



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 52
(2009, chapter 49)

**An Act to amend the Act respecting the
conservation and development of wildlife**

**Introduced 29 May 2009
Passed in principle 16 September 2009
Passed 3 December 2009
Assented to 4 December 2009**

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EXPLANATORY NOTES

This Act amends the Act respecting the conservation and development of wildlife to give additional powers to the Minister in charge of its administration, in particular with regard to feeding and baiting, the disposal of pests, and the establishment of fish-stocking plans. In addition, certain regulatory powers are transferred from the Government to the Minister.

The Government is empowered to delegate certain regulatory powers to the Société des établissements de plein air du Québec or any other agency or body that is party to a contract with the Minister, on the conditions determined by the Government.

Persons who enforce wildlife laws in a province or State adjacent to Québec are recognized as wildlife protection officers ex officio, provided they are acting under the responsibility of a Québec wildlife protection officer.

Wildlife protection assistants and area wardens are empowered to establish the identity of a person so that a statement of offence may be drawn up.

Certain changes affecting the board of directors of the Fondation de la faune du Québec are made, in particular by providing for an audit committee subject to the rules of the Act respecting the governance of state-owned enterprises.

Lastly, new prohibitions in matters of wildlife management and adjustments of a technical and penal nature are introduced.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1);
- Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., chapter D-13.1);
- Parks Act (R.S.Q., chapter P-9).

REGULATION AMENDED BY THIS ACT:

- Code of ethics of Québec police officers (O.C. 920-90, 1990, G.O. 2, 1760).

Bill 52

AN ACT TO AMEND THE ACT RESPECTING THE CONSERVATION AND DEVELOPMENT OF WILDLIFE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is amended

(1) by inserting “aquatic” before “mollusc” in the definition of “fish”;

(2) by inserting the following definition after the definition of “to sell”:

“**“Société”** means the Société des établissements de plein air du Québec established under the Act respecting the Société des établissements de plein air du Québec (chapter S-13.01);”.

2. Section 1.1 of the Act is amended

(1) by replacing “a mollusc or a crustacean” in the first paragraph by “an aquatic mollusc or crustacean”;

(2) by inserting the following paragraph after the first paragraph:

“The same is true for species appearing on a list established under section 9 of the Act respecting threatened or vulnerable species (chapter E-12.01).”

3. Section 7 of the Act is amended

(1) by replacing “protection officer” wherever it occurs by “wildlife protection officer”;

(2) by adding the following paragraph:

“A person whose principal function is to enforce the laws concerning wildlife in the provinces and States adjacent to Québec is a wildlife protection officer, *ex officio*, if acting under the orders of a wildlife protection officer appointed under section 3.”

4. Section 8 of the Act is amended

(1) by adding, at the end of the third paragraph, “except the power granted under article 72 of the Code”;

(2) by replacing “protection assistants” in the fourth paragraph by “wildlife protection assistants”.

5. Section 30 of the Act is replaced by the following section:

“30. No person may use a substance, object, animal or domestic animal to attract or attempt to attract an animal or class of animals, except on the conditions determined by regulation of the Minister.

No person may feed or attempt to feed an animal or class of animals except on the conditions determined by regulation of the Minister.”

6. The Act is amended by inserting the following section after section 30.3:

“30.4. No person may use a firearm, crossbow or bow to shoot or attempt to shoot at a representation of an animal or part of an animal installed by a wildlife protection officer for the purpose of enforcing this Act.”

7. Section 47 of the Act is amended by replacing “or 60” in the first paragraph by “, 60 or 67”.

8. Section 54 of the Act is amended by replacing “fixed by regulation” in the second paragraph by “determined by regulation of the Minister.”

9. Section 54.1 of the Act is replaced by the following section:

“54.1. The Minister may authorize a person, association or body to hold a draw for trapping licences or leases of exclusive trapping rights. The authorization may provide that all or some of the fees collected for the draw devolve upon the holder of the authorization.”

10. Section 67 of the Act is amended by adding the following paragraph:

“No person may kill or capture an animal that causes damage to property or must be moved in the public interest, except on the conditions determined by regulation of the Minister.”

11. Section 68 of the Act is amended

(1) by replacing the introductory clause by the following:

“68. In the cases described in section 67 or where an animal has been found or accidentally killed or captured, a person shall, without delay,”;

(2) by adding “or dispose of it according to the conditions determined by regulation of the Minister” at the end of paragraph 1;

(3) by replacing “protection officer” in paragraph 2 by “wildlife protection officer”.

