

Draft Regulations

Draft Regulation

An Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)

Highway Safety Code (chapter C-24.2)

Consumer Protection Act (chapter P-40.1)

An Act respecting the Québec sales tax (chapter T-0.1)

Road vehicle dealer's and recycler's licences — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend various regulations due to the coming into force of the provisions of the Act to transfer the responsibility for issuing road vehicle dealer's and recycler's licences to the president of the Office de la protection du consommateur, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation mainly amends the Regulation respecting the application of the Consumer Protection Act (chapter P-40.1, r. 3) to provide for the conditions on which that Act will apply to the issue of road vehicle dealer's or recycler's licences by the president of the Office de la protection du consommateur.

The Regulation is amended to increase, over a 5-year period, the duties for road vehicle dealer's or recycler's licences up to 75% of what they cost. The Regulation is also amended to specify the information and security that the applicants for licences must provide and the terms and conditions related to those licences.

The draft Regulation propose to replace the Regulation respecting dealers and recyclers (chapter C-24.2, r. 7) by the Regulation respecting road vehicle recyclers, which reproduces the provisions of the current regulation regarding the form and rules for preserving the register to be kept by road vehicle recyclers under the Highway Safety Code and provides a list of what is included in the meaning of "major component".

Lastly, the draft Regulation makes the harmonization amendments rendered necessary by the transfer, from the Société de l'assurance automobile du Québec to the president of the Office de la protection du consommateur, of the responsibility for issuing road vehicle dealer's and recycler's licences. The regulations affected by those amendments are:

— Regulation respecting fees for the transcription, reproduction or transmission of documents or personal information (chapter A-2.1, r. 3);

— Regulation respecting road vehicle registration (chapter C-24.2, r. 29);

— Regulation respecting the Québec sales tax (chapter T-0.1, r. 2).

Further information may be obtained by contacting Johanne Renaud, Office de la protection du consommateur, Village olympique – 5199, rue Sherbrooke Est, bureau 3721, Montréal (Québec) H1T 3X2; telephone: 514 253-6556, extension 3428; fax: 514 864-2400; email: johanne.renaud@opc.gouv.qc.ca

Any person wishing to comment on the matter is requested to submit written comments within the 45-day period to the Minister of Justice, 1200, route de l'Église, Québec (Québec) G1V 4M1.

STÉPHANIE VALLÉE,
Minister of Justice

Regulation to amend various regulations due to the coming into force of the provisions of the Act to transfer the responsibility for issuing road vehicle dealer's and recycler's licences to the president of the Office de la protection du consommateur

Regulation respecting fees for the transcription, reproduction or transmission of documents or personal information

An Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1, s. 155, 1st par., subpar. 1, and 2nd par.)

1. The Regulation respecting fees for the transcription, reproduction or transmission of documents or personal information (chapter A-2.1, r. 3) is amended in section 7 by striking out “et licences” in the French text.

Regulation respecting dealers and recyclers

Highway Safety Code
(chapter C-24.2, s. 620, pars. 4.1 and 4.2)

2. The Regulation respecting dealers and recyclers (chapter C-24.2, r. 7) is replaced by the following:

“Regulation respecting road vehicle recyclers

Highway Safety Code
(chapter C-24.2, s. 620, pars. 4.1 and 4.2)

1. The register of a road vehicle recycler is a directory on paper or computerized record in which all the information provided for in section 155 of the Highway Safety Code (chapter C-24.2) is recorded.

2. The information contained in the register must be kept for two years after the date of sale of the road vehicle or major component.

3. The register must be kept at all times at the establishment of the road vehicle recycler.

4. For the purposes of section 155 of the Highway Safety Code (chapter C-24.2), “major component” means

(1) for all road vehicles: the engine, the chassis frame and light alloy wheels;

(2) for all road vehicles except motorcycles and mopeds: the transmission, the rear axle, the hood, the fenders, the side panels, the trunk lid, the doors, the seats, the dashboard, the siderails whether or not complete, the grill, the roof, the front pillar, centre pillar and rear pillar, the rocker panel and the tailgate;

(3) the fork and the fairing of a motorcycle or moped;

(4) the cab and the body of a truck and a light truck.”.

