



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 152

(2000, chapter 48)

**An Act to amend the Act respecting the
conservation and development of wildlife
and the Act respecting hunting and
fishing rights in the James Bay and
New Québec territories**

Introduced 26 October 2000**Passage in principle 8 November 2000****Passage 12 December 2000****Assented to 13 December 2000**

EXPLANATORY NOTES

This bill amends the Act respecting the conservation and development of wildlife mainly as regards the management of wildlife territories and related licences as well as the powers of wildlife conservation officers.

The bill introduces new standards concerning the tariffing applicable to recreational activities in controlled zones and in wildlife sanctuaries and preserves. A development plan must first be submitted to the Société de la faune et des parcs du Québec for approval. The plan is approved after consultation with the Minister of Natural Resources and requires the Minister's approval if the plan's implementation involves the granting of leases or occupation licences for lands in the domain of the State.

As concerns wildlife preserves in particular, the Société will henceforth be able to authorize activities with a view to the development or utilization of wildlife as well as of the wildlife habitat. The fees collected for the activities may devolve upon the persons authorized by the Société.

The bill revises the definition of "outfitting operation" and gives the Government a regulatory power of exclusion in that regard. The use of the terms "outfitter" or "hunting or fishing outfitting operation" will now be possible with the authorization of the Société. The Société is also given the power to refuse to issue an outfitting licence in the interest of wildlife management or conservation.

The bill specifies the powers of inspection and seizure of wildlife conservation officers and grants them broader immunity in relation to their powers of inspection. Immunity is also granted to personnel members of the Société carrying out research, analyses or appraisals.

Under the bill, a portion of the fees collected for the issuing of certificates and licences may be used for the purpose of financing the expenses relating to the development and operation of the certificate and licence issuing system. The bill allows the Government to modify the percentage of 10% provided for in the Act and representing the portion of the fees collected that may be used as compensation for the issuing of the licences and as payment of the development and operating costs of the issuing system.

Under the bill, the Société may, for the purposes of wildlife management, limit the number of licences that an outfitting operation, an association or a body is authorized to issue in respect of a territory.

In addition, the bill amends the Act respecting hunting and fishing rights in the James Bay and New Québec territories so as to harmonize the fine prescribed in that Act for the illegal operation of an outfitting operation with the fine under the Act respecting the conservation and development of wildlife.

Lastly, the bill contains penal and transitional provisions and consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., chapter D-13.1).

Bill 152

AN ACT TO AMEND THE ACT RESPECTING THE CONSERVATION AND DEVELOPMENT OF WILDLIFE AND THE ACT RESPECTING HUNTING AND FISHING RIGHTS IN THE JAMES BAY AND NEW QUÉBEC TERRITORIES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 1 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is amended by inserting the following definition in alphabetical order:

“**to purchase**” means to obtain or attempt to obtain, exchange, or procure or permit the procurement of an animal, pelt or fish, in return for a promised or received benefit;”.

2. Section 13.1 of the said Act, amended by section 45 of chapter 36 of the statutes of 1999, is again amended

(1) by replacing “trapping animals or” in the fourth line of the first paragraph by “trapping animals, any plant of a species designated as threatened or vulnerable under the Act respecting threatened or vulnerable species or”;

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

“The protection officer or protection assistant may, in exercising his powers of inspection,

(1) open any container or require any person to open any container kept under lock and key if the protection officer or protection assistant believes on reasonable grounds that it contains any animal, fish or pelt, or any specimen of a plant species or any object or document referred to in the first paragraph;

(2) use or cause to be used any computer system to examine or reproduce documents;

(3) use or cause to be used any copying equipment to make copies of documents and photographs;

(4) take samples from any animal, fish, pelt or plant species referred to in the first paragraph;

(5) take photographs of a place;

(6) require any person on the premises to provide all reasonable assistance to enable the protection officer or protection assistant to exercise his functions ;

(7) make a seizure in accordance with section 16.

Every person referred to in the third paragraph shall comply forthwith with any request.” ;

(3) by adding “, and a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence” after “passageway” in the fourth line of the fourth paragraph.

