to the corresponding provision of that Act.

69. In any regulation, order in council or document made pursuant to the Agricultural Products, Marine Products and Food Act, unless the context indicates a different meaning and subject to the necessary modifications, the expressions “meat unfit for human consumption”, “eggs unfit for human consumption”, “fresh water products unfit for human consumption” and “marine products unfit for human consumption” are replaced respectively by the expressions “inedible meat”, “inedible eggs”, “inedible freshwater products” and “inedible marine products”.

70. Until the coming into force of paragraphs *c* and *d* of the first paragraph of section 9 of the Food Products Act, as introduced by paragraph 1 of section 13 of this Act and until the coming into force of paragraph 2 of that section,

(1) in subparagraph *d* of the first paragraph of section 9 of the Agricultural Products, Marine Products and Food Act, the expression “meat unfit for human consumption” is replaced by the expression “inedible meat”;

(2) in subparagraphs *g* and *h* of the first paragraph of section 9 of the Agricultural Products, Marine Products and Food Act, the expression “fishery products unfit for human consumption” is replaced by the expression “inedible fishery products”.

71. In any other Act, unless the context indicates a different meaning and subject to the necessary modifications, a reference to the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) or to any of its provisions becomes a reference to the Food Products Act or to the corresponding provision of that Act.

72. In any regulation, order in council, order or other document made pursuant to the Dairy Products and Dairy Products Substitutes Act, unless the context indicates a different meaning and subject to the necessary modifications,

(1) a reference to the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) or to any of its provisions becomes a reference to the Food Products Act or to the corresponding provision of that Act;

(2) the words “substitute” and “substitutes” are replaced respectively by “dairy product substitute” and “dairy product substitutes”;

(3) the words “manufacturer”, “manufacturing” and any word derived from the verb “to manufacture” are respectively replaced by “preparer”, “preparing” and by the appropriate word derived from the verb “to prepare”;

(4) the words “factory”, “dairy factory” and “factory or plant” are replaced by “dairy plant”;

(5) the words “producer” and “distributor” are replaced respectively by “dairy producer” and “dairy distributor”;

(6) the definitions of “milk” and “cream” and the expressions “modified milk” and “milk dealer” in section 1 of the Dairy Products and Dairy Products Substitutes Act continue to apply until they are replaced or repealed.

The application of subparagraph 1 of the first paragraph shall not operate to exempt from the application of the Food Products Act any product whatsoever within the meaning of that Act.

73. Permits issued under the Dairy Products and Dairy Products Substitutes Act are deemed to be permits issued under the Food Products Act.

74. The provisions of regulations made under the Dairy Products and Dairy Products Substitutes Act remain in force until they are replaced or repealed by a regulation made under the Food Products Act or under the Act respecting the marketing of agricultural, food and fish products.

75. In the French text of the Agricultural Products, Marine Products and Food Act, as amended by this Act, and in any regulation, order, order in council or other document made under the Agricultural Products, Marine Products and Food Act or under the Dairy Products and Dairy Products Substitutes Act, the expression “vente en détail” is replaced by “vente au détail”, wherever it occurs.

76. Until a regulation is made under paragraph *e.5.2* of section 40 of the Food Products Act as introduced by section 40 of this Act, the functions of a person holding a tester's permit are to accept or refuse milk or cream on the basis of the standards established under the Agricultural Products, Marine Products and Food Act, as amended by this Act, to verify and record the temperature of milk and cream, to take samples to allow for analysis of composition and quality and to measure their volume.

77. The Government may, by regulation, prescribe transitional measures for the purposes of this Act.

Such a regulation must be made before (*insert here the date that is one year after the date of coming into force of this section*) and may, if so provided therein, apply in respect of any date that is not prior to 16 June 2000.

78. This Act comes into force on 16 June 2000, except the provisions of section 11, paragraphs 1, 3, 5 and 7 of section 13 and sections 38 and 77 which come into force on the date or dates to be fixed by the Government.