Regulation to amend the Regulation respecting road vehicle registration

Highway Safety Code
(chapter C-24.2, s. 618, par. 2)

3. The Regulation respecting road vehicle registration (chapter C-24.2, r. 29) is amended in section 36 by replacing “a duly licensed dealer” in the first paragraph by “a road vehicle dealer holding a permit issued under the Consumer Protection Act (chapter P-40.1)”.

4. Section 37 is amended by replacing “a duly licence dealer” in the first paragraph by “a road vehicle dealer holding a permit issued under the Consumer Protection Act (chapter P-40.1)”.

5. Section 44 is amended by replacing “an automotive dealer or manufacturer” in the first paragraph by “a road vehicle manufacturer or dealer holding a permit issued under the Consumer Protection Act (chapter P-40.1)”.

6. Section 45 is amended by replacing “a dealer” in the first paragraph by “a road vehicle dealer holding a permit issued under the Consumer Protection Act (chapter P-40.1)”.

7. Section 150 is amended by replacing “road vehicle dealer’s licence” by “road vehicle dealer’s permit issued under the Consumer Protection Act (chapter P-40.1)”.

Regulation to amend the Regulation respecting the application of the Consumer Protection Act

Consumer Protection Act
(chapter P-40.1, s. 350)

3. The Regulation respecting the application of the Consumer Protection Act (chapter P-40.1, r. 3) is amended in section 12 by replacing paragraph c by the following:

“(c) a merchant holding a road vehicle dealer’s permit or a road vehicle recycler’s permit, for the purposes of contracts entered into or solicited in the course of the activity requiring that permit.”.

9. The following is inserted after section 24:

“**24.1.** A holder of a road vehicle dealer’s permit who sells road vehicles or leases them under long-term contracts of lease is exempt from the application of section 260.29 of the Act in any of the following situations:

(a) during an event outside the dealer’s establishment lasting no more than 15 days and occurring no more than 10 times a year, including twice at the same address;

(b) where the dealer enters into a contract with another dealer during an auction sale.

A holder of such a permit who uses the exemption provided for in subparagraph *a* of the first paragraph must so inform the president using the form provided by the president.

The contracts entered into during such an event or auction sale are covered by the security provided by the dealer in accordance with section 108.1.1 or 108.1.3.

“**24.2.** A dealer who enters into contracts for the sale or long-term leasing of trailers or semi-trailers with a weight of less than 1,300 kg is exempt from the obligation to hold a road vehicle dealer’s permit and to furnish security.”

10. Section 92 is amended by replacing “in accordance with Form N-33 appended hereto” in paragraph *d* by “in accordance with section 118 or any person who is a member of an association of road vehicle dealers or an association of road vehicle recyclers and who is identifiable by a member’s certificate drawn up in accordance with subparagraph iii of subparagraph *c* of the first paragraph of section 112.1”.

11. Section 93 is amended

(1) by replacing “There are 4 types of permit” by “There are 6 types of permit”.

(2) by adding the following at the end:

“(e) a road vehicle dealer’s permit referred to in paragraph *e* of section 321 of the Act;

(f) a road vehicle recycler’s permit referred to in paragraph *f* of section 321 of the Act.”

12. Section 94 is amended

(1) by adding “, unless that person is a declared director in the enterprise registrar” at the end of subparagraph *f* of the first paragraph;

(2) by replacing “pursuant to sections 94 to 94.02” in the last paragraph by “pursuant to sections 94 to 94.03”.

