



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 65
(2021, chapter 5)

**An Act to amend mainly the
Environment Quality Act with respect
to deposits and selective collection**

**Introduced 24 September 2020
Passed in principle 11 November 2020
Passed 11 March 2021
Assented to 17 March 2021**

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EXPLANATORY NOTES

This Act amends mainly the Environment Quality Act to give the Government the power to require any person, including any person operating an industrial or commercial establishment, who generates residual materials by their activities to develop and implement a selective collection system and a deposit system for certain such materials, and to see to the financing of those systems.

The Act gives the Government the powers necessary to regulate the development, implementation and financing of the selective collection system and the deposit system.

The Act also gives the Government the power to mandate a non-profit body to take on the responsibility for developing, implementing and financing, in the place and stead of specific persons, all actions necessary to ensure the operation of the systems. The Government may, in particular, specify the rules regarding the designation of the body, the body's obligations, rights and responsibilities and the obligations, rights and responsibilities that the persons have with respect to the body.

The Act repeals the provisions of the Environment Quality Act concerning the compensation paid to municipalities and certain Aboriginal communities for the services they provide respecting the recovery and reclamation of residual materials, and the Act respecting the sale and distribution of beer and soft drinks in non-returnable containers.

Lastly, the Act contains a monetary administrative penalty and a penal sanction, as well as transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

- Environment Quality Act (chapter Q-2).

LEGISLATION REPEALED BY THIS ACT:

- Act respecting the sale and distribution of beer and soft drinks in non-returnable containers (chapter V-5.001).

REGULATION REPEALED BY THIS ACT:

- Regulation respecting compensation for municipal services provided to recover and reclaim residual materials (chapter Q-2, r. 10).

Bill 65

AN ACT TO AMEND MAINLY THE ENVIRONMENT QUALITY ACT WITH RESPECT TO DEPOSITS AND SELECTIVE COLLECTION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ENVIRONMENT QUALITY ACT

1. Section 53.3 of the Environment Quality Act (chapter Q-2) is amended by replacing “and marketing” in paragraph 1 by “, marketing and other types of distribution”.

2. Section 53.24 of the Act is amended by inserting “, unless a regulation made under this division requires a person to assume a responsibility provided for in the plan, in which case the local municipalities are not bound by the plan as regards that responsibility” at the end of the first paragraph.

3. Section 53.30 of the Act is amended

(1) in the first paragraph,

(a) by replacing “to recover and reclaim or to see to the recovery and reclamation of the designated classes of residual materials, on the conditions fixed” in subparagraph 3 by “or any person to recover and reclaim or to see to the recovery and reclamation of the designated classes of residual materials in accordance with the terms and conditions fixed by regulation”;

(b) in subparagraph 6,

i. by replacing the introductory clause by the following:

“(6) require any person, in particular any person operating an industrial or commercial establishment, who manufactures, markets or otherwise distributes containers, packaging or packaging materials, printed matter or other products, who markets products in containers or packaging acquired for that purpose or, more generally, whose activities generate residual materials.”;

ii. by inserting “terms and” and “, with the goal of extended responsibility of these persons, all while taking into account basic principles of the circular economy and taking into account the social economy within the meaning of the Social Economy Act (chapter E-1.1.1)” after “contribute financially to, on the” and “their activities”, respectively in subparagraph *b*;

- iii. by striking out subparagraph *b.1*;
- iv. by replacing “as applicable, on the conditions fixed” in subparagraph *c* by “on the terms and conditions fixed”;

(*c*) in subparagraph 7,

i. by inserting “, except the requirements prescribed under both subparagraph *b* of that paragraph and, as the case may be, section 53.30.1 or 53.30.2,” after “member of an organization” in the introductory clause;

ii. by replacing subparagraph *a* by the following subparagraph:

“(a) the purpose or one of the purposes of which is to develop and implement, as a measure, a system to recover or reclaim residual materials, or to contribute financially to the development and implementation of such a system, in both cases in accordance with the provisions of the regulation and, for matters not provided for by the regulation in accordance with the terms and conditions fixed, under the last paragraph, by an agreement, which must be transmitted to the Minister, between the organization and the Société québécoise de récupération et de recyclage.”;

