



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 53
(1996, chapter 51)

**An Act respecting reserved designations and
amending the Act respecting the marketing of
agricultural, food and fish products**

**Introduced 23 October 1996
Passage in principle 5 November 1996
Passage 10 December 1996
Assented to 16 December 1996**

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EXPLANATORY NOTES

The object of this bill is the recognition of designations which are attributed to agricultural and food products as an attestation of their method of production, region of origin or specificity. It consequently confers on the Minister of Agriculture, Fisheries and Food the power to recognize designations if it is demonstrated that the designations meet the criteria and requirements determined by regulation and reserve the use thereof to the members of the accredited certification bodies.

A further object of this bill is the accreditation by an accreditation board of certification bodies entrusted with certifying products bearing a reserved designation and the supervision of the use of designations.

Lastly, the bill makes consequential amendments to the Act respecting the marketing of agricultural, food and fish products.

Bill 53

AN ACT RESPECTING RESERVED DESIGNATIONS AND AMENDING THE ACT RESPECTING THE MARKETING OF AGRICULTURAL, FOOD AND FISH PRODUCTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

CHAPTER I

PRELIMINARY PROVISIONS

1. The object of this Act is the recognition of designations which are attributed to agricultural and food products as an attestation of their method of production, region of origin or specificity.

A further object of this Act is the accreditation of certification bodies entrusted with certifying products bearing a reserved designation and the supervision of the use of the designations.

CHAPTER II

RECOGNITION OF RESERVED DESIGNATIONS

DIVISION I

RECOGNITION PROCEDURE

2. The Minister may, in accordance with section 6, recognize a designation proposed by a certification body and reserve its use for the members of the body, if the designation meets the criteria and requirements he has determined by regulation.

The producers, processors, distributors or retailers of any one product may form a certification body for the purposes of this Act.

The Minister may, before reserving a designation, require of the proposers of the designation that they form a legal person to act as an accreditation board whose name contains the words “accreditation board”. The accreditation board must, in accordance with the regulations of the Minister, be representative of the persons concerned by the designation.

DIVISION II

ACCREDITATION BOARDS

3. The function of an accreditation board is to grant accreditation to certification bodies, make recommendations to the Minister concerning the recognition of designations and supervise the use of the designations.

An accreditation board may be formed for each type of recognized designation.

4. To fulfil its function, an accreditation board shall

(1) draw up, in accordance with the regulations of the Minister, a reference manual setting out the conditions for accreditation according to which the accreditation board will assess the applications for accreditation made by certification bodies ;

(2) ensure that certification bodies comply with the requirements for the granting of certification and that they possess the necessary resources to carry out, in the manner set out in the reference manual, adequate supervision of the activities of their members as well as the inspection of the products certified ;

(3) ensure that the members of the accredited certification bodies comply with the rules governing the use of reserved designations.

The accreditation board may institute proceedings against any person using a reserved designation for products that have not been certified by an accredited certification body. It may also impose a contribution to be paid by accredited certification bodies to cover its operating costs.

5. The following committees shall be established within each accreditation board :

(1) a standards committee whose function is to prepare a reference manual consistent with the standards and criteria prescribed by regulation of the Minister and to which certification bodies must conform before they are granted accreditation, assess the capacity of certification bodies to administer a certification program and, where appropriate, recommend to the accreditation board the accreditation of certification bodies ;

(2) a certification committee whose function is to assess the specification manuals and inspection plans of the certification bodies and, where appropriate, recommend their accreditation to the accreditation board as well as ensure that they comply with the standards and criteria set out in the reference manual of the accreditation board ;

(3) a supervisory committee whose function is to supervise the use of reserved designations and to recommend to the accreditation board the institution of any appropriate proceedings to prevent the unlawful use of the designations.

6. Where an accreditation board is established and one or more certification bodies demonstrate, according to law, to the accreditation board that they meet the criteria and requirements set out in the reference manual of the accreditation board, the Minister, on the recommendation of the accreditation board, shall recognize the designation and reserve its use for the members of the accredited certification bodies.

7. Upon recognizing a reserved designation, the Minister shall entrust the supervision of the designation to the accreditation board he has recognized and shall give notice thereof in the *Gazette officielle du Québec*. Recognition of the designation becomes effective on the date of the publication.

DIVISION III

EFFECT OF RECOGNITION

8. The recognition of a reserved designation by the Minister confers on the accreditation board the power to grant accreditation to certification bodies that meet the criteria and requirements set out in its reference manual and authorize their members to use the designation.

DIVISION IV

CANCELLATION OF RECOGNITION

9. The Minister may cancel the recognition of a designation granted under this Act if no certification body meets the criteria and requirements set out in the reference manual of the accreditation board formed for the designation.

