



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 51

(2012, chapter 18)

An Act to amend the Animal Health Protection Act mainly in regard to animal safety and welfare

**Introduced 6 December 2011
Passed in principle 24 May 2012
Passed 15 June 2012
Assented to 15 June 2012**

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EXPLANATORY NOTES

This Act contains various amendments to the Animal Health Protection Act.

A number of amendments are made to ensure the safety and welfare of animals. New requirements are imposed on animal owners and custodians regarding the premises in which animals are kept. If the Minister is of the opinion that the safety or welfare of an animal is in immediate danger, the Minister may order an animal owner or custodian for a period not exceeding 60 days to cease the owner's or the custodian's custody or some related activities or to exercise the custody or activities according to the conditions the Minister determines.

Provisions applying specifically to the safety and welfare of cats and dogs are introduced, including provisions requiring the owners or custodians of 15 or more animals, whether cats or dogs, to hold a permit. The Government's regulatory powers are expanded to allow it to establish rules applicable to the premises where those animals are kept, the persons who keep them, the activities exercised by those persons, the preventive measures they must put in place and the methods they may use to euthanize animals.

Fines are increased for contravening legislative or regulatory provisions regarding the safety and welfare of animals and for contravening provisions that apply more specifically to cats and dogs.

The Government is empowered to enter into an agreement with a first nation or a Native community or group on the special application of certain provisions to better reconcile the safety and welfare requirements of dogs with the activities of Native people.

The Government is authorized to provide, by regulation, that the custodian of an animal must register with the Minister.

The requirement that persons hold a permit in order to artificially inseminate an animal, keep animal sperm in their possession or deliver animal sperm to a third party is withdrawn.

LEGISLATION AMENDED BY THIS ACT:

- Animal Health Protection Act (R.S.Q., chapter P-42).

Bill 51

AN ACT TO AMEND THE ANIMAL HEALTH PROTECTION ACT MAINLY IN REGARD TO ANIMAL SAFETY AND WELFARE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 3.0.1 of the Animal Health Protection Act (R.S.Q., chapter P-42), amended by section 4 of chapter 40 of the statutes of 2000, is again amended by inserting “or custodian” after “owner” wherever it occurs in the first paragraph.

2. Section 24 of the Act, amended by section 16 of chapter 40 of the statutes of 2000, is replaced by the following section:

“**24.** Only the holder of a permit issued for that purpose by the Minister may take semen from an animal.”

3. Section 25 of the Act is repealed.

4. Section 28 of the Act, amended by section 18 of chapter 40 of the statutes of 2000, is again amended

(1) by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) determine the conditions under which a person may collect semen from an animal and restrict that activity to the classes of persons it determines;

“(2) determine the rights, conditions and restrictions relating to permits;”;

(2) by replacing “to activities for which a permit is required” in paragraph 4 by “to take semen from an animal”;

(3) by replacing “for the purposes” in paragraph 5 by “for the purpose”;

(4) by replacing “methods to be followed by permit holders” in paragraph 7 by “the standards or methods to be followed”;

(5) by replacing paragraph 10 by the following paragraph:

“(10) exempt from some or all of the provisions of this division or of the regulations, according to the conditions it determines, certain classes of persons or categories of animals or some of the following activities:

- (a) the collecting of semen from an animal;
- (b) the storing of animal semen;
- (c) the distribution and transportation of animal semen;
- (d) the artificial insemination of an animal;”;

(6) by replacing “a permit holder and the place where he must keep them, the reports he must make” in paragraph 13 by “a person who carries on an activity listed in paragraph 10, where they must be kept, the reports the person must make”.

5. Section 55.9.2 of the Act is amended

(1) by replacing “The safety and welfare of an animal is jeopardized” by “The safety or welfare of an animal is jeopardized”;

(2) by replacing “the biological requirements of its species” in paragraph 1 by “its biological requirements”;

(3) by replacing “suitable, salubrious living conditions” in paragraph 2 by “premises that are suitable, salubrious, clean and adapted to the animal’s biological requirements and where the installations are not likely to affect the animal’s safety or welfare”;

(4) by replacing paragraph 3 by the following paragraph:

“(3) the animal does not receive the health care required by its condition while it is wounded, sick or suffering;”;

(5) by striking out paragraph 5.

