



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 9

(2006, chapter 12)

**An Act to amend the Act respecting
off-highway vehicles**

Introduced 12 April 2006
Passage in principle 26 May 2006
Passage 13 June 2006
Assented to 13 June 2006

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EXPLANATORY NOTES

This bill amends the Act respecting off-highway vehicles to provide for stricter regulation of the use of such vehicles. It increases the minimum age for operating an off-highway vehicle from 14 to 16. It puts a limit on the engine power of off-highway vehicles available for short-term rental. It specifies that the operator of an off-highway vehicle must comply with the conditions, restrictions and prohibitions imposed by an off-highway vehicle club for the use of trails, including the requirement to pay an access fee. It reinforces traffic control on trails by providing for the hiring of new security officers. It also makes adjustments concerning the operation of off-highway vehicles on private land and trails operated by a club as well as on certain public highways. In addition, the bill prescribes progressive fines for speeding offences.

The bill contains measures to better control noise emissions and hydrocarbon releases into the environment attributable to off-highway vehicles. Among other measures, it prohibits modifying an off-highway vehicle, the exhaust system in particular, in such a way that such emissions or releases may be increased.

The bill maintains for a five-year period immunity from legal action for neighbourhood nuisances, noise or odours relating to the operation of off-highway vehicles on trails forming part of the interregional network to be established by order of the Minister. It provides for a review of the immunity after three years. It also grants immunity to persons who agree to trails being laid out and operated on their property.

Lastly, the bill replaces the approval required from the Minister of Transport regarding municipal by-laws governing the operation of off-highway vehicles on public highways by a power of disallowance.

LEGISLATION AMENDED BY THIS BILL:

- Highway Safety Code (R.S.Q., chapter C-24.2);
- Act respecting off-highway vehicles (R.S.Q., chapter V-1.2).

Bill 9

AN ACT TO AMEND THE ACT RESPECTING OFF-HIGHWAY VEHICLES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING OFF-HIGHWAY VEHICLES

1. Section 1 of the Act respecting off-highway vehicles (R.S.Q., chapter V-1.2) is amended

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

“This Act does not apply, however, to an off-highway vehicle designed by the manufacturer to be operated by a person under 16 years of age provided it is used under the conditions prescribed by regulation.”;

(2) by striking out “, however,” in the second paragraph;

(3) by replacing “14” in the third and in the fourth lines of the third paragraph by “16”.

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

“2.1. The engine power of an off-highway vehicle available for rental for a period of less than 30 days shall not exceed that determined by the regulatory standards.”

3. Section 6 of the Act is amended by replacing “susceptible” in the second line of the second paragraph by “capable of increasing its noise emissions or the release of hydrocarbons into the environment,”.

4. The Act is amended by inserting the following section after section 6:

“6.1. No person may sell, lease or place at the disposal of a person, or offer to sell, lease or place at the disposal of a person, an off-highway vehicle exhaust system that increases noise emissions or the release of hydrocarbons into the environment when compared to a manufacturer installed exhaust system.”

5. The Act is amended by inserting the following section after section 8:

“8.1. The Minister responsible for a road situated on land in the domain of the State may authorize an off-highway vehicle club to lay out and operate a trail, for the period and on the conditions determined by the Minister, on all or part of that road.

Such authorization gives the club the right to collect access fees for the trail in accordance with this Act.”

6. Section 11 of the Act is amended

(1) by replacing “500 metres” in subparagraph 4 of the second paragraph by “one kilometre”;

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

“For the purposes of this section, the roadway includes the shoulder.”

7. Section 13 of the Act is amended by inserting “and off-highway vehicle clubs” after “authorities” in the last line of the first paragraph.

8. The Act is amended by inserting the following section after section 13:

“13.1. Any by-law of an off-highway vehicle club imposing the payment of fees or other conditions, restrictions or prohibitions must be posted in full view near the place where off-highway vehicle operators may pay trail access fees, and a copy of the by-law must be given to any operator who requests it.”

9. The Act is amended by inserting the following section after section 17:

“17.1. No legal action may be brought against the owner or lessee of private land that authorizes an off-highway vehicle club to lay out and operate a trail on the land, for reparation of any damage related to the operation of an off-highway vehicle on the trail unless the damage results from an intentional or gross fault on the part of the owner or lessee.”

10. Section 18 of the Act is amended

(1) by replacing “14” in the first paragraph by “16”;

(2) by replacing “16” in the second paragraph by “18”.

11. Section 33 of the Act is amended by adding the following paragraph after the second paragraph:

“For the purposes of the first paragraph, the operation of an off-highway vehicle on a trail referred to in section 15 is not authorized if the operator fails to comply with the conditions, restrictions or prohibitions referred to in section 13, including payment of the access fee for the trail unless the operator is exempted by government regulation.”

12. The Act is amended by inserting the following section after section 35:

“35.1. A peace officer or trail security officer shall not operate the rotating lamp or flashing lights of an off-highway vehicle except in the performance of the officer’s duties and if required by the circumstances. Subject to section 36, the officer is not required, in such a case, to comply with the speed limit or signage.”

13. Section 37 of the Act is amended by adding the following paragraph:

“(3) the persons recruited by an association of off-highway vehicle clubs who satisfy the conditions determined by regulation.”

14. Section 38 of the Act is amended

(1) by adding the following subparagraph at the end of the first paragraph:

“(7) require, where applicable, the production of the document issued by an association of off-highway vehicle clubs certifying that the owner of an off-highway vehicle stopped on a trail is the holder of a valid right of access.”;

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

“A trail security officer may, on the same conditions, exercise the powers provided for in subparagraphs 3, 4, 6 and 7 of the first paragraph. A trail security officer recruited by an association of off-highway vehicle clubs may in addition exercise the power provided for in subparagraph 5 of the first paragraph.”