3. Section 16 of the said Act is amended

(1) by replacing “or pelt” in the second line of the first paragraph by “or pelt, or any specimen of a threatened or vulnerable plant species referred to in section 13.1, or any of its parts,” ;

(2) by replacing “or pelt” in the second line of the fourth paragraph by “, pelt or specimen of a plant species or any of its parts”.

4. Section 18 of the said Act is amended by adding the following paragraph at the end :

“Where possession of an animal, fish or pelt or of a specimen of a plant species referred to in section 13.1 is prohibited under the provisions of the Acts or regulations under which the seizure was made, the person from whom the animal, fish, pelt or specimen was seized may abandon it to the State.”

5. Section 24 of the said Act, amended by section 48 of chapter 36 of the statutes of 1999, is replaced by the following sections :

“24. A wildlife protection officer or other officer referred to in section 3 is justified in performing or omitting to perform an act that would constitute an offence under the Acts and regulations referred to in paragraphs 1, 5, 6 and 7 of section 5 as regards species of wildlife, or in paragraph 9 of that section, provided the officer is acting within his investigative or control functions and in compliance with the conditions determined by the Société. Such an officer is not liable to any penalty imposed by those laws on offenders.

“24.01. A personnel member or position holder of the Société may, in exercising his functions and for research, study, analysis, inventory or appraisal purposes, disregard section 26, 27, 28, 30.2, 30.3, 32, 34, 49, 50, 56, 57, 71 or 128.6 of this Act insofar as he is complying with the conditions determined by the Société. A member or holder complying with those conditions is not liable to any penalty imposed by this Act on persons committing an offence under those sections.”

6. Section 49 of the said Act is amended by replacing “No” in the first line by “Except in the cases prescribed by regulation, no” and by replacing “for consumption” in the second line by “for commercial consumption”.

7. Section 52 of the said Act is amended by striking out “of section 98” in the second line.

8. Section 54 of the said Act, amended by section 55 of chapter 36 of the statutes of 1999, is again amended

(1) by replacing “or stocking” in the third and fourth lines of the first paragraph by “, stocking or outfitting”;

(2) by inserting the following sentence after “regulation” in the third line of the third paragraph: “The person may also pay the expenses relating to the development and operation of the certificate and licence issuing system out of the fees collected.” and by replacing “The amount of such compensation” in the third line of the third paragraph by “The total amount of such compensation and payment”;

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

“The percentage referred to in the third paragraph may be modified by the Government on the terms and conditions it determines.”

9. Section 54.1 of the said Act, amended by section 56 of chapter 36 of the statutes of 1999, is again amended by adding the following at the end of paragraph 1: “, or determine the number of licences of each class that an outfitter, association or body is authorized to issue under section 54 for an area, territory or place subject to a limit under this paragraph”.

10. Section 58 of the said Act, amended by section 59 of chapter 36 of the statutes of 1999, is replaced by the following section:

“58. The Société may, on the conditions it determines, authorize a handicapped person within the meaning of section 1 of the Act to secure the handicapped in the exercise of their rights (chapter E-20.1) who has a physical deficiency that prevents the person from hunting in accordance with this Act, to disregard subparagraph 1 or 2 of the first paragraph of section 57 or any provision of a regulation made under subparagraph 4 of the third paragraph of section 56.

An application for such an authorization must be made in writing and contain a certificate of a member of the Ordre professionnel des médecins du Québec, the Ordre professionnel des ergothérapeutes du Québec or the Ordre professionnel des physiothérapeutes du Québec attesting the physical deficiency, specifying its nature and indicating how the deficiency prevents the handicapped person from hunting in accordance with this Act.

In authorizing a handicapped person under this section, the Société shall take into account the guide drawn up after consultation with the Office des personnes handicapées du Québec.”

11. Section 69 of the said Act is amended by replacing “, purchase or offer to purchase” in the first line of the first paragraph by “or purchase”.

12. Section 70 of the said Act is amended by replacing “, purchase or offer to purchase” in the first line of the first paragraph by “or purchase”.