6. Section 55.9.3 of the Act is repealed.

7. The Act is amended by inserting the following sections after section 55.9.4:

“55.9.4.1. No person may operate premises where cats or dogs are taken in with a view to transferring them to a new place of custody, euthanizing them or having them euthanized by a third party, without holding a permit issued for that purpose by the Minister.

Among the premises referred to in the first paragraph are pounds, animal houses and premises kept by persons or organizations dedicated to the protection of animals.

“55.9.4.2. No person may be the owner or custodian of 15 or more animals, whether cats or dogs, without holding a permit issued for that purpose by the Minister.

For the purposes of the first paragraph, kittens or pups less than six months old born to a female kept on the same premises are excluded from the calculation of the number of cats or dogs.

Holders of the permit provided for in section 55.9.4.1 are not subject to the first paragraph of this section.

“55.9.4.3. Any permit referred to in this division must be displayed in the place of custody of the cats or dogs where it may be easily examined by the public.”

8. Section 55.9.5 of the Act is amended

(1) by striking out “of the Court of Québec or a municipal court” in the third paragraph;

(2) by replacing “the safety and welfare” in the third paragraph by “the safety or welfare”.

9. Section 55.9.6 of the Act is amended

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

“55.9.6. Where in the Minister’s opinion there is an immediate danger to the safety or welfare of an animal, the Minister may order, for a period not exceeding 60 days, the owner or custodian of the animal:

(1) to cease the owner’s or the custodian’s custody or certain related activities;

(2) to exercise custody or carry on certain related activities according to the conditions the Minister determines.”;

(2) by replacing “served on” and “the day on which it is served” in the second paragraph by “notified to” and “its date of notification”, respectively;

(3) by replacing “within two years” in the third paragraph by “within three years”;

(4) by replacing “the owner or custodian from keeping animals for the purpose of sale or breeding or limiting the number of animals he may keep for that purpose, for a period not exceeding two years” in the third paragraph by “the owner or custodian from owning or having the custody of animals or limiting the number of animals they may own or have custody of, for a period the Court deems appropriate”.

10. Section 55.9.7 of the Act is amended

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

“55.9.7. An inspector who has reasonable grounds to believe that an animal is suffering significantly may, in the performance of his duties, whether or not seizure has taken place, confiscate the animal so that it may be destroyed and its carcass disposed of, if the inspector has obtained the authorization of the animal’s owner or custodian. Failing such authorization, the inspector may confiscate the animal so that it may be destroyed and its carcass disposed of; the inspector must first obtain the opinion of a veterinary surgeon, unless no veterinary surgeon is readily available and it is urgent that the animal’s suffering be stopped.”;

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

“The disposal of a carcass referred to in the first or second paragraph may be preceded by an autopsy.”

11. Section 55.9.8 of the Act is amended by adding the following paragraphs at the end:

“The seized animal may be kept at the place of seizure if the owner or occupant of the premises agrees to it in writing, according to the terms agreed to by the parties. If the owner or occupant of the premises does not agree to such custody or fails to respect the terms attached to it, the seizer may apply to a judge for authorization to keep the seized animal on site, according to the terms and conditions that the judge deems appropriate.

In the case of an emergency, the seizer may, before obtaining authorization from a judge, establish interim custody measures to ensure the safety and welfare of the animal.”

12. Section 55.9.11 of the Act is amended

(1) by striking out “of the Court of Québec or a municipal court” in the first paragraph;

(2) by inserting “donated,” after “He may order that the animal be returned to the person from whom it was seized, that it be kept under seizure until a final judgment, or that it be” in the third paragraph;

(3) by replacing both occurrences of “expenses incurred for the animal’s keep” in the third paragraph by “expenses incurred as a result of the seizure, including expenses for treatment, medication, transportation and veterinary services”.

13. Section 55.9.12 of the Act is amended

(1) by striking out “of the Court of Québec or a municipal court” in the first paragraph;

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

“The judge shall grant the application if of the opinion that the safety and welfare of the animal will not be jeopardized, and on payment of the expenses resulting from the seizure, including expenses for treatment, medication, transportation and veterinary services. However, if no proceedings are instituted, the expenses incurred as a result of the seizure are reimbursed to the owner.”

