



---

---

# NATIONAL ASSEMBLY

---

---

SECOND SESSION

THIRTY-NINTH LEGISLATURE

## **Bill 57**

(2012, chapter 15)

### **An Act to modify the rules governing the use of photo radar devices and red light camera systems and amend other legislative provisions**

---

---

**Introduced 22 February 2012  
Passed in principle 8 May 2012  
Passed 31 May 2012  
Assented to 6 June 2012**

## EXPLANATORY NOTES

*This Act proposes various amendments mainly with respect to the use of photo radar devices and red light camera systems.*

*New provisions are added to the Highway Safety Code to allow such devices and systems to be used particularly in school zones and in road construction and maintenance work zones. Persons responsible for the maintenance of a public highway will be required to erect road signs or signals to mark places where such devices or systems are used to monitor compliance with highway safety rules. However, in the case of certain offences, the prosecutor will not be required to prove the presence of signs or signals, and no proceedings will be dismissed nor any defendant acquitted on the grounds that signs or signals were inadequate or absent.*

*Under an amendment to the Code, only certain vehicle owners having received a statement of offence although they were not driving the vehicle when the offence was recorded by a photo radar device or red light camera system will now have the possibility of identifying the driver in order for a new statement of offence to be served on that person. However, it will be possible for the owner to identify the renter of the vehicle if it was under a short-term rental contract at the time the offence was committed.*

*Owners and drivers of police force vehicles, ambulance service vehicles, fire safety vehicles and certain other emergency vehicles cannot be convicted of an offence recorded by such a device or system.*

*The devices and systems cannot be removed or modified without the authorization of the Minister of Transport, and it is prohibited to interfere with their operation or with the recording of information by their camera.*

*The Act respecting the Ministère des Transports is amended to provide that the panel responsible for advising the Minister on the use of sums credited to the Highway Safety Fund is to be composed of seven members chosen from among the members of the Table québécoise de la sécurité routière. All sums received as compensation for damage caused to a photo radar device or red light camera system are to be credited to that Fund.*

*New driving rules aim at creating a buffer lane in certain circumstances to protect the driver and occupants of emergency vehicles, tow trucks and certain other road vehicles. The fines and demerit points that can be imposed on drivers for failing to comply with those rules are also specified.*

*In another connection, it is prohibited to put a road vehicle back into operation if the owner of the vehicle is a repeat drunk driving offender. If the owner commits the offence, the fine is from \$1,500 to \$3,000 or, for a subsequent offence, from \$3,000 to \$6,000. If a third party commits the offence, the fine is from \$300 to \$600.*

*A provision specifies that it is not forbidden to use a two-way radio while driving a road vehicle.*

*The provision specifying that, as of 30 June 2012, an exclusive pedestrian phase constitutes a sign or signal authorizing pedestrians to cross the roadway diagonally is struck out.*

*Lastly, various consequential amendments and transitional measures are contained in the Act.*

**LEGISLATION AMENDED BY THIS ACT:**

- Highway Safety Code (R.S.Q., chapter C-24.2);
- Act respecting the Ministère des Transports (R.S.Q., chapter M-28);
- Act to amend the Highway Safety Code and the Regulation respecting demerit points (2007, chapter 40).

**REGULATION AMENDED BY THIS ACT:**

- Regulation respecting demerit points (R.R.Q., chapter C-24.2, r. 37).



## Bill 57

### AN ACT TO MODIFY THE RULES GOVERNING THE USE OF PHOTO RADAR DEVICES AND RED LIGHT CAMERA SYSTEMS AND AMEND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### HIGHWAY SAFETY CODE

- 1.** Section 4 of the Highway Safety Code (R.S.Q., chapter C-24.2) is amended by replacing “fire department road vehicle” in the definition of “emergency vehicle” by “fire safety vehicle”.
- 2.** Section 39.1 of the Code is amended by replacing “202” by “202.0.1”.
- 3.** Section 52 of the Code is repealed.
- 4.** Section 59 of the Code is amended by adding the following paragraph at the end:

“Despite the first paragraph, if an offence under section 39.1 is committed by the owner of a road vehicle that has been put back into operation and in respect of which a decision under section 202.0.1 is in force, the owner is liable to a fine of \$1,500 to \$3,000 and, in the case of a second or subsequent offence, of \$3,000 to \$6,000.”

