



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 6
(2003, chapter 5)

**An Act to amend the Highway Safety
Code and the Code of Penal Procedure
as regards the collection of fines**

**Introduced 13 June 2003
Passage in principle 17 June 2003
Passage 12 November 2003
Assented to 18 November 2003**

**Québec Official Publisher
2003**

EXPLANATORY NOTES

This bill amends the Highway Safety Code and the Code of Penal Procedure to add all parking offences to those for which a collector may request the Société de l'assurance automobile du Québec to suspend a licence. It also provides that the Société de l'assurance automobile du Québec must, upon receiving a notice from the collector to the effect that a person has failed to pay fines imposed for offences under the Highway Safety Code or a traffic or parking by-law adopted by a municipality, prohibit any road vehicle registered in the person's name from being put into operation or put back into operation or from being discarded, refuse to effect a new registration of such a road vehicle or refuse to register any other road vehicle in the person's name.

In addition, the bill provides that no person may transfer, acquire or lease a road vehicle where the new measures are taken with regard to another contracting party. Consequently, under the bill, the Société de l'assurance automobile du Québec is empowered to communicate information to a person concerning any restrictions on the right to have a road vehicle registered, the right to operate a road vehicle or the capacity to transfer, acquire, lease or discard a road vehicle.

The bill provides that to cover the costs borne by the Société de l'assurance automobile du Québec in applying the new measures, every municipality or Native community and the Government must deduct, from the total amount of the fines collected, an amount which shall be established according to the method fixed by the bill.

The bill amends the Code of Penal Procedure to provide that a person who has not paid the sums due for offences under the Highway Safety Code or a traffic or parking by-law adopted by a municipality cannot be imprisoned in default of payment of such sums. However, under the bill, a person 18 years of age or over who deliberately attempts to avoid paying those sums will be guilty of an offence and liable to a term of imprisonment not exceeding two years less a day. Serving the sentence does not discharge the person from payment of the sums due.

Lastly, the bill contains transitional measures and concordance amendments.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting the Agence métropolitaine de transport (R.S.Q., chapter A-7.02);
- Building Act (R.S.Q., chapter B-1.1);
- Charter of Ville de Montréal (R.S.Q., chapter C-11.4);
- Cities and Towns Act (R.S.Q., chapter C-19);
- Highway Safety Code (R.S.Q., chapter C-24.2);
- Code of Penal Procedure (R.S.Q., chapter C-25.1);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02);
- Act respecting municipal courts (R.S.Q., chapter C-72.01);
- Civil Protection Act (R.S.Q., chapter S-2.3);
- Fire Safety Act (R.S.Q., chapter S-3.4);
- Act respecting public transit authorities (R.S.Q., chapter S-30.01);
- Act respecting off-highway vehicles (R.S.Q., chapter V-1.2).

Bill 6

AN ACT TO AMEND THE HIGHWAY SAFETY CODE AND THE CODE OF PENAL PROCEDURE AS REGARDS THE COLLECTION OF FINES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :
HIGHWAY SAFETY CODE

1. Section 21 of the Highway Safety Code (R.S.Q., chapter C-24.2) is amended by adding the following paragraph after the last paragraph :

“No person shall put a road vehicle into operation if a decision of the Société rendered under section 194 is in force.”

2. Section 39.1 of the said Code is amended by inserting “194” after “188,” in the second line.

3. Section 59 of the said Code is amended by inserting “or fourth” after “contravenes the third” in the first line of the first paragraph.

4. Section 84 of the said Code is repealed.

5. Section 92.1 of the said Code is repealed.

6. Section 141 of the said Code is amended by striking out “, 92.1”.

7. Section 194 of the said Code is replaced by the following section :

“194. Where the Société receives the notice provided for in article 364 of the Code of Penal Procedure (chapter C-25.1) in respect of a person, it shall

(1) suspend the person’s learner’s licence, probationary licence or driver’s licence or, if the person is not a licence holder, suspend the person’s right to obtain any such licence ;

(2) prohibit any road vehicle registered in the person’s name from being put into operation or put back into operation ;

(3) prohibit any road vehicle registered in the person’s name from being discarded ;