13. Section 73 of the said Act is amended by replacing “intended for” in the second line of paragraph 3 by “intended for commercial”.

14. Division II of Chapter IV of the said Act entitled “OUTFITTING OPERATIONS” and comprising sections 98 to 103 becomes Division V.1 of Chapter III and its sections are renumbered as sections 78.1 to 78.7, with the following modifications:

(1) section 98 which becomes section 78.1 shall read as follows:

“78.1. In this Act, “outfitting operation” means any person who, directly or indirectly, in return for payment, offers, organizes or provides lodging and services or equipment for the purposes of recreational hunting, fishing or trapping activities.

Notwithstanding the first paragraph, the Government may, by regulation, subject to the conditions it determines, withdraw an outfitting operation from the application of the provisions of this Act that apply to outfitting operations, in particular on the basis of whether the outfitting operation is carried on on lands in the domain of the State or on private land.”;

(2) section 101.1 which becomes section 78.5 shall read

(a) with “or” in the seventh line replaced by a comma; and

(b) with “, or has obtained written authorization from the Société” added after “licences” at the end.

15. Section 85 of the said Act, amended by section 85 of chapter 40 of the statutes of 1999, is again amended by adding “and the carrying on of recreational activities incidental thereto” after “resources” in the third line of the first paragraph.

16. Section 104 of the said Act, amended by section 85 of chapter 40 of the statutes of 1999, is again amended by inserting “and for the carrying on of recreational activities incidental thereto” after “wildlife” at the end of the first paragraph.

17. The said Act is amended by inserting the following sections after section 106:

“106.01. An agency that is a party to a memorandum of agreement may fix the amount of fees payable for the carrying on of recreational activities in the territory of a controlled zone, subject to the agency first having a recreational activity development plan approved by the Société. The plan must include a list of the recreational activities to be offered and the fees, which may vary, applicable to each activity. The plan must be drawn up in accordance with the directives of the Société.

“106.02. Subject to a prohibition enacted by the Government under subparagraph 2.1 of the first paragraph of section 110, the Société may, after consulting the Minister of Natural Resources, approve the plan referred to in section 106.01, with or without amendment, for the duration the Société determines. Where the implementation of the plan involves the granting of leases or occupation licences for lands in the domain of the State, the plan must also be approved by the Minister of Natural Resources.

The Société shall send the approved plan by registered or certified mail to the agency that is a party to a memorandum of agreement, and the fees provided for in the plan come into force on the date indicated on the notice of receipt or delivery. The fees shall be valid for the duration of the plan to which they pertain, as determined by the Société under the first paragraph.

Where the agency wishes to amend fees approved by the Société, it must submit new fees to the Société for approval.

“106.03. The fees referred to in section 106.02 must be posted up at the place where users register and a copy must be given on request to any user carrying on a recreational activity in the controlled zone.

“106.04. The fixing of fees under section 106.01 by an agency that is a party to a memorandum of agreement is not subject to the Regulations Act (chapter R-18.1).”

18. Section 107 of the said Act, amended by section 86 of chapter 36 of the statutes of 1999, is again amended by adding “or authorize an agency that is a party to a memorandum of agreement to do so” at the end of the first paragraph.

19. Section 109 of the said Act, amended by section 88 of chapter 36 of the statutes of 1999, is replaced by the following section:

“109. No person may organize activities or provide services for profit or operate a commercial undertaking in a controlled zone with a view to the development or utilization of wildlife or for the purposes of recreational activities without the authorization of the Société or without complying with the conditions of such authorization.

The Société shall authorize the organization of activities or the provision of services for profit or the operation of a commercial undertaking, for a purpose referred to in the first paragraph, on the conditions it determines in a contract with the person, association or agency concerned; it may refuse an authorization, in particular if an activity, service or commercial undertaking already forms part of a development plan approved by the Société under section 106.02.”

