



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 89
(1999, chapter 82)

An Act to amend the Transport Act as regards bulk trucking

Introduced 11 November 1999
Passage in principle 9 December 1999
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EXPLANATORY NOTES

This bill amends the Transport Act in order to revise the rules governing bulk trucking. Under the bill, the power of the Government to require permits for bulk trucking services and the power of the Commission des transports du Québec to fix tariffs for those permits are abolished.

The bill provides that the Commission des transports du Québec is to establish a bulk trucking register in which operators of heavy vehicles who will be able to avail themselves of a stipulation for the benefit of small bulk trucking enterprises contained in a government contract, will be registered. The bill provides for the registration of bulk trucking permit holders whose permits will be abolished and of non-resident operators of heavy vehicles. It also sets out the requirements to be met by the operators to maintain their registration.

The bill maintains the obligation to hold a brokerage permit for any person wishing to act on behalf of registered operators of heavy vehicles. In addition, the bill establishes the rules according to which brokerage services are to be provided to registered operators by brokerage permit holders.

The bill amends the rules governing bulk transport contracts, which will only apply to the transport of timber from forests in the domain of the State.

The bill amends various municipal legislative provisions in order to maintain specific rules for the awarding of certain bulk trucking contracts after the bulk trucking tariffs are abolished.

Lastly, the bill contains consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Communauté urbaine de l’Outaouais (R.S.Q., chapter C-37.1);

- Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);
- Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3);
- Act respecting the Ministère des Transports (R.S.Q., chapter M-28);
- Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);
- Charter of the city of Montréal (1959-60, chapter 102).

Bill 89

AN ACT TO AMEND THE TRANSPORT ACT AS REGARDS BULK TRUCKING

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 1 of the Transport Act (R.S.Q., chapter T-12), amended by section 154 of chapter 40 of the statutes of 1998, is again amended by replacing the third paragraph by the following paragraph :

“For the purposes of this Act, transport brokerage refers to the activities of a person acting as a broker on behalf of an operator of heavy vehicles registered in the bulk trucking register.”

2. Section 5 of the said Act, amended by section 1 of chapter 8 and section 156 of chapter 40 of the statutes of 1998 and section 322 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting “for the transport of persons” after “permit” in the first line of paragraph *c* ;

(2) by replacing “of persons or goods carried” in the second line of paragraph *c* by “of persons transported” ;

(3) by inserting the following paragraphs after paragraph *n* :

“(n.1) determine the conditions that an operator of heavy vehicles whose establishments are situated outside Québec must satisfy to be registered in the bulk trucking register ;

“(n.2) determine the reasons for which the Commission may grant time to enable an operator to remedy a situation that would entail the removal of the operator from the register ;” ;

(4) by replacing “holders of bulk material transport permit” in the second line of paragraph *o* by “operators registered in the register”.

3. Section 8 of the said Act, amended by section 322 of chapter 40 of the statutes of 1999, is again amended by replacing “made by an association of carriers holding a permit for the transport of a bulk material” in the first and second lines of the first paragraph by “concerning transport brokerage services under a government contract, adopted by a brokerage permit holder”.

4. Section 36.1 of the said Act, amended by section 322 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting “under a government contract” after “brokerage” in the second line of the first paragraph;

(2) by striking out the third paragraph.

5. Section 36.2 of the said Act is repealed.

6. Section 37.1.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

“37.1.1. An application for the reinstatement of a bus transport permit issued before 18 December 1986 or issued on or after that date to replace such a permit may be filed with the Commission within 12 months after the expiry of the permit.”

7. Section 39.1 of the said Act, amended by section 322 of chapter 40 of the statutes of 1999, is again amended by replacing “holders of bulk material transport permits” in the second and third lines of the first paragraph by “operators registered in the bulk trucking register”.

8. Section 40 of the said Act, amended by section 322 of chapter 40 of the statutes of 1999, is again amended by striking out subparagraph *d*.

9. Section 42.1 of the said Act is amended by replacing “holders of bulk material transport permits” in the second line of the first paragraph by “transport brokerage service subscribers”.

10. Section 42.2 of the said Act is amended by replacing “the transport of bulk material” in the second and third lines by “registration or entries in the bulk trucking register”.