- 5.** Section 251 of the Code is amended by striking out “normal” in paragraph 2.
- 6.** The Code is amended by inserting the following section after section 294:

**“294.1.** The person responsible for the maintenance of a public highway must erect proper signs or signals to mark every place where a photo radar device or red light camera system is used to monitor compliance with highway safety rules.

The person must also, as often as the Minister determines, verify the presence and adequacy of those signs or signals, and report the verification results to the Minister.”

- 7.** The Code is amended by inserting the following section after section 311:

**“311.1.** When approaching a yellow arrow light signal that is mounted on a moving road vehicle and directs a lane change, the driver of a road vehicle must reduce speed and, in the direction indicated by the arrow and after making sure that it can be done safely, switch to the other lane or, in the absence of another lane, to the shoulder.”

**8.** Section 312.1 of the Code is amended

(1) by replacing “of the person responsible for the maintenance of the highway” by “of the Minister of Transport”;

(2) by striking out “erected on a public highway”.

**9.** Section 312.2 of the Code is amended by replacing “, or interfere with or prevent the operation of, a photo radar device or a red light camera system erected on a public highway” by “a photo radar device or a red light camera system, or interfere in any way with the operation of such a device or system or the recording of the information described in the second paragraph of section 332 or the second paragraph of section 359.3 by the camera of such a device or system”.

**10.** The Code is amended by inserting the following section after section 312.2:

**“312.3.** The person responsible for the maintenance of a public highway may send the owner of a tree or any other property situated on land contiguous to the right of way of that highway a written notice requiring the owner to carry out remedial work within the prescribed time if the tree or other property could interfere

(a) in any way with the operation of a fixed photo radar device or a red light camera system; or

(b) with the recording, by the camera of a device or system referred to in paragraph *a*, of the information described in the second paragraph of section 332 or the second paragraph of section 359.3.

If the owner fails to do the work, the person responsible for the maintenance of the public highway may do the work or have it done.”

**11.** The Code is amended by striking out “normal” in section 333 and the first paragraph of section 334.1.

**12.** Section 359.3 of the Code is amended by inserting “the traffic light involved and” after “concerning” in the second paragraph.

**13.** Section 406 of the Code is amended by replacing “make way for an” by “yield to any”.

**14.** The Code is amended by inserting the following section after section 406:

**“406.1.** When an emergency vehicle or tow truck with its flashing or rotating lights activated is stopped in a lane of a public highway, the driver of a road vehicle travelling in that lane must reduce speed to avoid endangering human life or safety or any property that is in that lane and, if necessary, stop the vehicle, and switch to the other lane after making sure it can be done safely. In the case of a two-way roadway, the driver must, before switching to the other lane, yield the right of way to any vehicle travelling in the opposite direction.

If the emergency vehicle or tow truck is stopped on the shoulder or on a lane contiguous to the lane in which the driver of the road vehicle is travelling, the driver must, in the following order,

(1) reduce speed to avoid endangering human life or safety or any property that is on the shoulder or in that other lane;

(2) change lanes, if there is another lane for travelling in the same direction and after making sure it can be done safely, so as to leave one free lane between the vehicle and the stopped vehicle or, otherwise, put as much distance as possible between the vehicle and the stopped vehicle while remaining in the same lane.

The second paragraph does not apply when the direction of traffic in the driver’s lane is opposite that of the lane in which the emergency vehicle or tow truck is stopped.

This section also applies when a road vehicle with an activated yellow arrow light signal directing a lane change is stopped on a public highway. The lane change must be carried out in the direction indicated by the arrow.”

**15.** Section 439.1 of the Code is amended by adding the following paragraphs at the end:

“The first paragraph does not apply to a two-way radio, that is to say a cordless voice communication device which does not allow the parties to speak simultaneously.

The Minister may, by order, determine other situations or types of devices to which the prohibition set out in the first paragraph does not apply.”

**16.** Section 451 of the Code, replaced by section 66 of chapter 34 of the statutes of 2010, is amended by striking out the second paragraph.