(*d*) by replacing subparagraphs 8 to 13 by the following subparagraph:

“(8) prescribe the information or documents that a person, a municipality, a group of municipalities or an Aboriginal community, represented by its band council, must transmit to a person who must, under a regulation made under subparagraph *b* of subparagraph 6, meet the obligations referred to in the regulation as well as the other terms and conditions applicable to the transmission and the time limit for doing so; the regulation may also prescribe the penalties applicable if the obligations are not met.”;

(2) in the second paragraph,

(a) by inserting “, by regulation,” after “The Minister may”;

(b) by striking out the last sentence.

4. The Act is amended by inserting the following sections after section 53.30:

“53.30.1. A regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 that requires, as a measure, certain persons to develop, implement and contribute financially to a system of selective collection of certain residual materials, including the collection, transportation, sorting and conditioning of those materials, whenever those materials are stored, to ensure their recovery and reclamation may, in particular,

(1) determine the products concerned by the system;

(2) prescribe the time limits and the terms and conditions applicable to the entering into of contracts, if applicable, between the persons, the municipalities, the groups of municipalities and any Aboriginal community, represented by its band council, determined in the regulation and the minimum content of such contracts;

(3) determine the terms and conditions applicable to the collection, transportation, sorting and conditioning of the products referred to in paragraph 1, including their storage, where they are considered to be residual materials within the meaning of this Act;

(4) determine, in addition to the persons who are required to develop, implement and contribute financially to the system, the other persons, municipalities, groups of municipalities and Aboriginal communities, represented by their band councils, that are concerned by the system;

(5) determine the obligations, rights and responsibilities of the persons, municipalities, groups of municipalities and Aboriginal communities, represented by their band councils, that are concerned by the system; and

(6) prescribe a mechanism for resolving disputes that may arise following the entering into or performance of contracts referred to in paragraph 2 or the obligation to prescribe such a mechanism in such contracts.

“53.30.2. A regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 that requires, as a measure, certain persons to develop, implement and contribute financially to a deposit system may, in particular,

(1) determine the products concerned by the system;

(2) prescribe the time limits and the terms and conditions applicable to the entering into of contracts, if applicable, between the persons, the municipalities, the groups of municipalities and any Aboriginal community, represented by its band council, determined in the regulation and the minimum content of such contracts;

(3) determine the terms and conditions applicable to the return, transportation, sorting and conditioning of returnable products, including their storage, to recover and reclaim such products;

(4) determine, in addition to the persons who are required to develop, implement and contribute financially to the system, the other persons, municipalities, groups of municipalities and Aboriginal communities, represented by their band councils, that are concerned by the system;

(5) determine the obligations, rights and responsibilities of the persons, municipalities, groups of municipalities and Aboriginal communities, represented by their band councils, that are concerned by the system;

(6) determine, in particular with respect to the obligations referred to in paragraph 5, the obligations that certain persons concerned by the system must meet as regards their participation in the organization of the return of returnable products;

(7) fix a deposit payable on the purchase of any of the products referred to in paragraph 1 that, upon return, is refundable in whole or, as determined under paragraph 8, in part only, or prescribe the parameters to be used by a body designated under a regulation made under section 53.30.3 to fix such a deposit, which is not payable until it has been approved by the Minister;

(8) determine the non-refundable proportion of the deposit paid under paragraph 7 that constitutes the charge payable for the management, promotion and development of reclamation;

(9) determine the persons who are required to collect and refund, in the cases and on the conditions it prescribes, the deposit fixed under paragraph 7;

(10) fix the indemnity payable for management costs, or the parameters to be used to fix it by a body designated under a regulation made under section 53.30.3, in particular for the handling and storage of products referred to in paragraph 1 following their return, and determine the persons who are entitled to receive such an indemnity, the persons who are required to pay such an indemnity and the terms and conditions applicable to the payment of such an indemnity; and

(11) prescribe a mechanism for resolving disputes that may arise following the entering into or performance of contracts referred to in paragraph 2 or the obligation to prescribe such a mechanism in such contracts.