11. Section 46 of the said Act, enacted by section 3 of chapter 8 of the statutes of 1998, is amended by replacing “in the matters governed by subparagraphs *b* and *d* of the first paragraph of section 2” in the first and second lines of the first paragraph by “in respect of services for the transport of persons and transport brokerage services referred to in the first paragraph of section 2, including inter-zone brokerage services”.

12. The said Act is amended by replacing subdivision 4.1 of Division V by the following subdivision:

“§4.1. — *Forest transport contracts*

“47.1. Every contract for the forest transport of timber that has been cross-cut, stripped or barked only and that is taken from forests in the domain

of the State must be consistent with the stipulations prescribed by regulation ; such stipulations may in particular provide for conciliation and arbitration rules.

The stipulations of a forest transport contract may not modify the conditions of employment of the truck drivers of the parties, contained in a collective agreement, or the conciliation and arbitration rules relating thereto.

Failure to meet the requirements of the first paragraph renders the contract null.”

13. The said Act is amended by inserting the following subdivisions immediately before subdivision 5 of Division V :

“§4.2. — *Bulk trucking register*

“47.9. The Commission shall keep and maintain a bulk trucking register for the registration of operators of heavy vehicles to whom a stipulation, contained in a government contract, for the benefit of small bulk trucking enterprises applies.

“47.10. Operators of heavy vehicles who, on 31 December 1999, were authorized to transport all the bulk materials described in Group 1 of section 3 of the Regulation respecting bulk trucking (R.R.Q., 1981, c. T-12, r.3), either as holders of a bulk trucking permit issued under this Act or as holders of an intra-provincial truck transport licence issued under Part III of the Motor Vehicle Transport Act, 1987 (Revised Statutes of Canada, 1985, chapter M-12.01), shall be registered.

The Commission shall, for each registration, record in the register the number corresponding to the operating region for which the permit or licence was issued and in which the operator subscribes to the brokerage service operated by a brokerage permit holder.

Where the operator was the holder of more than one permit or licence issued for more than one region, the Commission shall indicate in the register the numbers corresponding to those regions ; the numbers shall be replaced by the number corresponding to the region in which the operator registers with the brokerage service. In addition, the Commission must indicate in the register the number of trucks operated under the permits or licences ; that number shall be reduced, where applicable, to correspond to the number of trucks registered by the operator with the brokerage service.

Subject to a removal from the register under section 47.13, the registration may be transferred by the Commission at the request of the transferor and the transferee.

“47.11. Upon request, the Commission may register an operator of heavy vehicles who satisfies the conditions determined by regulation and

whose principal establishment is located outside Québec in the territory of a party to the Agreement on Internal Trade.

The operator shall inform the Commission, for entry in the register in accordance with the conditions determined by regulation, of the brokerage zone in which the operator subscribes to the brokerage service and of the number of trucks owned by the operator and registered with the brokerage service.

The registration may not be transferred.

“47.12. To maintain registration, an operator of heavy vehicles must

(1) subscribe to the brokerage service operated by the brokerage permit holder in the zone or, where applicable, the territory determined by regulation, in which his principal establishment is located, and, where applicable, register his trucks with the inter-zone brokerage service operated by the regional association recognized in his operating region ;

(2) maintain his principal establishment in his operating region or, where applicable, in the territory determined by regulation or, in the case of an operator referred to in section 47.11, maintain his principal establishment outside Québec ;

(3) register with the brokerage service only trucks registered in his name and the number of which corresponds to the number furnished to the Commission for his operating region ;

(4) pay annually the duties fixed by regulation to the Commission, according to the terms and conditions determined by the Government.

“47.13. The Commission may, on its own initiative or at the request of a brokerage permit holder, a recognized regional association or an interested person, remove from the register

(1) an operator who does not satisfy the requirements of section 47.12 ;

(2) an operator referred to in section 47.11 who is a legal person more than 50 percent of the voting rights attached to the shares of which are held directly or indirectly by a person whose principal establishment is in Québec or in respect of which a majority of the directors can be elected by the latter person or, in the case of a natural person, who is associated with a person whose principal establishment is in Québec ;

(3) an operator who has been declared totally disqualified under the Act respecting owners and operators of heavy vehicles ;

(4) an operator whose acts or omissions led to his expulsion from the brokerage service.

