



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 66
(1999, chapter 53)

**An Act to provide for the
implementation of agreements
with Mohawk communities**

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Assented to 5 November 1999**

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EXPLANATORY NOTE

This bill amends various legislative provisions to provide for the implementation of agreements concluded with the Mohawk community of Kahnawake and to give effect to negotiations in progress for the conclusion of agreements with other Mohawk communities.

LEGISLATION AMENDED BY THIS BILL :

- Civil Code of Québec ;
- Act respecting childcare centres and childcare services (R.S.Q., chapter C-8.2) ;
- Tobacco Tax Act (R.S.Q., chapter I-2) ;
- Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1) ;
- Licenses Act (R.S.Q., chapter L-3) ;
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) ;
- Act respecting liquor permits (R.S.Q., chapter P-9.1) ;
- Act respecting the Régie des alcools, des courses et des jeux (R.S.Q., chapter R-6.1) ;
- Act respecting safety in sports (R.S.Q., chapter S-3.1) ;
- Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13) ;
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) ;
- Fuel Tax Act (R.S.Q., chapter T-1).

Bill 66

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF AGREEMENTS WITH MOHAWK COMMUNITIES

WHEREAS the Mohawk Nation has been recognized as a Native nation in Québec ;

WHEREAS on 30 March 1999 Québec signed with the Mohawk community of Kahnawake, represented by the Mohawk Council of Kahnawake, agreements on fiscal matters related to tobacco, petroleum and alcohol products, fiscal matters related to consumer goods and services, transport and user fees, economic development, the administration of justice, the registration of births, marriages and deaths, childcare, police services, professional combat sports permits and liquor permits ;

WHEREAS negotiations are in progress for the conclusion of agreements with other Mohawk communities represented by their band council ;

WHEREAS it is expedient to amend certain legislative provisions in order to provide for the implementation of such agreements ;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING CHILDCARE CENTRES AND CHILDCARE SERVICES

1. Section 7 of the Act respecting childcare centres and childcare services (R.S.Q., chapter C-8.2) is amended by inserting the following paragraph after the first paragraph :

“In order to provide for the implementation of an agreement concluded between the Government and a Mohawk community, the Minister may also issue a childcare centre permit to a non-profit organization other than an organization referred to in the first paragraph, on the condition that the organization is directed as provided for in that paragraph.”

TOBACCO TAX ACT

2. The Tobacco Tax Act (R.S.Q., chapter I-2) is amended by inserting the following division before Division VI:

“DIVISION V.1

“AGREEMENT WITH A MOHAWK COMMUNITY

“16.1. The purpose of this division is to implement any agreement concerning the application of this Act concluded between the Government and a Mohawk community.

“16.2. Subject to section 16.3, the provisions of this Act that are necessary to implement an agreement referred to in section 16.1 apply with the necessary modifications.

“16.3. For the purposes of an agreement referred to in section 16.1, the Government may make regulations to

(a) enact any provision necessary to give effect to the agreement and its amendments;

(b) specify the provisions of this Act that do not apply;

(c) take any other measures necessary to implement the agreement and its amendments.

The competent parliamentary committee of the National Assembly shall examine every regulation made by the Government under this section and the agreement relating thereto.”

ACT RESPECTING OFFENCES RELATING TO ALCOHOLIC BEVERAGES

3. Section 2 of the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1) is amended by adding “or a permit regarded as such a permit under section 2.0.1” at the end of paragraph 18.

4. The said Act is amended by inserting the following section after section 2:

“2.0.1. For the purposes of this Act, a permit issued by an authority designated under an agreement concerning liquor permits concluded between the Government and a Mohawk community shall, unless otherwise required by the context and provided the agreement is complied with, be regarded as a permit of the class corresponding to the activities authorized under the permit that has been issued under the Act respecting liquor permits.

The designated authority shall, as regards the permits it issues and the territory under its jurisdiction, replace the board for the purposes of section 85, paragraph 6 of section 109, section 115 and paragraph 5 of section 126.”

5. Section 132.1 of the said Act is amended by inserting “, a permit regarded as such a permit under section 2.0.1” after “sold or served”.