12. Section 71 of the Act is amended by inserting “67,” after “60,”.

13. The Act is amended by inserting the following section after section 73:

“73.1. The Minister may establish a fish-stocking plan for a territory governed by Chapter IV, in conjunction with a lessee of exclusive fishing rights, an agency that is party to a memorandum of agreement, a Native community that is party to an agreement referred to in section 24.1, an agency or body that is party to a contract referred to in section 109, 118, 120, 126 or 127, or the Société.

Despite any regulation made under paragraph 1 or 3 of section 73, such a plan may contain different restrictions regarding fish that may be stocked.

A fish-stocking plan established by the Minister is published on the Internet site of the department or by any other means. It comes into force on the date of its publication or on any later date specified in the plan.”

14. Section 78.6 of the Act is amended

- (1) by replacing “Government” in the introductory clause by “Minister”;
- (2) by striking out paragraphs 1 to 3;
- (3) by inserting “outfitter’s” after “class of” in paragraph 4.

15. Section 78.7 of the Act is amended by striking out “also” in the first paragraph.

16. Section 84.1 of the Act is amended by replacing the second paragraph by the following paragraph:

“The Minister may also delimit a territory for the purposes of subparagraph 3 of the third paragraph of section 56, subparagraph 2 of the fourth paragraph of section 56, paragraph 18 of section 162 or subparagraph 2 of the first paragraph of section 163.”

17. Section 106.0.2 of the Act is amended by replacing “subparagraph 2.1” in the first paragraph by “subparagraph 1”.

18. Section 110 of the Act is amended

- (1) by replacing the first paragraph by the following paragraph:

“110. With regard to a controlled zone, the Government may, by regulation,

- (1) authorize or prohibit a recreational, hunting or fishing activity, on the conditions it determines;

(2) set the fees or maximum fees payable to carry on a recreational, hunting or fishing activity, to register for a draw or to travel about the territory;

(3) authorize or prohibit the use of recreational vehicles on the conditions it determines;

(4) set the maximum number or the categories of persons that may carry on a recreational, hunting or fishing activity in a sector of the territory, on the conditions it determines;

(5) authorize or prohibit the carrying, possession or transport of hunting or fishing gear on the conditions it determines;

(6) authorize or prohibit the presence of a dog or other domestic animal on the conditions it determines;

(7) divide the territory into sectors for the purposes of the standards prescribed under this section, which may vary according to the sector;

(8) determine the minimum and maximum fees payable for membership in an agency that is party to a memorandum of agreement; and

(9) allow any agency that is party to a memorandum of agreement to exercise all or some of the regulatory powers provided for in subparagraphs 1 to 4 and subparagraphs 7 and 8, on the conditions it determines.”;

(2) by replacing, in the second paragraph, “sought” by “hunted or fished” and “hunting, fishing or trapping” by “recreational, hunting or fishing”;

(3) by replacing “licences” in the second paragraph by “class of licence”.

19. Section 110.1 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“110.1. The powers exercised by an agency that is party to a memorandum of agreement under subparagraph 9 of the first paragraph of section 110 must be exercised by by-law.”;

(2) by replacing “paragraph *b* of subparagraph 6” in the introductory clause of the second paragraph by “subparagraphs 2 and 7”;

(3) by replacing the third paragraph by the following paragraphs:

“A copy of the by-law must be sent to the Minister for approval.

The by-law comes into force on the date the agency receives a notice of approval from the Minister or, failing such a notice, 30 days after the by-law was sent to the Minister.”

20. Section 110.2 of the Act is replaced by the following section:

“110.2. The Minister may amend or replace the by-law of an agency that is party to a memorandum of agreement if the by-law fails to comply with the conditions determined by government regulation or the rules provided for the adoption of the by-law are not followed.

A copy of the amended or replaced by-law is sent to the agency and comes into force on the date it is received by the agency.”

21. Section 110.3 of the Act is amended by replacing “Any by-law of an agency that is a party to a memorandum of agreement respecting the matters provided for in subparagraph 6 of the first paragraph of section 110” by “A by-law made by an agency that is party to a memorandum of agreement under subparagraph 9 of the first paragraph of section 110 or a by-law made by the Minister under section 110.2”.

22. Sections 110.4 and 110.5 of the Act are repealed.

23. Section 118.0.1 of the Act is amended by striking out “des établissements de plein air du Québec” in the first paragraph.