Before removing an operator from the register, the Commission shall notify him in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and give the operator at least 10 days to present observations.

The Commission may grant time to enable the operator to remedy the situation, where the reason for the failure that would entail his removal from the register is a reason determined by regulation.

“§4.3. — *Brokerage services*

“47.14. The holder of a brokerage permit shall establish, at the times determined in his by-laws, a priority listing classifying subscribers’ trucks according to their order of priority and, where applicable, their class. The order of priority of the trucks belonging to the same subscriber shall be furnished by the subscriber to the holder of the brokerage permit in accordance with the operating rules of the brokerage permit holder.

The time worked by a subscriber while operating a truck assigned by a brokerage permit holder shall be compiled with the working time allocated to the subscriber pursuant to the operating rules and disciplinary provisions contained in the by-laws of the brokerage permit holder. The brokerage permit holder shall allocate to a new subscriber the average working time of the other subscribers or, in the case of a transfer, the working time of the transferor.

The order of the trucks on the priority list gives priority to subscribers having accumulated the least working time with their first trucks.

“47.15. Except to satisfy the specific requirements of a request made in accordance with his by-laws, the brokerage permit holder shall distribute the requests for bulk trucking services among his subscribers according to the order of their trucks on the priority list. The assignment is valid for the duration of the service requested or, where applicable, until a new priority list is implemented.

If the subscribers are unable to satisfy the request, the brokerage permit holder shall call upon the services of another brokerage permit holder through the recognized regional association, if any.

“47.16. The operating rules to which the second paragraph of section 47.14 refers may, in particular, include exclusivity rules that, in the contracts of adhesion between the subscribers and the brokerage permit holder,

(1) impose on the subscriber the obligation to refer to the brokerage service any request for service received directly from a customer of the brokerage permit holder or any other person to whom the holder has submitted a written offer for the supply of the services concerned;

(2) prohibit the subscriber from having a third person transport bulk material, without first having solicited the services of the brokerage permit holder.

“47.17. For the purposes of sections 47.14 to 47.16, the by-laws of the brokerage permit holder may provide that the trucks of a group of subscribers who are related corporations within the meaning of the Taxation Act will be classified as if they belonged to a single subscriber, and that the group may designate, as first trucks of the group of related corporations, the number of trucks determined in the by-laws of the holder, without exceeding three.”

14. Section 48.2 of the said Act, amended by section 322 of chapter 40 of the statutes of 1999, is again amended

(1) by replacing “holders of bulk material transport permits in a region who subscribe” in the third and fourth lines by “subscribers”;

(2) by replacing “one of the brokerage zones established” in the fourth and fifth lines by “the brokerage zones established in its region”;

(3) by replacing “permit holders” in the sixth line by “subscribers”.

15. Section 48.3 of the said Act, amended by section 322 of chapter 40 of the statutes of 1999, is again amended

(1) by replacing “holders of bulk material transport permits who subscribe” in the second and third lines of the first paragraph by “subscribers”;

(2) by replacing subparagraphs 1 and 2 of the second paragraph by the following subparagraphs :

“(1) enter into contracts with consignors for the transport of bulk material under a government contract, to the extent that such transport is referred, in accordance with the rules determined in its by-laws, to a brokerage permit holder for distribution among the operators who subscribe to its inter-zone brokerage service;

“(2) refer, in accordance with the rules determined in its by-laws, any transport under a government contract that exceeds the capacities of the subscribers of a brokerage permit holder to other brokerage permit holders for distribution among the operators who subscribe to its inter-zone brokerage service;”;

(3) by striking out subparagraph 3 of the second paragraph;

(4) by replacing “bulk material transport” in the second line of subparagraph 4 of that paragraph by “registration and entries in the bulk trucking register”.

16. Sections 48.5 and 48.6 of the said Act are repealed.

17. Section 74.1 of the said Act, replaced by section 165 of chapter 40 of the statutes of 1998, is amended by striking out “, the first paragraph of section 36.1” in the first and second lines.

18. Section 74.1.1 of the said Act, enacted by section 165 of chapter 40 of the statutes of 1998, is amended by replacing “any of sections 36.2, 42 and 47.3 or the first paragraph of section 47.4” by “section 42”.