15. Section 41 of the Act is amended by replacing “, notwithstanding article 98 of the Code of Penal Procedure (chapter C-25.1), to make searches” by “to exercise the powers provided for in articles 84 to 86 of the Code of Penal Procedure (chapter C-25.1) nor, despite articles 87 and 98 of that Code, to make arrests or searches”.

16. Section 46 of the Act is amended

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

“(1.1) prescribing conditions for the use of an off-highway vehicle designed by the manufacturer to be operated by a person under 16 years of age;”;

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

“(3.1) exempting certain classes of off-highway vehicle operators from having to pay the access fee imposed by an off-highway vehicle club to travel on a trail operated by the club;

“(3.2) determining maximum engine power standards for off-highway vehicles available for rental for a period of less than 30 days;”;

(3) by inserting the following subparagraph after subparagraph 14 of the first paragraph:

“(14.1) establishing standards regarding noise emissions and the release of hydrocarbons by off-highway vehicles and prohibiting the operation of off-highway vehicles that fail to meet those standards;”.

17. Section 54 of the Act is amended by adding the following paragraph at the end:

“A person who contravenes section 6.1 is guilty of an offence and is liable to a fine of \$250 to \$500.”

18. The Act is amended by inserting the following section after section 55:

“55.1. The operator of an off-highway vehicle travelling on private land without the owner’s or lessee’s consent is guilty of an offence and is liable to a fine of \$250 to \$500.”

19. The Act is amended by inserting the following section after section 56:

“56.1. A person who offers to rent or rents to another person, for a period of less than 30 days, an off-highway vehicle whose engine power exceeds that determined by the regulatory standards is guilty of an offence and is liable to a fine of \$250 to \$500.”

20. The Act is amended by inserting the following section after section 58:

“58.1. The operator of an off-highway vehicle who disobeys an order to stop given under paragraph 3 of section 38 is guilty of an offence and is liable to a fine of \$250 to \$500.”

21. Section 59 of the Act is amended by striking out “, section 27” in the second line.

22. The Act is amended by inserting the following section after section 59:

“59.1. A person who operates an off-highway vehicle at a speed in excess of the prescribed maximum speed is guilty of an offence and is liable to a fine of \$25 plus,

(1) if the speed exceeds the speed limit by 1 to 20 km/h, \$10 for each 5 km/h by which the speed exceeds the speed limit;

(2) if the speed exceeds the speed limit by 21 to 30 km/h, \$15 for each 5 km/h by which the speed exceeds the speed limit;

(3) if the speed exceeds the speed limit by 31 to 45 km/h, \$20 for each 5 km/h by which the speed exceeds the speed limit;

(4) if the speed exceeds the speed limit by 46 to 60 km/h, \$25 for each 5 km/h by which the speed exceeds the speed limit;

(5) if the speed exceeds the speed limit by 61 km/h or more, \$30 for each 5 km/h by which the speed exceeds the speed limit.”

23. Section 66 of the Act is amended

(1) by replacing “14” in the second line by “16”;

(2) by replacing “16” in the third line by “18”.

24. Section 87.1 of the Act is amended

(1) by replacing “2006” in the first paragraph by “2011”;

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

“Legal action may be brought against the operator or owner of an off-highway vehicle, however, if the cause of the damage is the contravention of a provision of this Act or a regulation under this Act or if the damage results from the commission of an intentional or gross fault by the operator or owner in operating the vehicle.”;

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

“From (*insert the date of coming into force of this paragraph*), the first paragraph shall apply only to events occurring as of that date on the trails that form part of the interregional network established by order of the Minister published in the *Gazette officielle du Québec*. Any order altering the network must be made after consulting with the regional conferences of elected officers concerned, established under the Act respecting the Ministère du Développement économique et régional et de la Recherche (chapter M-30.01).”

25. The Act is amended by inserting the following section after section 87.1:

“87.2. Not later than (*insert the date occurring three years after the coming into force of paragraph 3 of section 24*), the Minister must report to the Government on the advisability of maintaining, amending or repealing section 87.1.

The report is tabled by the Minister in the National Assembly within the next 15 days or, if the Assembly is not sitting, within 15 days of resumption. It is examined by the appropriate committee of the National Assembly.”

HIGHWAY SAFETY CODE

26. Section 626 of the Highway Safety Code (R.S.Q., chapter C-24.2), amended by section 73 of chapter 2 of the statutes of 2004 and by section 196 of chapter 6 of the statutes of 2005, is again amended by adding the following paragraph after the second paragraph:

“Any by-law or ordinance passed under subparagraph 14 shall, within 15 days after it is passed, be sent to the Minister of Transport, accompanied by a signage plan and a report showing that the operation of off-highway vehicles in the prescribed conditions is safe. The by-law or ordinance comes into force 45 days after it is passed unless it is the subject of a notice of disallowance published by the Minister in the *Gazette officielle du Québec*.”

27. Section 627 of the Code is amended by striking out “, the operation of off-highway vehicles on a public highway” in the sixth and seventh lines of the first paragraph.

TRANSITIONAL AND FINAL PROVISIONS

28. Section 10 does not apply to the operator of an off-highway vehicle under 16 years of age who holds a valid certificate, issued before 13 June 2006, attesting that the holder has the skills and knowledge required to operate such a vehicle.

29. Paragraph 1 of section 24 has effect from 1 May 2006.

30. This Act comes into force on 13 June 2006, except paragraph 3 of section 24, which comes into force on the day the order of the Minister issued under the paragraph introduced by that paragraph is published in the *Gazette officielle du Québec*.