20. Section 110 of the said Act is amended

(1) by striking out “, and fix the maximum fees exigible for the practice of these activities” in the third and fourth lines of subparagraph 2 of the first paragraph;

(2) by inserting the following subparagraph after subparagraph 2 of the first paragraph:

“(2.1) determine the conditions that must be complied with by a person who, for recreational purposes, enters or travels about a controlled zone or engages there in any activity, or prohibit such activities;”;

(3) by inserting “or for the purposes of other recreational activities” after “purposes” in the second line of subparagraph 5.1 of the first paragraph and by replacing “or trapping” in the fourth line of that subparagraph by “, trapping or other recreational”;

(4) by replacing “of assigning persons to a sector” in the second line of subparagraph 5.2 of the first paragraph by “of assignment of persons, an undertaking, agency or association to a sector” and by replacing “procedures governing the fixing of the maximum number of persons who may hunt, fish or trap in a sector of the territory, or the establishment of the mode of assignment of persons to any sector” in the third, fourth and fifth lines of that subparagraph by “procedures applicable in such cases”;

(5) by replacing “any activity” in the third line of subparagraph *b* of subparagraph 6 of the first paragraph by “hunting, fishing or trapping activities”;

(6) by replacing “purposes” in the second line of subparagraph *d* of subparagraph 6 of the first paragraph by “purposes, or for the purposes of other recreational activities” and by replacing “fishing or trapping” in that line by “trapping or other recreational”;

(7) by replacing “of assignment of persons to any sector” in the second and third lines of subparagraph *e* of subparagraph 6 of the first paragraph by “of assignment of persons or of an undertaking, agency or association to any sector”;

(8) by replacing “or the sector” in the fourth line of the second paragraph by “, the sector or the place”.

21. Section 111 of the said Act, amended by section 85 of chapter 40 of the statutes of 1999, is again amended by adding “and to the carrying on of recreational activities incidental thereto” after “wildlife” at the end of the first paragraph.

22. Section 118 of the said Act, amended by section 92 of chapter 36 of the statutes of 1999, is again amended

(1) by adding “or authorize, on the conditions it determines in a contract, the person, association or body concerned to do so” at the end of the first paragraph;

(2) by replacing the first sentence of the second paragraph by the following sentence: “The Société may also, in the same manner, authorize them to organize activities, provide services for profit or operate a commercial undertaking with a view to the development or utilization of wildlife or for the purposes of recreational activities in a wildlife sanctuary.”;

(3) in the French text, by replacing “lui” in the fourth line of the second paragraph by “leur”.

23. The said Act is amended by inserting the following section after section 118:

“118.1. A person, association or body referred to in section 118 may fix the amount of fees payable for the carrying on of recreational activities in the territory of a wildlife sanctuary. In such a case, sections 106.01 to 106.04 apply with the necessary modifications.”

24. Section 120 of the said Act, amended by section 94 of chapter 36 of the statutes of 1999, is replaced by the following section:

“120. No person may organize activities or provide services for profit or operate a commercial undertaking in a wildlife sanctuary with a view to the development or utilization of wildlife or for the purposes of recreational activities without being authorized by a contract with the Société or without complying with the conditions of such authorization.

The Société may refuse an authorization in particular if the organization of an activity, the provision of a service or the operation of an undertaking already forms part of a development plan approved by the Société under this Act.”

25. Section 120.1 of the said Act is repealed.

26. Section 121 of the said Act is amended, in the French text, by replacing “et de piégeage” in the second line of paragraph 4 by “ou de piégeage”.

27. Section 122 of the said Act, amended by section 96 of chapter 36 of the statutes of 1999, is again amended by replacing “the resources whereof may be used on conditions” in the third line of the first paragraph by “in respect of which the conditions governing the use of the resources and the carrying on of recreational activities incidental thereto are”.

28. Section 125 of the said Act is amended by adding the following paragraph after paragraph 5:

“(6) divide the territory into sectors for the purposes of the standards determined under this section, which may vary according to the sector.”

29. Section 126 of the said Act, amended by section 99 of chapter 36 of the statutes of 1999, is replaced by the following section:

“126. No person may organize activities or provide services for profit or operate a commercial undertaking in a wildlife preserve with a view to the development or utilization of wildlife or the wildlife habitat or for the purposes of recreational activities without being authorized by a contract with the Société or without complying with the conditions of such authorization.