“53.30.3. The Government may, by a regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 and, as the case may be, section 53.30.1 or 53.30.2, in particular,

(1) prescribe that the responsibility for developing, implementing and contributing financially to a measure imposed by the regulation on certain persons the regulation determines be conferred, for the period it fixes, on a non-profit body designated by the Minister or the Société québécoise de récupération et de recyclage;

(2) exempt, in whole or in part, persons who are required, under the regulation, to meet obligations that are the responsibility of a body under paragraph 1 from meeting such obligations;

(3) prescribe the rules applicable to the designation of the body referred to in paragraph 1;

(4) prescribe the minimum obligations that the body must meet and the minimum rules that must be provided for in its general by-laws for it to be designated;

(5) prescribe the obligations, rights and responsibilities of the designated body and its method of financing;

(6) prescribe the obligations to the designated body that the persons referred to in paragraph 1 have, in particular the obligations to become a member of the body and to provide the body with the documents and information it requests to enable it to meet the responsibilities and obligations conferred on it by the regulation, prescribe the conditions for preserving and transmitting such documents and information, and determine which such documents and information are public; and

(7) prescribe the documents and information that the designated body must provide to the Minister or the Société québécoise de récupération et de recyclage, determine their form and content and the conditions for preserving and transmitting them, and determine which such documents and information are public.

“53.30.4. The Government is authorized to enter into, with any Aboriginal community referred to in a regulation made under this subdivision, an agreement on any matter concerned by the provisions of the regulation to take into account the community’s reality.

The agreement must pursue the same objectives as those pursued by the provisions of the regulation.

The provisions of the agreement prevail over those of the regulation. However, an Aboriginal community that is party to such an agreement is exempt from the incompatible provisions of the regulation only to the extent that that community complies with the agreement.

The agreement must be tabled in the National Assembly within 15 days of its being entered into or, if the Assembly is not sitting, within 15 days of resumption. It must also be published in the *Gazette officielle du Québec*.”

5. Section 53.31 of the Act is amended by replacing “, destination and mode of recovery or reclamation of the residual materials that are generated, delivered to a third person or taken in charge by the person or municipality” by the following:

“and destination

(1) of those of the products referred to in subparagraph 6 of the first paragraph of section 53.30 that the person or municipality manufactures, markets or otherwise distributes;

(2) of the residual materials generated by the products referred to in subparagraph 1;

(3) of the residual materials that are generated by the activities of the person or municipality, delivered to a third person or taken in charge by the person or municipality.

In addition to the information that may be requested under the first paragraph, information may be requested concerning the mode of recovery or reclamation of the residual materials referred to in subparagraphs 2 and 3 of the first paragraph as well as concerning the costs generated by their recovery or reclamation.”

6. The Act is amended by inserting the following sections after section 53.31:

“53.31.0.1. The Government may, by regulation, fix the indemnity payable to the Société québécoise de récupération et de recyclage for its management costs and other expenses related to a measure the development, implementation and financing of which are imposed on certain persons under a regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 and, as the case may be, section 53.30.1 or 53.30.2, and the parameters to be used to fix the indemnity.

The Government may also determine the person or persons required to pay the indemnity referred to in the first paragraph and the terms and conditions applicable to its payment.

The indemnity referred to in the first paragraph may not exceed 3% of the annual costs generated by the development and implementation of such a measure.

“53.31.0.2. No municipality or group of municipalities may, on its own initiative, develop or implement, in whole or in part, a system for selective collection of certain residual materials if the development, implementation and financing of such a system are conferred on persons by a regulation made under this division.

The prohibition in the first paragraph applies despite the responsibilities that are provided for with regard to selective collection of certain residual materials in a residual materials management plan that has been adopted by a regional municipality and is in force, or in an Act, a regulation or a charter establishing a municipality.”

7. Subdivision 4.1 of Division VII of Chapter IV of Title I of the Act, comprising sections 53.31.1 to 53.31.20, is repealed.

8. Section 115.24 of the Act is amended by replacing “requested by the Minister under section 31.0.4” in subparagraph 2 of the second paragraph by “requested under section 31.0.4 or under subparagraph 1 of the first paragraph of section 53.31”.