14. Section 55.9.13 of the Act is amended by replacing the first paragraph by the following paragraph:

“55.9.13. In the event of conviction for an offence under section 55.9.2 or a regulation made under section 55.9.14.1 or 55.9.14.2, a judge may, on an application by the prosecuting party, issue an order prohibiting the person found guilty from owning animals or having the custody of animals, or limiting the number of animals the person may own or have custody of, for a period that the judge deems appropriate.”

15. Section 55.9.14 of the Act is amended by replacing “Expenses incurred under this division for an animal’s keep” by “Expenses incurred for an animal’s keep under this division as a result of a seizure, including expenses for treatment, medication, transportation and veterinary services, as well as expenses incurred for”.

16. Section 55.9.14.1 of the Act is replaced by the following section:

“55.9.14.1. The Government may, by regulation, set standards to ensure the safety or welfare of animals.”

17. The Act is amended by inserting the following sections after section 55.9.14.1:

“55.9.14.2. The Government may, by regulation,

(1) determine the conditions in which the owner or custodian of a cat or dog may carry on an activity involving the animal, restrict the activity or forbid certain classes of persons it determines to carry out the activity;

(2) determine the classes of permits referred to in section 55.9.4.1 or 55.9.4.2 and the conditions and restrictions attached to each;

(3) establish the conditions for the issue and renewal of the permits referred to in sections 55.9.4.1 and 55.9.4.2, the fees payable and the costs for opening a permit application file;

(4) determine the skills or qualifications required of the holder of a permit referred to in section 55.9.4.1 or 55.9.4.2 and those required of an employee assigned to the activities for which a permit is required;

(5) establish the standards applicable to the organization, to the maintenance and operation of any premises where an activity involving a cat or dog is carried on, or for which a permit referred to in section 55.9.4.1 or 55.9.4.2 is required;

(6) determine the maximum number of cats or dogs that can be kept on the premises, in particular, according to their species or race, the type of activity carried on by the owner or custodian of a cat or dog or the type of premises in which they are kept, including pounds, animal houses and premises kept by persons or organizations dedicated to the protection of animals;

(7) determine the maximum number of cats or dogs that can be kept by a single natural person;

(8) determine the protocols and registers that the owner or custodian of a cat or dog must observe or keep, what each must contain, where they must be kept, the reports the owner or custodian must file with the Minister, the information that must be reported and the frequency of the reporting;

(9) determine preventive measures for cats or dogs, in particular, vaccination, sterilization, isolation or quarantine, and foresee methods, procedures and conditions applicable to those measures;

(10) determine the standards for euthanizing cats and dogs and regulate or prohibit certain methods, procedures and conditions;

(11) foresee any other measure intended to ensure the safety or welfare of cats or dogs, in addition to those provided for by a regulation made under section 55.9.14.1; the measures may vary according to species or race, the type of activity carried on by the owner or custodian or the type of premises on which the animals are kept.

“55.9.14.3. The Government may, by regulation, exempt from the application of all or part of this division or the regulations, according to the conditions it sets, any person, animal race or species, type of activity, establishment or geographical region that it determines.”

18. The Act is amended by inserting the following sections after section 55.9.16:

“55.9.16.1. For the purpose of better reconciling the safety and welfare requirements of dogs with the activities carried on by Native people in certain regions and the cultural, climatic and geographical realities of those regions, the Government is authorized to enter into an agreement with a first nation represented by all the band councils of the communities comprising that nation, with a Native community represented by its band council or by the council of a northern village, with a group of communities so represented or, in the absence of such councils, with any other Native group on any subject covered by this division or the regulations.

The provisions of such an agreement take precedence over the provisions of this division and the regulations. However, any person covered by an agreement is only exempt from the application of the provisions of this division or the regulations that are inconsistent with the agreement to the extent that the person respects the agreement.

An agreement entered into under this section is tabled in the National Assembly within 15 days of its signature or, if the Assembly is not sitting, within 15 days of resumption. In addition, it is published in the *Gazette officielle du Québec*.