13. The following is inserted after section 94.02:

“**94.03.** In addition to the information and documents referred to in section 94, a person who applies for the issue or renewal of a road vehicle dealer’s permit or road vehicle recycler’s permit must forward to the president the following information:

(a) the address, telephone number and, where applicable, the technological address and fax number of all the establishments for which the permit is requested;

(b) the following information concerning the dealer, the person, in the case of a sole proprietorship, or each partner and director:

i. whether they have been found guilty, in the 3 preceding years, of an offence against section 165 or 166 of the Highway Safety Code (chapter C-24.2), unless a pardon has been obtained;

ii. whether they have been found guilty, in the 5 preceding years, of a criminal offence relating to possession of stolen goods, fraud or theft involving a road vehicle or its parts, unless a pardon has been obtained;

iii. if the answer to one of the questions in subparagraphs i and ii is affirmative, the name of the person concerned, the nature of the offence, the date of the judgment and the court file number;

(c) a declaration attesting to the compliance of each of the establishments with municipal by-laws regarding uses.

A road vehicle dealer must indicate to the president, for each of the dealer’s establishments, among the following classes of road vehicles, the class of road vehicles for which the permit is required:

(a) vehicles with a net weight of 5,500 kg or more other than farm machines;

(b) vehicles with a net weight of less than 5,500 kg other than motorcycles, snowmobiles, mopeds and farm machines and other than trailers and semi-trailers with a net weight less than 1,300 kg;

(c) motorcycles, snowmobiles, mopeds and farm machines.

Upon request by the president, the road vehicle dealer must indicate, for each of the dealer’s establishments, the type of road vehicles offered for sale or long-term leasing and, in the case of new road vehicles, their make.

94.04. The holder of a road vehicle dealer's permit or road vehicle recycler's permit must notify the president of any change relating to the matters referred to in section 94.03, within 15 days following the change.”

14. Section 94.2 is amended by striking out the second and third paragraphs.

15. The following is inserted after section 94.4:

“**94.5.** For the renewal of a permit, the documents referred to in subparagraphs *f*, *h* and *j* of the first paragraph of section 94, paragraphs *a* and *b* of section 94.3 and section 94.4 are not required to be forwarded again if they contain no change.

94.6. An application for renewal of a permit must be forwarded to the president not later than 1 month before the expiry date of the permit.”

16. The following is inserted after section 108.1:

“**108.1.1.** The duties to be paid by an applicant for a road vehicle dealer's permit per establishment used for the trade of road vehicles and the duties to be paid for the renewal of the dealer's permit per establishment used for that purpose are fixed as follows:

Periods	Issue	Renewal
From 19 October 2015 to 30 April 2016	\$537	\$406
From 1 May 2016 to 30 April 2017	\$585	\$442
From 1 May 2017 to 30 April 2018	\$634	\$479
From 1 May 2018 to 30 April 2019	\$683	\$516
As of 1 May 2019	\$732	\$553

The security to be furnished by the applicant per establishment used for the trade of road vehicles is fixed according to the class of road vehicles sold or leased under a long-term contract as follows:

(*a*) an amount of \$200,000 for the trade of vehicles with a net weight equal to or greater than 5,500 kg other than farm machines;

(*b*) an amount of \$100,000 for the trade of vehicles with a net weight less than 5,500 kg other than motorcycles, snowmobiles, mopeds, farm machines and other than trailers and semi-trailers with a net weight less than 1,300 kg;

(*c*) an amount of \$25,000 for the trade of motorcycles, snowmobiles, mopeds and farm machines.

If the road vehicle dealer trades in road vehicles from 2 classes or more, the dealer must furnish the security fixed for the class with the highest security.

Despite the foregoing, a dealer who trades in road vehicles referred to in subparagraph *c* of the second paragraph and who sells a used vehicle referred to in subparagraph *b* of the second paragraph, in the circumstances and on the conditions described in section 71 with the necessary modifications, is not required to provide the security prescribed by subparagraph *b* of the second paragraph.

108.1.2. The duties to be paid by an applicant for a road vehicle recycler's permit per establishment used for the trade of disused road vehicles, vehicle carcasses or parts and the duties to be paid for the renewal of the recycler's permit per establishment used for that purpose are the same as those fixed by section 108.1.1.

The security to be furnished by the applicant per establishment used for the trade of disused road vehicles, vehicle carcasses or parts is fixed at \$50,000.

