

Regulations and other acts

Gouvernement du Québec

O.C. 1138-2006, 12 December 2006

Consumer Protection Act
(R.S.Q., c. P-40.1)

Application of rules of conduct to used automobile merchants

WHEREAS, under section 314 of the Consumer Protection Act (R.S.Q., c. P-40.1), the president of the Office de la protection du consommateur may accept a voluntary undertaking from a person with the object of governing the relations between a merchant, or group of merchants, and consumers;

WHEREAS, under section 315.1 of the Act, the Government may, by order and with or without modification, extend the application of a voluntary undertaking made under section 314 of the Act to all merchants in the same sector of activity, for all or part of the territory of Québec;

WHEREAS over 1,100 used automobile merchants have signed a voluntary undertaking to comply with the rules of conduct in the used automobile trade;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), notice was given in Part 2 of the *Gazette officielle du Québec* of 28 December 2005 that the Government could extend the application of the voluntary undertaking to all used automobile merchants in Québec on the expiry of 45 days following that publication;

WHEREAS comments have been made;

WHEREAS it is advisable that the application of the voluntary undertaking be extended, with amendments, to all used automobile merchants, for all the territory of Québec;

IT IS ORDERED, therefore, on the proposal of the Minister of Justice, who is responsible for consumer protection:

THAT the application of the provisions to be complied with by all used automobile merchants, attached as a Schedule to this Order in Council, be extended to all used automobile merchants, for all the territory of Québec;

THAT this Order in Council come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

SCHEDULE

Consumer Protection Act
(R.S.Q., c. P-40.1, s. 315.1)

PROVISIONS TO BE COMPLIED WITH BY ALL USED AUTOMOBILE MERCHANTS

1. Advertise only the used automobiles available and ready for sale or long-term lease at the time the advertisement order is placed. In the advertisement, the merchant undertakes to indicate the number of automobiles advertised in the merchant's possession at the time the advertisement order is placed;

2. State in its advertisements and post in its establishments a selling price, or a retail value if a long-term lease is offered, that includes all costs other than the Québec Sales Tax (QST) and the Goods and Services Tax (GST) to be paid on the purchase of the used automobile. The selling price or the retail value, excluding taxes, may be increased only if goods or services are added at the consumer's request and only for an amount equal to the price of added goods or services;

3. State in a predominant manner, in all advertising of a used automobile, the selling price or retail value, excluding the Québec Sales Tax (QST) and the Goods and Services Tax (GST), and the number of kilometres actually travelled;

4. State, if the merchant advertises used automobiles for sale or long-term lease by lot, the highest asking price, excluding the Québec Sales Tax (QST) and the Goods and Services Tax (GST), or, as applicable, the highest asking retail value among all the automobiles in the lot. The price or retail value must be in characters as large and visible as any other price or retail value advertised for any other automobile in the lot;

5. State the highest number of kilometres actually travelled among all the automobiles in a lot, if the merchant advertises used automobiles for sale or long-term

lease by lot. That number must be in characters as large and visible as the number shown for any other automobile in the lot;

6. Not use, in connection with the used automobile trade, the terms “wholesaler” or “auction” or the expression “seizure liquidation”, unless the merchant can show that

(a) it represents the merchant’s main commercial activity;

(b) the merchant stated at the time of the representations made to the consumer that the merchant does not usually act as a wholesaler, auctioneer or liquidator, and was not advertising such an activity, or that those facts are clearly evident from the representations and context in which the representations were made; or

(c) the term “auction” or the expression “seizure liquidation” was used to advertise the holding of an auction or a seizure liquidation at the date, time and place stated in the advertisement;

7. Not use expressions such as “Factory returns” or “Direct from the factory” or an expression in which “manufacturer”, “automobile-maker” or “car-maker” is substituted for “factory”, unless the merchant is able to prove that claim;

8. Not make representations that may reasonably lead consumers to believe that an auction is to be held, in particular by using a sound or visual recording of a real or fictitious auction, unless it can be shown that

(a) the merchant is an auctioneer and it is the merchant’s main commercial activity;

(b) the merchant stated at the time of the representations made to the consumer that the merchant does not usually act as an auctioneer and was not advertising an auction, or that those facts are clearly evident from the representations and context in which the representations were made; or

(c) the merchant was advertising the holding of an auction, and the date, time and place of the auction are stated in the same representations;

9. Not include illegible text in advertising used automobiles or the used automobile trade;

10. Use, in advertising used automobiles, only a current photograph or video of the advertised automobile that is a true representation of the automobile for sale;

11. Allow consumers to road test any used automobile offered for sale or long-term lease;

12. Before the purchase or long-term lease of a used automobile, allow the consumer to have the automobile inspected by any technician of the consumer’s choice located at a reasonable distance from the merchant’s establishment. The merchant undertakes not to charge a fee and to allow the automobile to be driven to the place of inspection. Should the merchant not allow the automobile to be driven to the place of inspection, the merchant undertakes to bear the cost of transporting the automobile to that place;