(4) refuse to register any road vehicle in the person's name unless the transferor or lessor obtained, on the day of the transfer or leasing of the vehicle or in the 10 preceding days, confirmation from the Société, pursuant to section 611.1, that there were no grounds under this Code to prevent the transfer or leasing of the vehicle ;

(5) refuse, on the transfer of the right of ownership of a road vehicle registered in the name of the person in respect of whom the notice was sent, to effect a new registration in the name of the transferee or his or her successors unless the transferee obtained, on the day of the transfer or in the 10 preceding days, confirmation from the Société, pursuant to section 611.1, that there were no grounds under this Code to prevent the transfer of the vehicle.

The measures provided for in subparagraphs 3, 4 and 5 of the first paragraph take effect on receipt by the Société of the notice provided for in article 364 of that Code.

The Société shall put an end to the application of the measures provided for in the first paragraph on the juridical day following receipt of the notice provided for in article 365 of that Code.”

8. The said Code is amended by inserting the following sections after section 194 :

“**194.1.** No person shall transfer, acquire or lease a road vehicle where measures provided for in subparagraphs 3, 4 and 5 of the first paragraph of section 194 are taken with regard to another contracting party.

“**194.2.** Nothing in section 194.1 shall be construed as prohibiting a road vehicle from being registered in the name of a person or from being put into operation following a transfer of ownership resulting from a judgment, from the application of sections 209.17 to 209.22.3 or from the exercise of a reservation of ownership, a right of redemption, a hypothec or any other charge or other right encumbering the vehicle.

“**194.3.** Where the owner of a road vehicle requests that the vehicle be put into storage and is entitled to reimbursement of the duties, the additional duty, the insurance contribution and the contribution of motorists to public transit that were paid by him or her, the amount of reimbursement shall be applied to the payment of any fines or costs due by the owner according to the order in which notices were received by the Société pursuant to article 364 of the Code of Penal Procedure.”

9. Section 209.2 of the said Code, amended by section 16 of chapter 29 of the statutes of 2001, is again amended by replacing “, 191.2, 194, 195.2” by “and 191.2, subparagraph 1 of the first paragraph of section 194 or any of sections 195.2”.

10. Section 209.22 of the said Code is amended by inserting the following subparagraph after subparagraph 3 of the first paragraph :

“(4) the fines and costs due by the person who was the owner of the vehicle at the time of the seizure, according to the order in which notices were received by the Société pursuant to article 364 of the Code of Penal Procedure.”

11. Section 598 of the said Code is amended by replacing “366” in the second paragraph by “345.2”.

12. Section 611.1 of the said Code is replaced by the following section :

“611.1. The Société may, on payment of the fees determined by regulation, communicate to any person who provides it with the file number appearing on another person’s licence or road vehicle registration certificate and who provides the Société, at its request, with the reference number of the licence or the registration certificate number, information concerning the validity of the licence, restrictions on the right to obtain registration of a vehicle, the right to operate a vehicle or the capacity to transfer, acquire, lease or discard a vehicle.

No communication may, however, disclose the person’s name or address, or the reasons for which the measures have been imposed.”

13. Section 621 of the said Code is amended

(1) by inserting the following paragraph after paragraph 51 :

“(52) fix, on the basis of the costs borne by the Société for the purposes of section 194, the amount by which the number of notices sent to the Société pursuant to article 365 of the Code of Penal Procedure is to be multiplied in order to determine the amount to be paid to the Société by the Government, every municipality and every Native community pursuant to section 648.2.”;

(2) by adding the following paragraph at the end :

“The publication requirement set out in section 8 of the Regulations Act (chapter R-18.1) does not apply to a regulation made under subparagraph 52 of the first paragraph. The Minister of Transport shall consult with the bodies representing municipalities, more particularly, the Union des municipalités du Québec and the Fédération québécoise des municipalités locales et régionales before submitting a draft of the regulation to the Government. The Minister may also seek any other consultation the Minister considers appropriate.”