24. Section 121 of the Act is replaced by the following section:

“121. With regard to a wildlife sanctuary, the Government may, by regulation,

(1) authorize or prohibit a recreational, hunting or fishing activity, on the conditions it determines;

(2) set the fees or maximum fees payable to carry on a recreational, hunting or fishing activity, to register in a draw or to travel about the territory;

(3) authorize or prohibit the use of vehicles for recreational purposes, on the conditions it determines;

(4) authorize or prohibit the carrying, possession or transport of hunting or fishing gear, on the conditions it determines;

(5) authorize or prohibit the presence of a dog or other domestic animal, on the conditions it determines;

(6) divide the territory into sectors for the purposes of the standards prescribed under this section, which may vary according to the sector; and

(7) allow the Société or any body that is party to a contract referred to in section 118 or 120 to exercise all or some of the regulatory powers provided for in subparagraphs 1 to 3 and subparagraphs 5 and 6, on the conditions it determines.

The fees payable that may be set under this section may vary according to the category of persons or class of licence, a person's age, the activity being carried on, the wildlife species being hunted or fished, the length of stay, the sector or place where the recreational, hunting or fishing activity is carried on, and the period or date of the activity."

25. The Act is amended by inserting the following sections after section 121:

"121.1. The powers exercised by the Société or by a body that is party to a contract referred to in section 118 or 120 under subparagraph 7 of the first paragraph of section 121 must be exercised by by-law.

A copy of the by-law must be sent to the Minister for approval.

The by-law comes into force on the date the Société or body receives a notice of approval from the Minister or, failing such a notice, 30 days after the by-law was sent to the Minister.

"121.2. The Minister may amend or replace the by-law of the Société or of a body that is party to a contract referred to in section 118 or 120 if the Société or body fails to comply with the conditions determined by government regulation.

A copy of the amended or replaced by-law is sent to the Société or body and comes into force on the date it is received by the body or the Société.

"121.3. A by-law made by the Société or by a body that is party to a contract referred to in section 118 or 120 under subparagraph 7 of the first paragraph of section 121 or a by-law made by the Minister under section 121.2 must be posted near the place where users register and a copy must be given, on request, to each user who practises an activity in a wildlife sanctuary."

26. Section 125 of the Act is replaced by the following section:

"125. With regard to a wildlife preserve, the Government may, by regulation,

(1) authorize or prohibit a commercial, recreational, hunting or fishing activity on the conditions it determines;

(2) set the fees or maximum fees payable to carry on a recreational, hunting or fishing activity, to register for a draw or to travel about the territory;

(3) authorize or prohibit the use of any type of vehicle, on the conditions it determines;

(4) authorize or prohibit the carrying, possession or transport of hunting or fishing gear, on the conditions it determines;

(5) authorize or prohibit the presence of a dog or other domestic animal, on the conditions it determines; and

(6) divide the territory into sectors for the purposes of the standards prescribed by this section.

The fees payable that may be set under this section may vary according to the category of persons or class of licence, a person's age, the activity being carried on, the wildlife species being hunted or fished, the length of stay, the sector or place where the commercial, recreational, hunting or fishing activity is carried on, and the period or date of the activity."

27. Section 133 of the Act is replaced by the following section:

"133. The Foundation is administered by a board of directors consisting of 13 members appointed by the Government. The board is formed of the following members, seven of whom must be from regions other than the Montréal and Québec City regions:

(1) a chairman of the board and a president and director general;

(2) eight members appointed on the basis of the expertise and experience profiles approved by the board;

(3) three members from regional wildlife organizations chosen from a list provided by the Table nationale de la faune that gives preference to candidates who are on the board of directors of such an organization."

28. Section 135 of the Act is replaced by the following section:

"135. The members of the board of directors are appointed for a term not exceeding four years."

29. The Act is amended by inserting the following section after section 144:

"144.1. The board of directors of the Foundation must establish an audit committee. Sections 23 to 26 of the Act respecting the governance of state-owned enterprises (chapter G-1.02) apply to such a committee."

30. Section 146 of the Act is replaced by the following section:

"146. The Foundation must send a three-year plan of its activities to the Minister for approval three months before the beginning of the first fiscal year covered by the plan.

The plan must include the Foundation's policy directions, priorities, objectives, strategies and budgetary policies. It must also comply with any instructions the Minister may give to the Foundation."

31. Section 162 of the Act is amended

- (1) by striking out paragraphs 1, 9, 10, 10.1, 12, 19 and 21;
- (2) by replacing “protection officer” in paragraph 3.1 by “wildlife protection officer”.