9. Section 115.26 of the Act is amended by inserting the following subparagraph after subparagraph 7 of the first paragraph:

“(7.1) has, on its own initiative, contrary to what is prescribed in section 53.31.0.2, developed or implemented in whole or in part a system for selective collection of certain residual materials if the development, implementation and financing of such a system are conferred, by a regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 and under section 53.30.1, on persons determined by the regulation;”.

10. Section 115.29 of the Act is amended by replacing “53.31” in paragraph 1 by “subparagraph 2 or 3 of the first paragraph or the second paragraph of section 53.31, section”.

11. Section 115.30 of the Act is amended, in paragraph 1,

(1) by inserting “subparagraph 1 of the first paragraph of section 53.31, section” after “46.10,”;

(2) by striking out “53.31.12 or”.

12. Section 115.32 of the Act is amended by inserting the following paragraph after paragraph 4:

“(5) contravenes the prohibition in section 53.31.0.2;”.

ACT RESPECTING THE SALE AND DISTRIBUTION OF BEER AND SOFT DRINKS IN NON-RETURNABLE CONTAINERS

13. The Act respecting the sale and distribution of beer and soft drinks in non-returnable containers (chapter V-5.001) is repealed.

REGULATION RESPECTING COMPENSATION FOR MUNICIPAL SERVICES PROVIDED TO RECOVER AND RECLAIM RESIDUAL MATERIALS

14. The Regulation respecting compensation for municipal services provided to recover and reclaim residual materials (chapter Q-2, r. 10) is repealed.

TRANSITIONAL AND FINAL PROVISIONS

15. Until the coming into force of section 7 of this Act:

(1) section 53.31.4 of the Environment Quality Act (chapter Q-2) is to be read

(a) as if “not later than 30 June each year,” and “other” were struck out in the first paragraph;

(b) as if “, including the date,” were inserted after “conditions” in the first paragraph;

(c) as if “1 September of a given year” were replaced in the second paragraph by “the date prescribed by a regulation made under the first paragraph”;

(2) section 53.31.5 of the Environment Quality Act is to be read

(a) as if the first paragraph were struck out;

(b) as if “However,” were struck out in the second paragraph;

(3) section 53.31.12 of the Environment Quality Act is to be read as if “and determined in accordance with the second paragraph of section 53.31.3” were inserted at the end of the first paragraph;

(4) section 53.31.14 of the Environment Quality Act is to be read

(a) as if “and, in the case in which a body is designated under a regulation made under section 53.30.3, of that body also” were inserted after “concerned” in the first paragraph;

(b) as if the following paragraph were inserted after the first paragraph:

“If there is more than one certified body, a single schedule shall be established by all of the certified bodies not later than the date fixed by a government regulation. If the bodies do not come to an agreement before that date, the schedule shall be established by the Société québécoise de récupération et de recyclage, which shall have, as of that date, a deadline set by that regulation to establish the schedule.”;

(c) as if “government” were replaced in the fifth paragraph by “Minister”;

(5) section 53.31.15 of the Environment Quality Act is to be read

(a) as if the first paragraph were replaced by the following paragraph:

“The proposed schedule must be sent by the certified body or, if there is more than one certified body, by all of the bodies, if they have come to an agreement on the deadline fixed under section 53.31.14, to the Société québécoise de récupération et de recyclage, together with a report on the consultation prescribed under that section by the deadline fixed by government regulation, which may not be later than 31 December of the year in which the schedule in force expires.”;

(b) as if “Government” in the second paragraph were replaced by “Minister”;

(c) as if “If a certified body fails” and “its” were replaced in the third paragraph by “If there is a failure by a certified body or by certified bodies” and “its or their”, respectively, and as if all occurrences of “Government” were replaced by “Minister”.

16. Compensation provided for in section 53.31.1 of the Environment Quality Act which, on 31 December 2024, has not been paid must be paid in accordance with sections 53.31.1 to 53.31.20 of the Act and with the Regulation respecting compensation for municipal services provided to recover and reclaim residual materials (chapter Q-2, r. 10), as they read before being repealed by this Act, in proportion to the number of months in which the services referred to in section 53.31.1 were provided.