13. Give the consumer, at any time and on request by the consumer, a copy of the contracts, the label and any other document relating to the sale or long-term lease of a used automobile, and documents relating to warranties and extended warranties offered;

14. Not disclose, elsewhere that at the merchant’s establishment, the last six digits of the identification numbers of the automobiles offered for sale or long-term lease;

15. State, in advertising the sale or long-term lease of a rebuilt automobile, that the advertised automobile is a rebuilt automobile, regardless of whether that fact must appear on the automobile’s registration certificate;

16. Reimburse the Office de la protection du consommateur for the costs of investigations or inspections made under the president’s authority pursuant to the president’s powers under the Consumer Protection Act (R.S.Q., c. P-40.1) to verify compliance with this voluntary undertaking, up to a maximum of

1. \$300 for a first investigation or inspection;

2. \$1,200 for a second investigation or inspection if made within six months of a notice given by the president stating that the first investigation or inspection revealed a breach of this voluntary undertaking.

Exemptions

17. The merchant may be exempted from the requirements of sections 11 and 12 if a used automobile is unfit to be driven, is offered for sale to be rebuilt or is offered for sale for parts. The merchant must in such cases obtain an attestation, written in its entirety and signed by the consumer, stating that the consumer has been informed by the merchant that the automobile is unfit to be driven, that it is being sold to be rebuilt or that it is being sold for parts;

18. The merchant may be exempted from the requirement of section 11 and may refuse to allow the consumer to drive the automobile to have it inspected as provided in section 12, if the consumer cannot demonstrate to the merchant that he or she holds a valid driver's licence.

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Gouvernement du Québec

O.C. 1144-2006, 12 December 2006

An Act respecting owners, operators and drivers of heavy vehicles
(R.S.Q., c. P-30.3; 2005, c. 39)

Regulation — Amendments

Regulation to amend the Regulation respecting the Act respecting owners, operators and drivers of heavy vehicles

WHEREAS, under section 4 of the Act respecting owners, operators and drivers of heavy vehicles (R.S.Q., c. P-30.3), the Government may, by regulation, exempt any group or any class of persons it determines from the requirement to be registered in the Registre des propriétaires et des exploitants de véhicules lourds;

WHEREAS, under section 42.3 of that Act, made by section 23 of chapter 39 of the Statutes of 2005, the Government may, by regulation, formulate rules for applying the means that can be used for the purposes of the first paragraph of that section in the situations it determines;

WHEREAS, under section 53 of chapter 39 of the Statutes of 2005, the first regulation to amend the Regulation respecting the Act respecting owners, operators and drivers of heavy vehicles after 1 January 2006 is exempt from the publication requirement set out in section 8 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS it is expedient to make the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Transport and Minister responsible for the Capitale-Nationale region:

THAT the Regulation to amend the Regulation respecting the Act respecting owners, operators and drivers of heavy vehicles, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the Act respecting owners, operators and drivers of heavy vehicles*

An Act respecting owners, operators and drivers of heavy vehicles
(R.S.Q., c. P-30.3, ss. 4 and 42.3; 2005, c. 39, s. 23)

1. The Regulation respecting the Act respecting owners, operators and drivers of heavy vehicles is amended by inserting the following before section 1:

“DIVISION I EXEMPTIONS”.

2. Section 1 is amended

(1) by replacing paragraph 1 by the following:

“(1) an owner and operator using a heavy vehicle required by an emergency service or in the case of a major disaster or a minor disaster within the meaning of section 2 of the Civil Protection Act (R.S.Q., c. S-2.3);”;

(2) by replacing paragraph 5 by the following:

“(5) an owner and operator using a heavy vehicle only in a municipality or territory listed in Schedule 1.”.

3. Section 2 is amended

(1) by replacing “except those on which safety marks must be displayed in accordance with Division V of the Transportation of Dangerous Substances Regulation, made by Order in Council 674-88 dated 4 May 1988, as it reads at the time of its application and except those carrying dangerous substances in containers of 454 litres or over” in paragraph 2 by “except combinations that require the display of safety marks in accordance with Division IV of the Transportation of Dangerous Substances Regulation made by Order in Council 866-2002 dated 10 July 2002”;

(2) by replacing “in accordance with Division V of the Transportation of Dangerous Substances Regulation, except minibuses, tow trucks and vehicles carrying dangerous substances in containers of 454 litres or over” in paragraph 4 by “in accordance with Division IV of the Transportation of Dangerous Substances Regulation”;

* The Regulation respecting the Act respecting owners, operators and drivers of heavy vehicles, made by Order in Council 986-98 dated 21 July 1998 (1998, *G.O.* 2, 3303), has been amended once by the regulation made by Order in Council 1197-99 dated 20 October 1999 (1999, *G.O.* 2, 3750).