32. Section 163 of the Act is replaced by the following section:

“163. In addition to the other powers conferred upon the Minister by this Act, the Minister may make regulations

- (1) determining classes of licences, certificates, authorizations and leases, as well as their content and duration and the conditions for their issue, replacement, renewal or transfer;
- (2) limiting the number of licences or leases of each class for a zone, territory or place the Minister specifies, and determining the number of licences or leases of each class that a person is authorized to issue under section 54 for that zone, territory or place;
- (3) establishing the requirements that a holder of a licence, certificate, authorization or lease must satisfy;
- (4) setting the fees or maximum fees payable for the issue, replacement, renewal or transfer of a licence, certificate, authorization or lease, as well as the fees or maximum fees payable for late payments or for administrative services involved in the processing of applications;
- (5) setting the fees or maximum fees payable for registration in a draw for a trapping licence or a lease of exclusive trapping rights;
- (6) determining, for the purposes of section 30, the cases in which a person may attract or attempt to attract an animal or class of animals, for any reason, by the use of a substance, object, animal or domestic animal, on the conditions the Minister determines;
- (7) determining, for the purposes of section 30, the cases in which a person may feed or attempt to feed an animal or class of animals, on the conditions the Minister determines;
- (8) setting, for each pelt from an animal hunted or trapped, whether undressed, dressed or received on consignment by an intermediary for its sale or trade, the royalties that the holder of a licence referred to in section 53 must pay;
- (9) setting, for the purposes of the second paragraph of section 54 and the second paragraph of section 155.2, for each class of licence, the amount of the contribution toward the funding of the Fondation de la faune du Québec;

(10) determining, for the purposes of the second paragraph of section 67, the cases in which an animal that causes damage to property or must be moved in the public interest may be killed or captured, on the conditions the Minister determines;

(11) determining, for the purposes of section 68, the animals that must be released, reported to a wildlife protection officer or disposed of in any other manner, and the conditions governing their release or other manner of disposal; and

(12) determining among the provisions of a regulation made by the Minister under this Act those the violation of which constitutes an offence.

The Minister may, in exercising regulatory powers or for the purposes of this Act, determine classes of animals and the animals in each class, and vary fees according to the class of licence or category of persons, a person's age, the activity being carried on, the wildlife species being hunted, fished or trapped, and the duration of the recreational, hunting, fishing or trapping activity, the sector or place where the activity is carried on and the period or date of the activity."

33. Section 164 of the Act is amended

(1) by replacing “, 54.1 and 56” by “or 56 or under any of subparagraphs 1 to 3, 6, 7 and 10 to 12 of the first paragraph of section 163”;

(2) by adding the following paragraph:

“The following are not subject to the requirements of the Regulations Act: a by-law made by an agency that is party to a memorandum of agreement under subparagraph 9 of the first paragraph of section 110; a by-law made by the Société or by an agency or body that is party to a contract referred to in section 118 or 120 under subparagraph 7 of the first paragraph of section 121; a regulation made by the Minister under section 110.2 or 121.2; and a fish-stocking plan established by the Minister under section 73.1.”

34. Section 165 of the Act is amended by replacing “27 or 30.1” in subparagraph 2 of the first paragraph by “27, 30.1 or 30.4”.

35. Section 167 of the Act is amended

(1) by inserting “30.4,” after “30.1,” in subparagraph 1 of the first paragraph;

(2) by inserting the following subparagraph after subparagraph 2 of the first paragraph:

“(3) a fish-stocking plan established under section 73.1.”.

36. Section 171 of the Act is amended by striking out “110.4, 110.5,” in paragraph 2.

37. Section 171.5 of the Act is amended by inserting “and the judge has not exercised the power to make an order under section 171.5.1” after “section 171.2” in the first paragraph.

38. The Act is amended by inserting the following section after section 171.5:

“171.5.1. Where an offender has been convicted of an offence described in section 171.2, the judge may, provided an application for an order has been made in the offender’s presence or the offender has been given prior notice by the prosecutor, order that the offender, at the offender’s expense and within a specified time, take the measures necessary to restore the premises to the state they were in prior to the offence or, if applicable, to bring the work carried out into line with the regulatory requirements. The judge may also order the seizure of security furnished under section 128.7 by the holder of an authorization, until the order has been executed to the Minister’s satisfaction.

If the offender fails to comply with an order referred to in the first paragraph, the Minister may, at the offender’s expense, proceed with the restoration of the premises. To that end, any security furnished under section 128.7 is confiscated up to the amount of the costs occasioned by the restoration.