“55.9.16.2. For the purposes of this division, “judge” means

- (1) a judge of the Court of Québec;
- (2) a judge of a municipal court;
- (3) a presiding justice of the peace.”

19. Section 55.10 of the Act is amended by inserting “record or” at the beginning of paragraph 4.

20. Section 55.13 of the Act is amended by adding the following paragraph at the end:

“A person to whom a seized animal has been entrusted under section 55.9.8 cannot be prosecuted by the person from whom it was seized for acts done in good faith within the framework of the mandate of the person caring for the seized animal.”

21. The Act is amended by inserting the following section after section 55.25:

“55.25.1. For the purposes of this division, “judge” means

- (1) a judge of the Court of Québec;
- (2) a judge of a municipal court;
- (3) a presiding justice of the peace.”

22. Section 55.31 of the Act is amended by adding the following paragraph after paragraph 3:

“(4) if he repeatedly fails to comply with this Act or the regulations.”

23. Section 55.43.1 of the Act is replaced by the following sections:

“55.43.1. The owner or custodian of an animal who compromises the animal’s safety or welfare in a manner described in paragraph 1, 2 or 3 of

section 55.9.2 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

The owner or custodian of an animal who compromises the animal's safety or welfare in a manner described in paragraph 4 of section 55.9.2 is liable to a fine of \$2,000 to \$25,000 and, in the case of a subsequent conviction, to a fine of \$6,000 to \$75,000.

“55.43.1.1. Every person who contravenes section 55.9.4.1, 55.9.4.2 or 55.9.4.3 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

“55.43.1.2. The owner or custodian of an animal who contravenes an order made under section 55.9.6 is liable to a fine of \$2,000 to \$25,000 and, in the case of a subsequent conviction, to a fine of \$6,000 to \$75,000.

“55.43.1.3. Every person who contravenes a regulation made under section 55.9.14.1, 55.9.14.2 or 55.9.14.3 is liable to a fine of \$600 to \$12,000 and, in the case of a subsequent conviction, to a fine of \$1,800 to \$36,000.

“55.43.1.4. For the purposes of sections 55.43.1 to 55.43.1.3, the court takes the following factors in particular into account in determining the amount of the fine:

- (1) the condition of the animal;
- (2) the state of the premises or the vehicle in which the animal was kept or transported;
- (3) the benefits or income the contravener received as a result of carrying on activities involving the animal; and
- (4) the number of animals involved.”

24. Section 55.45.1 of the Act is amended by replacing “under section 55.43.1” in the first paragraph by “under sections 55.43.1 to 55.43.1.3”.

25. The Act is amended by adding section 56.0.1:

“56.0.1. No later than 15 June 2015 and every five years after that, the Minister must report to the Government on the enforcement of Divisions IV.1.1 and IV.2, Division IV.3 as regards the permits referred to in sections 55.9.4.1 and 55.9.4.2 and sections 55.43.1 to 55.43.1.4 of Division IV.4.

The report must be tabled by the Minister in the National Assembly within 30 days or, if the Assembly is not sitting, within 30 days of resumption. The competent committee of the National Assembly examines the report.

The report deals in particular with the advisability of amending the legislative provisions of the divisions referred to in the first paragraph.”

TRANSITIONAL AND FINAL PROVISIONS

26. A person who, on the date of coming into force of section 7, is required to hold a permit under section 55.9.4.1 or 55.9.4.2 of the Animal Health Protection Act (R.S.Q., chapter P-42), enacted by section 7, must apply for the permit with the Minister of Agriculture, Fisheries and Food within four months after the coming into force of that section.

As of the coming into force of section 7, the person is deemed to hold such a permit until the first of the following dates:

- (1) the date the Minister issues the permit requested;
- (2) the date the Minister refuses to issue the permit requested; and
- (3) the date the four-month period expires, provided no permit application is received by the Minister during that time.

27. This Act comes into force on 15 June 2012, except section 7, which comes into force on the date of coming into force of the first regulation made under paragraph 3 of section 55.9.14.2 of the Animal Health Protection Act, enacted by section 17.