LICENSES ACT

6. Section 79.10 of the Licenses Act (R.S.Q., chapter L-3) is amended by replacing subparagraph *a* of the first paragraph by the following subparagraph :

“(a) “retailer” means a holder of a permit authorizing the sale of alcoholic beverages for consumption on the premises, issued under the Act respecting liquor permits (chapter P-9.1), a reunion permit authorizing the sale of alcoholic beverages for consumption at the place indicated thereon, issued under that Act, a permit referred to in section 2.0.1 of the Act respecting offences relating to alcoholic beverages (chapter I-8.1) corresponding to an above-mentioned permit, a small-scale production permit issued under the Act respecting the Société des alcools du Québec (chapter S-13) or a brewer’s permit issued under that Act;”.

ACT RESPECTING THE MINISTÈRE DU REVENU

7. Section 2 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting “, any agreement concerning the application of a fiscal law concluded between the Government and a Mohawk community” after “Fuel Tax Agreement” in the second paragraph.

8. Section 9.0.4 of the said Act is amended

(1) by replacing “Agreement referred to in section 2” by “International Fuel Tax Agreement”;

(2) by adding the following paragraph :

“The Minister may also conclude with any department or body and with any person, association or partnership, any agreement that is necessary, in the Minister’s opinion, to facilitate the implementation of an agreement concerning the application of a fiscal law concluded between the Government and a Mohawk community.”

9. Section 9.0.5 of the said Act is amended by replacing “the Agreement” by “an agreement”.

10. Section 9.0.6 of the said Act is amended

(1) by replacing “the Agreement” in the portion of the section preceding paragraph 1 by “an agreement”;

(2) by replacing “the Agreement” in paragraph 1 by “the agreement”;

(3) by striking out paragraph 3;

(4) by replacing “the Agreement” in paragraph 4 by “the agreement”;

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

“The Government may also make regulations to specify the provisions of the International Fuel Tax Agreement, including amendments, that apply.

The competent parliamentary committee of the National Assembly shall examine every regulation made by the Government under this section for the implementation of an agreement concerning the application of a fiscal law concluded between the Government and a Mohawk community as well as that agreement.”

11. Section 69.0.1 of the said Act is amended

(1) by replacing “purposes of the Agreement” in paragraph *a* by “purposes of the International Fuel Tax Agreement”;

(2) by inserting the following paragraph after paragraph *a* :

“(a.1) for the purposes of an agreement concerning the application of a fiscal law concluded between the Government and a Mohawk community, communicate confidential information to the band council of such a community or to any association, person or partnership designated by the band council and to any body charged with assisting the Minister in implementing such an agreement;”.

ACT RESPECTING LIQUOR PERMITS

12. The heading of Chapter I of the Act respecting liquor permits (R.S.Q., chapter P-9.1) is replaced by the following heading :

“INTERPRETATION AND APPLICATION”.

13. The said Act is amended by inserting the following section after section 1 :

“1.1. The permits authorizing the sale or service of alcoholic beverages in the territory defined in an agreement concerning liquor permits concluded between the Government and a Mohawk community are determined in the agreement and issued by the authority designated in the agreement.

The designated authority and the persons authorized to act on its behalf have the powers necessary for verifying and ensuring compliance with the conditions for the issue of the permits and the conditions of the permits determined under the agreement, in particular the powers conferred on the board in matters of inspection, and cannot be sued or prosecuted for an official act performed in good faith in the exercise of their functions.

Permits authorizing the sale or service of alcoholic beverages in the defined territory issued by the board before the effective date of the agreement become, on that date, permits issued in accordance with that agreement.”

ACT RESPECTING THE RÉGIE DES ALCOOLS, DES COURSES ET DES JEUX

14. Section 23 of the Act respecting the Régie des alcools, des courses et des jeux (R.S.Q., chapter R-6.1), amended by section 4 of chapter 71 of the statutes of 1993, is again amended by adding “, subject to section 46.2.7 of the Act respecting safety in sports (chapter S-3.1)” at the end of paragraph 5.1.

ACT RESPECTING SAFETY IN SPORTS

15. The Act respecting safety in sports (R.S.Q., chapter S-3.1) is amended by inserting the following section after section 46.2.6:

“46.2.7. Notwithstanding sections 40 and 41, the permits or licences authorizing a person to act in any of the capacities referred to in the said sections at a sports event held in the territory defined in an agreement concerning combat sports concluded between the Government and a Mohawk community are determined in the agreement and issued by the authority designated in the agreement. The departure from sections 40 and 41 is valid only if the agreement is complied with.