If the premises cannot be restored, the judge may, on an application by the prosecutor, order that an additional amount be paid to an organization dedicated to the conservation, protection, improvement, restoration or development of wildlife habitats so that it may create a replacement habitat or other type of wildlife habitat in the region where the offence was committed. The additional amount must reflect the degree of degradation of the premises. The judge may also order the confiscation of any security furnished under section 128.7, up to the additional amount.”

39. Section 171.6 of the Act is amended by replacing “shall be prescribed by two years from the date of the commission of the offence” by “may not be brought later than two years after the date the offence was committed, except an offence under the provisions of section 128.6 for which no penal proceedings may be brought later than two years after the date the offence was ascertained”.

40. Section 172 of the Act is amended by inserting “30.4,” after “30.2,” in the third paragraph.

41. Section 177 of the Act is amended

(1) by replacing subparagraph 2 of the first paragraph by the following subparagraphs:

“(2) if the licence holder, including any shareholder, officer or director of a legal person that is the licence holder, has been convicted of an offence against this Act or its regulations, against any other Act or regulation concerning hunting, fishing, trapping or outfitting, or against the Environment Quality Act (chapter Q-2), the Consumer Protection Act (chapter P-40.1) or the Public Buildings Safety Act (chapter S-3).”

“(3) if the licence holder fails to provide the lodging, services or equipment necessary for the carrying on of the activity concerned and for which the person has paid.”

42. Section 191.2 of the Act is repealed.

43. The Act is amended

(1) by replacing “protection officers” wherever it occurs in sections 3, 6 and 8.1 by “wildlife protection officers”;

(2) by replacing “protection assistants” in section 8.1 by “wildlife protection assistants”;

(3) by replacing “protection officer” wherever it occurs in sections 12 to 13.1, 14, 15, 16 to 20, 22, 23, 45, 72 and 169 by “wildlife protection officer”;

(4) by replacing “protection assistant” wherever it occurs in sections 12 to 13.1, 16 to 18, 19, 20, 22, 23, 45, 72 and 169 by “wildlife protection assistant”.

ACT RESPECTING HUNTING AND FISHING RIGHTS IN THE JAMES BAY AND NEW QUÉBEC TERRITORIES

44. Section 4 of the Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., chapter D-13.1) is amended

(1) by replacing “protection officer” wherever it occurs by “wildlife protection officer”;

(2) by replacing “protection assistant” in the first paragraph by “wildlife protection assistant”.

PARKS ACT

45. Section 15 of the Parks Act (R.S.Q., chapter P-9) is amended by replacing “protection officer” by “wildlife protection officer”.

TRANSITIONAL AND FINAL PROVISIONS

46. Section 1 of the Code of ethics of Québec police officers, enacted by Order in Council 920-90 dated 27 June 1990 (1990, G.O. 2, 1760), is amended by inserting “every peace officer within the meaning of section 6 of the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1),” after “applies to” in the second paragraph.

47. Government regulations made under section 78.6 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) before 4 December 2009 are, as of that date, deemed to have been made by the Minister of Natural Resources and Wildlife under that section or under subparagraph 1 or 3 of the first paragraph of section 163 of that Act, as replaced by section 32 of this Act.

48. Government regulations made under any of paragraphs 1, 9 to 10.1, 12 and 21 of section 162 of the Act respecting the conservation and development of wildlife before 4 December 2009 are, as of that date, deemed to have been made by the Minister of Natural Resources and Wildlife under subparagraph 3, 4, 8, 9 or 11 of the first paragraph of section 163 of that Act, or under the second paragraph of that section, as replaced by section 32 of this Act.

49. Regulations made by the Minister of Natural Resources and Wildlife under section 54.1 of the Act respecting the conservation and development of wildlife before 4 December 2009 are, as of that date, deemed to have been made by the Minister under subparagraph 1 or 2 of the first paragraph of section 163 of that Act, as replaced by section 32 of this Act.

50. The members of the board of directors of the Fondation de la faune du Québec in office on 4 December 2009 continue in office on the same terms, for the unexpired portion of their term, until they are replaced or reappointed.

51. The Regulation respecting the prohibition of hunting and trapping in certain territories, enacted by Order in Council 347-87 dated 11 March 1987 (1987, G.O. 2, 1116), remains in force until repealed or replaced by a regulation made by the Minister of Natural Resources and Wildlife under section 56 of the Act respecting the conservation and development of wildlife.

52. This Act comes into force on 4 December 2009, except section 5, which comes into force on the date of coming into force of the first regulation made for the purposes of section 30 of the Act respecting the conservation and development of wildlife, as replaced by section 5 of this Act, and section 29, which comes into force on 1 April 2010. However, section 46 has effect as of 1 January 2009.