CHAPTER III

POWERS OF THE MINISTER

10. The Minister may make regulations

(1) to determine the criteria and requirements for the recognition of designations;

(2) to prescribe the documents and information that must be submitted with an application for the recognition of a designation;

(3) to determine the criteria and requirements pertaining to the formation and the exercise of the functions of an accreditation board;

(4) to determine the criteria and requirements to which the reference manual of an accreditation board must correspond and to which certification bodies seeking accreditation must conform.

CHAPTER IV

ACCREDITATION OF CERTIFICATION BODIES

DIVISION I

ELIGIBILITY FOR ACCREDITATION

11. Any applicant certification body incorporated as a legal person which, in the opinion of the accreditation board, meets the criteria and requirements for accreditation determined in accordance with the regulations of the Minister is eligible for accreditation.

DIVISION II

ACCREDITATION PROCEDURE

12. To be granted accreditation, a certification body must apply therefor to the accreditation board and demonstrate that it meets the criteria and requirements established by the accreditation board in accordance with the regulations of the Minister.

13. A certification body's application for accreditation must be submitted with all the documents prescribed in the reference manual of the accreditation board together with the certification body's by-laws and a list of its members and of the products covered by the designation.

14. The accreditation board may require the applicant certification body to furnish any document or information it considers to be pertinent to the assessment of the application. It may demand to visit, in the manner set out in its reference manual, the applicant's facilities and those of its members.

15. On receiving an application, the accreditation board shall satisfy itself that the applicant certification body has the capacity to administer a certification program and that it meets all the criteria and requirements set out in the reference manual concerning the designation for which the certification body is seeking accreditation.

16. The accreditation board may grant accreditation if it is of the opinion that the certification body meets the criteria and requirements set out in its reference manual. If this is not the case, the accreditation board shall, after giving the applicant body an opportunity to present its observations, give reasons for its refusal.

17. The accreditation board shall give notice of every accreditation it has granted in the *Gazette officielle du Québec* not later than 15 days after the decision is sent to the interested parties. Accreditation becomes effective on the date of the publication.

DIVISION III

EFFECTS OF ACCREDITATION

18. Accreditation confers on a certification body, for a particular designation, the power or obligation

(1) to administer a certification program that conforms to the reference manual of the accreditation board;

(2) to certify products bearing the designation, in accordance with its specification manual;

(3) to ensure that its members comply with the requirements of the specification manuals;

(4) to see that all interests involved in the certification process continue to be represented without any one interest having predominance;

(5) to provide its members with technical and professional support;

(6) to give access to a list of the product certifications it has granted;

(7) to impose a contribution to be paid by its members to cover its operating costs.

DIVISION IV

REVOCACTION OF ACCREDITATION

19. The accreditation board may, of its own initiative or following a complaint, revoke a certification body's accreditation if more than one year has elapsed since the certification body last granted a certification or if it has ceased to meet the criteria and requirements set out in its reference manual.

In the latter case, the accreditation board shall first inform the certification body of the corrective action to be taken to avoid the revocation. The accreditation board shall also give the certification body an opportunity to present its observations.

20. Where the accreditation board revokes the accreditation of a certification body, it shall give notice thereof in the *Gazette officielle du Québec* in the manner provided for decisions granting accreditation. The revocation becomes effective on the date of the publication.

DIVISION V

PROHIBITION

21. No person may use a reserved designation in the advertising, labelling or display of any product, or in commercial documents of any nature relating thereto, unless the product has been certified by an accredited certification body.

CHAPTER V

PENAL PROVISIONS

22. Every person who contravenes a provision of section 21 is guilty of an offence and is liable to a fine of not less than \$2,000 nor more than \$20,000 and, in the case of a subsequent offence, to a fine of not less than \$4,000 nor more than \$60,000.

In determining the fines, the court shall consider in particular the harm caused by and the benefit derived from the offence.

23. Penal proceedings for an offence referred to in section 22 may be instituted, in accordance with article 10 of the Code of Penal Procedure (R.S.Q., chapter C-25.1), by an accreditation board on a resolution of its board of directors.

24. The fine imposed in respect of an offence referred to in section 22 belongs to the accreditation board if it instituted the penal proceedings.

CHAPTER VI

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

25. Section 136 of the Act respecting the marketing of agricultural, food and fish products (R.S.Q., chapter M-35.1) is amended by replacing paragraphs 7 and 8 by the following paragraphs :

“(7) establish standards specific to the product concerned and to its display, and engage in the promotion of the product ;

“(8) hold, on the conditions it determines, proprietary rights to a logo or trademark to identify the product whose marketing it coordinates and subject its use to compliance with the standards established under paragraph 7.”

26. To enable the persons concerned by a designation to conform to the provisions of this Act, the Minister may delay, for such time as he determines, the effective date of a reserved designation.

27. The Minister of Agriculture, Fisheries and Food is responsible for the administration of this Act.

28. This Act comes into force on the date to be fixed by the Government.