Furthermore, a person referred to in section 53.31.1 is not required to remit the compensation payable under that section if the services were provided by a municipality or an Aboriginal community in connection with a contract entered into by the municipality or the Aboriginal community before 31 December 2024 under a regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30, as amended by section 3 of this Act, and under section 53.30.1, enacted by section 4 of this Act.

A body designated under a regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30 of the Environment Quality Act, as amended by section 3 of this Act, and under sections 53.30.1 and 53.30.3 of the Environment Quality Act, enacted by section 4 of this Act, may, until 31 December 2024, establish, on the basis of the same schedule as that provided for in the first paragraph of section 53.31.14 of the Environment Quality Act, as it read on 17 March 2021, the amount that the persons who are members of the body must pay to it so that it may meet its obligations with respect to a system of selective collection. The establishment of the schedule must, in this case, take into account the fact that the schedule will also be used to establish this amount and the criteria for this are the same as those referred to in the third paragraph of section 53.31.14.

In addition to what is provided for in the fourth paragraph of section 53.31.14 of the Environment Quality Act, as it read on 17 March 2021, the schedule may also determine the terms of payment of the amount to the designated body.

17. Despite section 53.31.0.2 of the Environment Quality Act, enacted by section 6 of this Act, any contract which was entered into by a municipality, group of municipalities or Aboriginal community, represented by its band council, before 24 September 2020 for the purpose, in whole or in part, of providing the services referred to in section 53.31.1 of the Environment Quality Act, as it read before being repealed by this Act, and which, at that date, has not expired, remains in force until the expiry date, unless the municipality, group of municipalities or Aboriginal community concerned decides to terminate it.

If the contract expiry date is before 31 December 2024, the contract may be extended or renewed only for a period ending before that date, despite the provisions of the contract.

If the contract expiry date is on or after 31 December 2024, the contract may not be renewed or extended, despite the provisions of the contract.

18. Despite section 53.31.0.2 of the Environment Quality Act, enacted by section 6 of this Act, any contract entered into after 24 September 2020 by a municipality, group of municipalities or Aboriginal community, represented by its band council, for the purpose, in whole or in part, of providing the services referred to in section 53.31.1 of the Environment Quality Act, as it read before being repealed by this Act, expires not later than 31 December 2024. The renewal of such a contract also expires on that date.

19. An agreement referred to in section 468 of the Cities and Towns Act (chapter C-19) or in article 569 of the Municipal Code of Québec (chapter C-27.1) that provides for the establishment of an intermunicipal management board is not referred to in sections 17 and 18 of this Act.

20. A regulation made under section 53.30 of the Environment Quality Act, as amended by section 3 of this Act, and under section 53.30.1, enacted by section 4 of this Act, may, for the cases provided for in the third paragraph of section 17 of this Act, prescribe a mechanism for compensating the services referred to in section 53.31.1 of the Environment Quality Act, as it read before being repealed by this Act, if the services are provided on or after 31 December 2024.

21. Despite section 13 of this Act, any permit issued under the Act respecting the sale and distribution of beer and soft drinks in non-returnable containers (chapter V-5.001) and any agreement entered into under the Beer and Soft Drinks Distributors' Permits Regulation (chapter V-5.001, r. 1) that is in force on the date of coming into force of that section remains in force until a regulation made under subparagraph *b* of subparagraph 6 of the first paragraph of section 53.30, as amended by section 3 of this Act, and section 53.30.2, enacted by section 4 of this Act, terminates it.

22. The Government may, by a regulation made before the date that is two years after the date of coming into force of this section, enact any other transitional measure required to carry out this Act.

23. The provisions of this Act come into force on 17 March 2021, except

(1) sections 13 and 22, which come into force on the date or dates to be set by the Government;

(2) section 7, except as regards section 53.31.6 of the Environment Quality Act, paragraph 2 of section 11 and section 14, which come into force on 31 December 2024.

The Government may, before 31 December 2023, change the date of 31 December 2024 provided under this Act to a later date.