108.1.3. For the simultaneous issue of a road vehicle dealer's permit and of a road vehicle recycler's permit, the duties to be paid by the applicant per establishment used for the trade of road vehicles, disused road vehicles, vehicle carcasses or parts and the duties to be paid for the renewal of the permit per establishment used for that purpose are fixed as follows:

Periods	Issue	Renewal
From 19 October 2015 to 30 April 2016	\$806	\$606
From 1 May 2016 to 30 April 2017	\$880	\$661
From 1 May 2017 to 30 April 2018	\$953	\$716
From 1 May 2018 to 30 April 2019	\$1,026	\$771
As of 1 May 2019	\$1,099	\$826

Where applicable, the applicant must pay the duties required for the applicant's establishment used for the trade of road vehicles, in accordance with section 108.1.1, and the duties required for the applicant's establishment used for the trade of disused road vehicles, vehicle carcasses or parts, in accordance with section 108.1.2.

If, in an establishment, the applicant is simultaneously engaged in the activities referred to in sections 108.1.1 and 108.1.2, the security to be furnished for that establishment must cumulatively cover the amounts applicable under those sections.

The applicant must attach to the application only one security covering the amounts applicable to each of the applicant's establishments, in accordance with sections 108.1.1 to 108.1.3."

17. Section 108.2 is amended by replacing "section 104, 107, 108 or 108.1" by "section 104 or sections 107 to 108.1.3".

18. The following is inserted at the end of section 110:

"Despite the foregoing, the security furnished by a road vehicle dealer or a road vehicle recycler may be furnished only in the manner prescribed in subparagraph *a* or *b* of the first paragraph or section 112.1. If the security is furnished by means of a group security policy, the global amount of the policy is established as follows:

(a) \$125,000, where the amount of the members' individual security is \$25,000;

(b) \$250,000, where the amount of the members' individual security is \$50,000;

(c) \$500,000, where the amount of the members' individual security is \$100,000;

(d) 1 million, where the amount of individual security of a majority of the members is \$200,000.

If the road vehicle dealer or road vehicle recycler owns 2 or more establishments, the dealer or recycler must furnish security for all the establishments with only one security policy."

19. The following is inserted after section 112:

"**112.1.** An association of road vehicle dealers or an association of road vehicle recyclers that acts as surety for its members, in accordance with the second paragraph of section 323.1 of the Act, must

(a) enter into an agreement with the president specifying the manner in which the security is to be furnished, particularly in respect of the elements provided for in subparagraphs *a* to *c* and *f* to *h* of section 113;

(b) deposit the amount fixed by the president in accordance with the second paragraph of section 323.1 of the Act, to the benefit of the Minister of Finance, with a trust

company in Canadian tender or in bonds issued or guaranteed by the Government of Canada or the government of a Canadian province;

(c) give to the president

i. a written document from the trust company attesting to the deposit of the amount fixed;

ii. an annual statement showing that the amount deposited is maintained at the level fixed;

iii. for each member of the association covered by the surety, a member's certificate attesting that the permit holder is a member of the association that acts as surety;

(d) where the association pays for a judgment, an agreement, a transaction, a claim or a fine in accordance with section 122.1, make up the difference in the amount deposited in trust so as to maintain it at the level fixed at all times.

An association may terminate the agreement entered into under subparagraph *a* of the first paragraph only on written notice of at least 90 days to the president. Despite the expiry of the security, the association must maintain the amount deposited in trust for the period determined under the second paragraph of section 119."