The Société may refuse an authorization in particular if the organization of an activity, the provision of a service or the operation of an undertaking already forms part of a development plan approved by the Société under this Act.”

30. Section 127 of the said Act, amended by section 100 of chapter 36 of the statutes of 1999, is again amended

(1) by adding “or, on the conditions it determines in a contract with a person, association or body concerned, authorize the person, association or body to do so” at the end of the first paragraph;

(2) by replacing the second paragraph by the following paragraphs:

“The Société may also, in the same manner, authorize them to organize activities, provide services for profit or operate a commercial undertaking with a view to the development or utilization of wildlife or a wildlife habitat or for the purposes of recreational activities in a wildlife preserve. The Société may, to that end and on the conditions it determines, transfer to such a person, association or body the ownership of improvements or constructions.

The contract may provide that the fees to travel about the territory or to carry on any activity shall devolve upon the other contracting party.”

31. The said Act is amended by inserting the following section after section 127:

“127.1. A person, association or body referred to in section 127 may fix the amount of fees payable for the carrying on of recreational activities in the territory of a wildlife preserve. In such a case, sections 106.01 to 106.04 apply with the necessary modifications.”

32. Section 165 of the said Act is amended by replacing “99 or 101” in the first and second lines of subparagraph 3 of the first paragraph by “78.2 or 78.4”.

33. Section 167 of the said Act is amended by striking out “section 52,” in the second line of subparagraph 2 of the first paragraph and by inserting “, the first paragraph of sections 109, 120 and 126” after “70” in that line.

34. The said Act is amended by inserting the following section after section 167:

“167.1. Every person who contravenes a provision of section 52 is guilty of an offence and is liable, for a first offence, to a fine of not less than \$1,825 nor more than \$5,475 and, for any subsequent offence, to a fine of not less than \$5,475 nor more than \$16,400.”

35. Section 171 of the said Act is amended by replacing “the second paragraph” in the first line of paragraph 2 by “the second or fourth paragraph” and by replacing “96, 101.1” in the second line of that paragraph by “78.5, 96”.

36. The said Act is amended by replacing “wildlife conservation officers”, “conservation officers”, “conservation officer”, “wildlife conservation assistants”, “conservation assistants” and “conservation assistant”, wherever they appear, by “wildlife protection officers”, “protection officers”, “protection officer”, “wildlife protection assistants”, “protection assistants” and “protection assistant”, respectively.

Unless the context indicates otherwise, the same applies in respect of any other Act and in respect of regulations, by-laws, orders in council, orders, contracts, deeds of appointment or other legal acts or documents.

37. A wildlife conservation officer appointed in accordance with section 3 of the Act respecting the conservation and development of wildlife is deemed to be appointed as a wildlife protection officer.

A wildlife conservation assistant appointed in accordance with section 8 of that Act is deemed to be appointed as a wildlife protection assistant.

38. The parts of land in the domain of the State delimited under section 85 of the Act respecting the conservation and development of wildlife are deemed also to be delimited incidentally for the purpose of the carrying on of recreational activities.

A controlled zone established under section 104 of that Act is deemed also to be established incidentally for the purpose of the carrying on of recreational activities. The same applies to a wildlife sanctuary established under section 111 and to a wildlife preserve established under section 122 of that Act.

39. Section 96 of the Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., chapter D-13.1) is replaced by the following section:

“96. Every person operating as an outfitter in the Territory without holding the licence required by the law is guilty of an offence and liable

(1) where lodging is provided, to a fine of not less than \$1,825 nor more than \$5,475 and, for any subsequent offence, to a fine of not less than \$5,475 nor more than \$16,400; and

(2) where no lodging is provided, to a fine of not less than \$500 nor more than \$1,475 and, for any subsequent offence, to a fine of not less than \$1,475 nor more than \$4,375.”

40. This Act comes into force on 13 December 2000 except the amendments enacted by paragraphs 1 and 2 of section 14 which come into force on the date to be fixed by the Government.