**17.** Section 507 of the Code is amended by striking out “406.”.

**18.** Section 510 of the Code is amended

(1) by inserting “406.1,” after “395,” in the first paragraph;

(2) by inserting “or 406” after “346” in the first paragraph.

**19.** Section 592 of the Code is amended by adding the following paragraph at the end:

“The second paragraph does not apply in the case of an offence evidenced by a photograph taken by a photo radar device or a red light camera system.”

**20.** The Code is amended by inserting the following section after section 592:

**“592.0.0.1.** A short-term renter of a road vehicle may be convicted of an offence under this Code evidenced by a photograph taken by a photo radar device or a red light camera system unless the renter proves that, at the time of the offence, the vehicle was in the possession of a third party without the renter’s consent.”

**21.** Section 592.1 of the Code is amended

(1) by striking out the first paragraph;

(2) by replacing “The statement” in the second paragraph by “In the case of an offence evidenced by a photograph taken by a photo radar device or a red light camera system, the statement”;

(3) by inserting “of a road vehicle listed in the fourth paragraph” after “If the owner” in the third paragraph;

(4) by replacing “10” in the third paragraph by “15”;

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

“The second paragraph refers to the following road vehicles registered in Québec:

(1) a heavy vehicle whose owner is registered in the Registre des propriétaires et des exploitants de véhicules lourds established under the Act respecting owners, operators and drivers of heavy vehicles (chapter P-30.3);

(2) a taxi;

(3) a road vehicle belonging to an employer, if the vehicle is driven by an employee of that employer in the performance of delivery duties; and

(4) a courtesy vehicle loaned by a garage operator.”

**22.** The Code is amended by inserting the following section after section 592.1:



**“592.1.1.** If the road vehicle used to commit the offence was under a short-term rental contract at the time of the offence, the owner of the vehicle may identify the renter of the vehicle, in accordance with the second and third paragraphs of section 592.1, with the necessary modifications.”

**23.** Section 592.2 of the Code is amended

- (1) by replacing “592.1” by “592”;
- (2) by inserting “or short-term renter of the vehicle” after “driver”.

**24.** The Code is amended by inserting the following section after section 592.2:

**“592.2.1.** Despite sections 592 and 592.1, the owner and the driver of the following road vehicles cannot be convicted of an offence evidenced by a photograph taken by a photo radar device or a red light camera system:

- (1) a police force vehicle;
- (2) an ambulance service vehicle;
- (3) a fire safety vehicle;
- (4) an emergency vehicle registered in the name of the Société;
- (5) an emergency vehicle used mainly in emergency situations to bring medical personnel or medical equipment to a location where a person requires immediate medical care;
- (6) an emergency vehicle used mainly in emergency situations to bring a technician or rescue equipment to a location where rapid intervention is required in order to provide immediate medical care.”

**25.** Section 592.3 of the Code is repealed.

**26.** The Code is amended by inserting the following section after section 592.4:

**“592.4.1.** In the case of an offence under the second paragraph of section 299, section 303.2 or 328, the third paragraph of section 329 or section 359, the prosecutor is not required to prove the presence of road signs or signals marking the place where a photo radar device or red light camera system is used to monitor compliance with highway safety rules.

No proceedings may be dismissed nor may any defendant be acquitted on the grounds that road signs or signals described in the first paragraph were inadequate or absent.”

**27.** Section 597.1 of the Code is amended by replacing the second paragraph by the following paragraph:

“The Minister may make an agreement with a municipality under which the Minister is to pay to the municipality a part of the fines collected for offences under the first paragraph committed on public highways the maintenance of which is under the responsibility of the municipality, provided that the sums are allocated to financing new highway safety or road victim assistance measures or programs that have been authorized by the Minister.”

**28.** Section 634.3 of the Code is amended

(1) by striking out “and at the places” in the first paragraph;

(2) by inserting the following paragraphs after the first paragraph:

“They may only be used to monitor compliance with highway safety rules

(1) on a road or land situated in a school zone, as defined by regulation of the Minister of Transport;

(2) in a construction or maintenance work zone limited, for the purposes of this section, to the part of a public highway for which the maximum authorized speed limit is indicated in accordance with section 303.1; and

(3) on any other public highway determined by the Minister of Transport and the Minister of Public Security after consulting with the municipality responsible for the maintenance of the highway, if applicable.