20. Section 113 is amended

(1) by replacing "for the duration of the permit as determined in section 104, 108 or 108.1" in subparagraph *b* of the first paragraph by "for the duration of the permit and its renewal as determined in section 104 or sections 108 to 108.1.3";

(2) by replacing "section 120 or 120.1" in subparagraph *c* of the first paragraph by "section 120, 120.1 or 120.2";

(3) by replacing "section 120 or 120.1" in subparagraph *d* of the first paragraph by "section 120, 120.1 or 120.2";

(4) by replacing subparagraph *h* of the first paragraph by the following:

"(h) a statement that, despite the expiry of the security, the obligations of the surety continue to apply and the responsibility of the merchant continues to extend to the merchant's clients, when, as the case may be,

i. civil proceedings were instituted within the time prescribed by the Civil Code;

ii. the agreement or transaction, which was intended to prevent judicial proceedings, was entered into within the same time;

iii. penal proceedings were instituted within the time prescribed by section 290.1 of the Act;

iv. the act or omission that is the subject of the civil judgment, the agreement or transaction or, as the case may be, the conviction is related to a contract concluded or fault committed while the security was in effect, or occurred while the security was in effect.”

21. Section 118 is amended

(1) by replacing “section 104, 108 or 108.1” in paragraph *d* by “sections 104, 108 to 108.1.3”;

(2) by adding the following at the end:

“The surety may cancel the member’s certificate only by sending at least 90 days’ written notice to the president along with proof that a copy of the notice was notified to the dealer.”

22. Section 120 is amended by replacing “Subject to section 120.1” by “Subject to sections 120.1 and 120.2”.

23. The following is inserted after section 120.1:

“**120.2.** The security prescribed by sections 108.1.1 to 108.1.3 is required to guarantee, for the duration of the security, compliance with the Act and respect for obligations arising from contracts entered into in the course of operations requiring such security by the road vehicle dealer or recycler who has furnished security or by his or her representative:

(a) for the indemnification in capital, interest and costs of any consumer holding a liquidated debt resulting from non-compliance with the Act or from a contract covered by the security and certified, either by a judgment rendered against the road vehicle dealer or recycler, his or her representative or the surety, or by an agreement or transaction entered into between the consumer, on the one hand, and the road vehicle dealer or recycler, his or her representative, the trustee or the surety, on the other hand;

(b) for reimbursement to the true owner of the amount paid to the purchaser by the true owner as a condition for revendication of his or her road vehicle, in the case of the sale by the road vehicle dealer or recycler of the property of a third person;

(c) for reimbursement to the owner of a stolen road vehicle, dismantled or sold for parts by a road vehicle recycler of an amount corresponding to the vehicle’s value at the time of the theft;

(d) for the recovery of the fine and costs imposed on that road vehicle dealer or recycler or his or her representative under Chapter III of Title IV of the Act.”

24. Section 121.2 is amended by inserting “Subject to section 122.1,” at the beginning.

25. The following is inserted after section 122:

“**122.1.** Where the president receives a copy of a final judgment or of an agreement or transaction referred to in paragraph *a* of section 120.2 and terminating a dispute, the president forwards the copy to the surety with instructions to pay it up to the amount of the security. The president is to do the same for a claim by the true owner referred to in paragraph *b* of section 120.2 and for the owner’s claim referred to in paragraph *c* of the same section.

The first paragraph applies, with the necessary modifications, to the payment of the fine and costs imposed on a permit holder or his or her representative under Chapter III of Title IV of the Act.”

26. Section 123 is amended

(1) by replacing “in accordance with sections 121.2 and 122” by “in accordance with sections 121.2 to 122.1”;

(2) by replacing “section 104, 108 or 108.1” by “section 104 or sections 108 to 108.1.3”.

27. Section 153 is replaced by the following:

“**153.** A dealer holding a road vehicle dealer’s or recycler’s permit is exempt from the application of sections 254 to 256 of the Act.”

Regulation respecting the Québec sales tax

An Act respecting the Québec sales tax
(chapter T-0.1, s. 677, 1st par., subpar. 44.0.1)

28. The Regulation respecting the Québec sales tax (chapter T-0.1, r. 2) is amended in section 425.1R2 by replacing “a dealer’s licence issued under the Highway Safety Code (chapter C-24.2)” by “a road vehicle dealer’s permit issued under the Consumer Protection Act (chapter P-40.1)”.

29. This Regulation comes into force on 19 October 2015.

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