14. Section 648 of the said Code is amended by replacing “366” in paragraph 3.2 by “345.2”.

15. The said Code is amended by inserting the following section after section 648.1 :

“648.2. For the purposes of section 194, the Government, every municipality and every Native community must deduct from the amount corresponding to the total of the fines they have collected respectively and for which a notice provided for in article 365 of the Code of Penal Procedure was sent to the Société, an amount corresponding to the product obtained by multiplying the amount fixed by regulation of the Government by the number of notices they have sent to the Société, pursuant to article 365 of the Code of Penal Procedure. The terms and conditions for the payment of these sums shall be set by the Société.

Where the total of the sums paid to the Société by the Government, municipalities and Native communities under the first paragraph over the course of one year is lower than the costs borne by the Société for the purposes of section 194 over the course of the same year, the difference is carried forward to the following year for payment. Where the total of these sums is higher than these costs, the difference is deducted from the costs borne the following year.”

CODE OF PENAL PROCEDURE

16. Article 14 of the Code of Penal Procedure (R.S.Q., chapter C-25.1) is amended by replacing “another Act” in the second paragraph by “with respect to a specific provision, the law” and by replacing “the Act” in that paragraph by “the law”.

17. The said Code is amended by inserting the following after the heading of Chapter XIII and before article 315:

“DIVISION I

“GENERAL PROVISIONS”.

18. Article 333 of the said Code is amended by replacing “he may offer the defendant the option of paying the sums due by means of compensatory work, depending in particular on the availability of compensatory work programs” in the fourth, fifth and sixth lines by “the collector must offer the defendant the option of paying the sums due by means of compensatory work, to the extent that compensatory work programs are available”.

19. The said Code is amended by inserting the following after article 345:

“345.1. Where a sentence in the form of a fine has been imposed on the defendant and the defendant makes payment of a sum due, carries out compensatory work or serves a term of imprisonment in default of payment, the sum, work or term of imprisonment is applied first to payment of the costs related to the fine.

When an agreement is made with the defendant, the collector shall, in respect of the judgments to be executed by the collector, see to it that the sums

remitted and the work the defendant undertakes to perform serve to satisfy the judgment most likely to be the subject of an application for the issue of a warrant of committal against the defendant.

“345.2. The collector shall, on the conditions prescribed by regulation, remit part of the costs recovered under this chapter to the prosecuting party referred to in paragraph 3 of article 9 who disbursed sums of money to prosecute.

“DIVISION II

“PROVISIONS RELATING TO IMPRISONMENT IN DEFAULT OF PAYMENT OF SUMS DUE

“345.3. This division applies to the recovery of sums due pursuant to this Code, except sums to which Division III applies.”

20. Article 363 of the said Code is replaced by the following :

“DIVISION III

“SPECIAL PROVISIONS RELATING TO TRAFFIC AND PARKING OFFENCES

“363. This division applies to the recovery of sums due for offences under the Highway Safety Code (chapter C-24.2) or a traffic or parking by-law adopted by a municipality.”

21. Article 364 of the said Code is replaced by the following article :

“364. Where a defendant has not paid the sum due at the expiration of the time provided for in article 322 or agreed under article 327 or 328, or where, at the expiration of such time, although the defendant had agreed to do compensatory work, the defendant has failed to honour the agreement, the collector shall notify the Société de l’assurance automobile du Québec of that fact so that the Société may, in accordance with the Highway Safety Code,

(1) suspend the defendant’s learner’s licence, probationary licence or driver’s licence or, if the defendant is not a licence holder, suspend the defendant’s right to obtain any such licence ;

(2) prohibit any road vehicle registered in the defendant’s name from being put into operation or put back into operation ;

(3) prohibit any road vehicle registered in the defendant’s name from being discarded ;

(4) refuse to register any road vehicle in the defendant’s name ;

(5) refuse, on the transfer of the right of ownership of a road vehicle registered in the defendant's name, to effect a new registration in the name of the transferee or his or her successors.

The fact that the collector gives the notice does not prevent the collector from using other recovery measures provided for in this chapter."

22. Article 365 of the said Code is amended by striking out "or has served the term of imprisonment ordered in default of payment of a sum due" in the fourth and fifth lines.