The designated authority and the persons authorized to act on its behalf have the powers necessary for verifying and ensuring compliance with the conditions for the issue of the permits or licences and the conditions of the permits or licences determined under the agreement, in particular the powers conferred by this chapter in matters of inspection, and cannot be sued or prosecuted for an official act performed in good faith in the exercise of their functions.

Permits and licences issued by the board under section 40 or 41 in the designated territory before the effective date of the agreement become, on that date, permits and licences issued in accordance with the agreement.”

ACT RESPECTING THE SOCIÉTÉ DES ALCOOLS DU QUÉBEC

16. Section 1 of the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13) is amended by adding the following paragraph at the end:

“For the purposes of sections 24.1, 24.2, 25, 25.1 and 28, a permit issued under the Act respecting liquor permits and a permit authorizing the sale of alcoholic beverages under that Act also include a permit regarded as such a permit under section 2.0.1 of the Act respecting offences relating to alcoholic beverages. For the purposes of section 32 and paragraphs 7 and 8 of section 37, the same applies to a grocery permit.”

ACT RESPECTING THE QUÉBEC SALES TAX

17. The Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is amended by inserting the following Title after section 541.44:

“TITLE IV.4

“AGREEMENT WITH A MOHAWK COMMUNITY

“541.45. The purpose of this Title is to provide for the implementation of any agreement concerning the application of this Act concluded between the Government and a Mohawk community.

“541.46. Subject to section 541.47, the provisions of this Act that are necessary to implement an agreement referred to in section 541.45 apply with the necessary modifications.

“541.47. For the purposes of an agreement referred to in section 541.45, the Government may make regulations to

(1) enact any provision necessary to give effect to the agreement and its amendments ;

(2) specify the provisions of this Act that do not apply ;

(3) take any other measures necessary to implement the agreement and its amendments.

The competent parliamentary committee of the National Assembly shall examine every regulation made by the Government under this section and the agreement relating thereto.”

FUEL TAX ACT

18. The Fuel Tax Act (R.S.Q., chapter T-1) is amended by inserting the following division after section 50.0.12 :

“DIVISION IX.2

“AGREEMENT WITH A MOHAWK COMMUNITY

“50.0.13. The purpose of this division is to provide for the implementation of any agreement concerning the application of this Act concluded between the Government and a Mohawk community.

“50.0.14. Subject to section 50.0.15, the provisions of this Act that are necessary to implement an agreement referred to in section 50.0.13 apply with the necessary modifications.

“50.0.15. For the purposes of an agreement referred to in section 50.0.13, the Government may make regulations to

(1) enact any provision necessary to give effect to the agreement and its amendments ;

(2) specify the provisions of this Act that do not apply ;

(3) take any other measures necessary to implement the agreement and its amendments.

The competent parliamentary committee of the National Assembly shall examine every regulation made by the Government under this section and the agreement relating thereto.”

CIVIL CODE OF QUÉBEC

19. Article 152 of the Civil Code of Québec (1991, chapter 64) is amended by adding the following paragraph at the end :

“Within the context of an agreement concluded between the Government and a Mohawk community, the registrar of civil status may agree with the person designated by the community to a special procedure for the transmission of information concerning marriages solemnized in the territory defined in the agreement and for the transmission of declarations of birth, marriage or death concerning members of the community, as well as for entry in the register of the traditional names of the members of the community.”

20. Article 366 of the said Code is amended by adding the following paragraph at the end :

“In the territory defined in an agreement concluded between the Government and a Mohawk community, the persons designated by the Minister of Justice and the community are also competent to solemnize marriages.”

FINAL PROVISIONS

21. For the purposes of an agreement referred to in this Act or of any agreement of the same nature concluded between the Government and a Mohawk community, the Government may, by a regulation made on the recommendation of the ministers having signed the agreement, notwithstanding any provision not having precedence,

(1) recognize a Native institution for the purpose of applying, in the territory defined in the agreement, the Acts and regulations that relate to the subject-matter of the agreement ; and

(2) provide for variances from the Acts and regulations relating to the subject-matter of the agreement, but only so as to adapt them to the particular conditions of the community party to the agreement.

The competent parliamentary committee of the National Assembly shall examine every regulation made by the Government under this section and the agreement relating thereto.

22. The provisions of this Act come into force on the date or dates to be fixed by the Government.