19. Section 573.3 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by adding the following paragraph at the end:

“Sections 573 and 573.1 do not apply to a bulk trucking contract entered into through the holder of a brokerage permit issued under the Transport Act (chapter T-12).”

20. Article 938 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by adding the following paragraph at the end:

“Articles 935 and 936 do not apply to a bulk trucking contract entered into through the holder of a brokerage permit issued under the Transport Act (chapter T-12).”

21. Section 11.6 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) is amended

(1) by replacing “holders of bulk trucking permits issued” in the third line of the first paragraph by “small bulk trucking enterprises that subscribe to the brokerage service of an association holding a brokerage permit issued”;

(2) by adding “, particularly with respect to the tariff applicable” after “determines” at the end of the first paragraph;

(3) by replacing “permit holders” in the second line of the second paragraph by “small enterprises”.

22. Section 82.1 of the Act respecting the Communauté urbaine de l’Outaouais (R.S.Q., chapter C-37.1), amended by section 67 of chapter 40 of the statutes of 1999, is again amended by adding the following subparagraph after subparagraph 7 of the second paragraph:

“(8) whose object is the supply of bulk trucking services, entered into through the holder of a brokerage permit issued under the Transport Act (chapter T-12).”

23. Section 171 of the said Act is amended by striking out “, 83” in the first line of the first paragraph.

24. Section 120.0.1 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2), amended by section 68 of chapter 40 of the statutes of 1999, is again amended by adding the following subparagraph after subparagraph 7 of the second paragraph:

“(8) whose object is the supply of bulk trucking services, entered into through the holder of a brokerage permit issued under the Transport Act (chapter T-12).”

25. Section 92 of the Act respecting the Communauté urbaine de Québec (R.S.Q., chapter C-37.3), amended by section 69 of chapter 40 of the statutes of 1999, is again amended by adding the following subparagraph after subparagraph 7 of the second paragraph :

“(8) whose object is the supply of bulk trucking services, entered into through the holder of a brokerage permit issued under the Transport Act (chapter T-12).”

26. Section 19 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20), amended by section 257 of chapter 40 of the statutes of 1999, is again amended

(1) by replacing “the holder of a single bulk material transport permit issued under the Transport Act (chapter T-12), where the truck operated under the permit is driven by the holder of the permit” in the first, second and third lines of subparagraph 11 of the first paragraph by “an operator of heavy vehicles registered in the bulk trucking register under the Transport Act (chapter T-12), where the only truck entered in the name of the operator is driven by the operator”;

(2) by replacing “permit holder” in the fifth line of that subparagraph by “operator”.

27. Article 107 of the Charter of the city of Montréal (1959-60, chapter 102) is amended by adding the following subarticle after subarticle 11 :

“(12) This article does not apply to a contract whose object is the supply of bulk trucking services, entered into through the holder of a brokerage permit issued under the Transport Act (R.S.Q., chapter T-12).”

28. As of 1 January 2000, a truck carrying a registration plate bearing the prefix “VR” pursuant to section 110 of the Regulation respecting road vehicle registration made by Order in Council 1420-91 dated 16 October 1991 (1991, G.O. 2, 4111), as amended, is deemed to carry a registration plate bearing the prefix “L” until it is replaced, at no expense, by such a plate by the Société de l’assurance automobile du Québec.

As of that date, every new plate issued by the Société, pursuant to section 110 of the regulation mentioned above, to the owner of a truck used to transport bulk material shall be a registration plate bearing the prefix “L”.

29. A regulation made, before 1 January 2000, under section 5 of the Transport Act as amended by section 2 of this Act, or under paragraph 17 of

section 621 of the Highway Safety Code (R.S.Q., chapter C-24.2), is not subject to the requirements as to publication and the date of coming into force set out in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1).

30. In any contract or other document, a reference to a holder of a bulk trucking permit shall, unless the context indicates otherwise, be, after 31 December 1999, a reference to an operator registered in the bulk trucking register established under the Transport Act.

31. The Government may, by regulation, adopt any other bulk trucking measure to ensure the implementation of an agreement between the Minister of Transport and the Association des constructeurs de routes et grands travaux du Québec, the Association nationale des camionneurs artisans inc. and the regional associations representing regions 03, 05 and 06.

32. This Act comes into force on 1 January 2000, except paragraphs 3 and 4 of section 2 and section 29, which come into force on 17 December 1999.