23. Article 366 of the said Code is replaced by the following article :

"366. Any person who deliberately attempts to avoid payment of the sums the person owes, in particular by refusing the various terms and conditions offered for payment of the sums due, by failing to honour the person's agreement to appear before the collector, by refusing or neglecting to carry out compensatory work or by rendering himself or herself insolvent, is guilty of an offence and is liable to imprisonment for a period not exceeding two years less one day.

Proceedings under this article may be instituted only by the Attorney General before the Court of Québec or a municipal court.

Proceedings under this article are prescribed one year from the date the commission of the offence becomes known to the prosecutor. However, no proceedings may be instituted if more than five years have elapsed since the date the offence was committed.

The sentence imposed for this offence does not discharge the defendant from payment of the sums due. Payment of the sums due does not discharge the defendant from the requirement to serve the sentence of imprisonment.

The collector is deemed, for the purposes of this article, to be a person entrusted with the enforcement of any Act within the meaning of article 62."

24. The said Code is amended by inserting the following articles after article 366 :

"366.1. Notwithstanding article 242, sentences of imprisonment imposed pursuant to article 366 may not be served intermittently.

"366.2. No penal proceedings under article 366 shall be instituted against a person under 18 years of age."

25. Article 367 of the said Code is amended by replacing "366" in paragraph 12 by "345.2".

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

26. The figure “366” is replaced by “345.2” in the following provisions :

(1) the second paragraph of section 99.3 of the Act respecting the Agence métropolitaine de transport (R.S.Q., chapter A-7.02);

(2) the second paragraph of section 203 of the Building Act (R.S.Q., chapter B-1.1);

(3) the third paragraph of section 61 of Schedule C to the Charter of Ville de Montréal (R.S.Q., chapter C-11.4);

(4) the third paragraph of sections 29.2.1 and 29.14.1 of the Cities and Towns Act (R.S.Q., chapter C-19);

(5) the third paragraph of articles 10.10 and 14.12.1 of the Municipal Code of Québec (R.S.Q., chapter C-27.1);

(6) the second paragraph of section 223 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01);

(7) the second paragraph of section 210 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02);

(8) the second paragraph of section 84 of the Act respecting municipal courts (R.S.Q., chapter C-72.01);

(9) the fourth paragraph of section 133 of the Civil Protection Act (R.S.Q., chapter S-2.3);

(10) the fourth paragraph of section 157 of the Fire Safety Act (R.S.Q., chapter S-3.4);

(11) the second paragraph of section 149 of the Act respecting public transit authorities (R.S.Q., chapter S-30.01);

(12) the fourth paragraph of section 68 of the Act respecting off-highway vehicles (R.S.Q., chapter V-1.2).

27. From (*insert the date of coming into force of this section*), the measures provided for in subparagraphs 3, 4 and 5 of the first paragraph of section 194 of the Highway Safety Code, as replaced by section 7, shall automatically be imposed on any person whose licence or right to obtain a licence is suspended under section 194 of that Code on (*insert the date that is one day before the date of coming into force of this section*).

In addition, such a person shall be prohibited from putting into operation or putting back into operation any road vehicle registered in the person’s name, if notice of the prohibition has been sent to the person by the Société de

l'assurance automobile du Québec using any means enabling confirmation of receipt at the last address listed for the person in the records of the Société de l'assurance automobile du Québec.

28. Section 15 has precedence over any provision of an agreement entered into before (*insert the date of coming into force of this section*) by the Société de l'assurance automobile du Québec concerning the costs it collects in relation to the application of articles 364 and 365 of the Code of Penal Procedure.

29. Sections 22 and 23 do not apply to sums due before (*insert the date of coming into force of section 23*) by a defendant in whose respect the collector has made an application in accordance with article 346 of the Code of Penal Procedure before that date.

30. Within five years following the coming into force of all the provisions of this Act, the Minister of Public Security must report to the Government on its implementation and on the advisability of proposing the amendments the Minister deems appropriate.

The report shall be tabled by the Minister in the National Assembly within 15 days if the Assembly is sitting or, if it is not sitting, within 15 days of resumption. The appropriate committee of the National Assembly shall examine the report.

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