When determining a public highway under subparagraph 3, the Ministers may take into account such factors as the accident potential of the highway.”;

(3) by striking out the second and third paragraphs;

(4) by inserting “or second” after “first” in the fourth paragraph.

#### ACT RESPECTING THE MINISTÈRE DES TRANSPORTS

**29.** Section 12.32 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28), amended by section 237 of chapter 18 of the statutes of 2011, is again amended by replacing “a civil suit” in paragraph 2.4 by “proceedings”.

**30.** Section 12.39.1 of the Act, amended by section 240 of chapter 18 of the statutes of 2011, is again amended

(1) by replacing paragraph 1.1 by the following paragraph:

“(1.1) fines collected under sections 509, 516 and 516.1 of the Highway Safety Code in the case of an offence evidenced by a photograph taken by a photo radar device or a red light camera system;”;

(2) by inserting the following paragraph after paragraph 1.2:

“(1.3) sums received for damage caused to a photo radar device or red light camera system, its accessories or the related signs or signals, including damages of any kind, paid following proceedings instituted for such damage;”.

**31.** Section 12.39.2 of the Act, amended by section 241 of chapter 18 of the statutes of 2011, is again amended by replacing “five members of the Table québécoise de la sécurité routière chosen from among the members designated by the chair” by “seven members chosen from among the members of the Table québécoise de la sécurité routière, at least one of whom represents drivers of passenger vehicles”.

#### ACT TO AMEND THE HIGHWAY SAFETY CODE AND THE REGULATION RESPECTING DEMERIT POINTS

**32.** Section 106 of the Act to amend the Highway Safety Code and the Regulation respecting demerit points (2007, chapter 40) is amended by striking out the second paragraph.

#### REGULATION RESPECTING DEMERIT POINTS

**33.** The Regulation respecting demerit points (R.R.Q., chapter C-24.2, r. 37) is amended by inserting the following elements after element 21 of the schedule entitled “TABLE OF DEMERIT POINTS”:

“21.1. Failure to yield to an emergency vehicle whose lights or sound producing device are in operation	406	510	4
“21.2. Failure to slow down or change lanes when approaching a stopped road vehicle with its flashing or rotating lights or yellow arrow signal light activated”.	406.1	510	4

#### TRANSITIONAL AND FINAL PROVISIONS

**34.** The first regulation under subparagraph 1 of the second paragraph of section 634.3 of the Highway Safety Code (R.S.Q., chapter C-24.2), enacted by paragraph 2 of section 28, is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1).

**35.** The public highways situated in a place determined by a provision of a ministerial order under the first paragraph of section 634.3, as it read before

being amended by section 28, are deemed to be public highways determined by a provision of a ministerial order under subparagraph 3 of the second paragraph of section 634.3, as amended by section 28, until the Minister of Transport and the Minister of Public Security decide otherwise.

**36.** Not later than 6 December 2013 and subsequently every 12 months for the following four years, the Minister of Transport must report to the Government on the use of photo radar devices and red light camera systems.

The report is tabled by the Minister in the National Assembly within the following 30 days or, if the Assembly is not sitting, within 30 days of resumption. The first report is examined by the competent committee of the National Assembly.

The first report must deal, among other things, with the enforcement of section 592.1 of the Highway Safety Code and the advisability of amending the legislative provisions concerning the use of photo radar devices and red light camera systems.

**37.** This Act comes into force on 6 June 2012, except

- (1) sections 2, 4 and 16, which come into force on 30 June 2012;
- (2) sections 13, 14, 17, 18 and 33, which come into force on 5 August 2012;
- (3) sections 19 and 20, paragraphs 1, 2 and 4 of section 21 and sections 22, 23 and 25, which come into force on 1 October 2012; and
- (4) paragraphs 3 and 5 of section 21, which come into force on the date or dates to be set by the Government, which may not be earlier than the date that is six months after the date on which the first report referred to in section 36 is tabled in the National Assembly.