

1993, chapter 18
**AN ACT TO AMEND THE ANIMAL HEALTH PROTECTION
ACT**

Bill 69

Introduced by Mr Yvon Picotte, Minister of Agriculture, Fisheries and Food

Introduced 16 December 1992

Passage in principle 1 April 1993

Passage 11 June 1993

Assented to 15 June 1993

Coming into force: on the date fixed by the Government, except sections 2 to 5, which come into force on 15 June 1993

Act amended:

Animal Health Protection Act (R.S.Q., chapter P-42)





CHAPTER 18

An Act to amend the Animal Health Protection Act

[Assented to 15 June 1993]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. P-42,
title,
replaced

1. The title of the Animal Health Protection Act (R.S.Q., chapter P-42) is replaced by the following title:

“An Act respecting the health, safety and welfare of animals”.

c. P-42,
s. 12, am.

2. Section 12 of the said Act is amended by adding the following paragraph:

“Service”

“ “Service” means natural service or artificial insemination.”

c. P-42,
s. 14, am.

3. Section 14 of the said Act is amended by adding the following paragraph:

Exception

“However, the applicant is not bound to submit to expert evaluation any stallion that has a permanent classification pursuant to section 18.1.”

c. P-42,
s. 18.1,
added

4. The said Act is amended by inserting, after section 18, the following section:

Permanent
classification

“18.1 The classification assigned following the evaluation of a stallion aged six or over shall be permanent if the previous classification was assigned less than twelve months beforehand.”

c. P-42,
s. 55.2, am.

5. Section 55.2 of the said Act, replaced by section 13 of chapter 61 of the statutes of 1991, is amended by replacing that part of the first paragraph which follows subparagraph 4 by the following:

“must hold, in respect of each of the premises operated by him, a permit issued for such purpose by the Minister.”

c. P-42,
heading and
ss. 55.9.1-
55.9.16,
added

6. The said Act, amended by chapter 61 of the statutes of 1991, is again amended by inserting, after section 55.9, the following heading and sections:

“DIVISION IV.1.1

“SAFETY AND WELFARE OF ANIMALS

Applicability **“55.9.1** The provisions of this division apply to domestic animals and animals kept in captivity, with the exception of animals to which the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) applies.

Safety and
welfare
defined **“55.9.2** The owner or custodian of an animal shall ensure that the safety and welfare of the animal is not jeopardized. The safety and welfare of an animal is jeopardized where

(1) the animal does not have access to drinking water or food in quantities and of a quality in keeping with the biological requirements of its species;

(2) the animal is not kept in suitable, salubrious living conditions;

(3) the animal is wounded or sick and does not receive the health care required by its state;

(4) the animal is subject to abuse or ill-treatment that may affect its health.

Clean
premises **“55.9.3** Every owner or custodian of animals kept for the purpose of sale or breeding shall, in addition to complying with the provisions of section 55.9.2, ensure that the premises in which the animals are kept are clean.

Installations He shall also ensure that the installations are not organized or used in any way that may affect the safety and welfare of the animals.

Inspectors **“55.9.4** The inspectors responsible for the enforcement of the provisions of this division shall be designated by the Minister.

Agreement The Minister may also enter into an agreement with any person to establish a program of inspection in respect of the application of this division. Such an agreement must, in particular, contain terms and conditions for the application and financing of the program and for the remuneration and other expenses of the inspectors which shall be borne by the person having entered into the agreement.

Applicability **“55.9.5** Sections 55.10 to 55.15, 55.19 and 55.24, adapted as required, apply to this division.

Search
warrant

Where an animal is in a dwelling-house, the inspector may enter without the authorization of the occupant only if he obtains a search warrant in accordance with the Code of Penal Procedure (R.S.Q., chapter C-25.1).

Search
warrant

A judge of the Court of Québec or of a municipal court, on the strength of a sworn statement by the inspector to the effect that he has reasonable grounds to believe that an animal is in the dwelling-house and that the safety and welfare of an animal is in jeopardy, may issue a warrant on the conditions he indicates, authorizing the inspector to enter the dwelling-house and seize the animal in accordance with section 55.14 and to dispose of it in accordance with the provisions of this division.

Immediate
danger

“55.9.6 Where in the Minister’s opinion there is an immediate danger to the safety and welfare of the animals, he may, for a period not exceeding 15 days, order the owner or custodian of animals kept for the purpose of sale or breeding to cease his activities, or subject the exercise of those activities to certain conditions.

Order

The order shall be served on the owner or custodian. It shall contain reasons, and shall mention any minutes, any analysis or research reports or any other technical reports considered. It shall have effect on the day on which it is served.

Order

If the Minister issues a second order within two years of the first, whether or not it is based on the same facts, the Court of Québec may, at the request of the Minister, issue an order prohibiting the owner or custodian from keeping animals for the purpose of sale or breeding or limiting the number of animals he may keep for that purpose, for a period not exceeding two years.

Confiscation

“55.9.7 An inspector who, during inspection, has reasonable grounds to believe that the safety and welfare of an animal is jeopardized to a point where treatment would cause it needless suffering may, whether or not seizure has taken place, and following a written notice from a veterinary surgeon, confiscate the animal so that it may be slaughtered and its carcass disposed of.

Confiscation

All other animal carcasses shall also be confiscated during the inspection for the purpose of disposal.

Custody

“55.9.8 The seizer shall have custody of the seized animal. He may keep the animal or entrust it to a person other than the person from whom it was seized.

Proceedings

“55.9.9 In the case of a contravention of any of the provisions of this division, proceedings must be instituted within 30 days

following the date of inspection, unless, before that period expires and upon the application of the seizer, a judge of the Court of Québec or of a municipal court grants an additional period of not more than 10 days.

Animal
returned

“55.9.10 The seized animal must be returned to the person from whom it was seized if no proceedings have been instituted upon expiry of the period provided for in section 55.9.9. In addition, if it is decided before the expiry of that period that no proceedings will be instituted, the animal must be returned as soon as possible to the person from whom it was seized.

Confiscation

However, if the owner or custodian of the animal is unknown or cannot be found, the seized animal shall be confiscated by the seizer, but not before the expiry of seven days after the date of seizure. It shall then be disposed of by the seizer.

Application

“55.9.11 Upon the filing of an information, the seizer shall, except where an agreement has been made with the owner or custodian of the animal, apply to a judge of the Court of Québec or of the municipal court for permission to dispose of the animal.

Prior notice

Prior notice of the application, of at least three clear days, shall be served on the person from whom the animal was seized, and he may contest the application.

Ruling

The judge shall rule on the application taking into consideration the safety and welfare of the animal and, where applicable, the expenses caused by the continuation of seizure. He may order that the animal be returned to the person from whom it was seized, that it be kept under seizure until a final judgment, or that it be sold or slaughtered. If he orders that it be returned, the return may take place only upon payment of the expenses incurred for the animal's keep. If he orders that it be sold, the product of the sale is remitted to the person from whom the animal was seized, after deduction of the expenses incurred for its keep. If he orders that the animal be kept under seizure until a final judgment is made, he shall order the person from whom the animal was seized to pay to the seizer, in addition to previous expenses incurred for the animal's keep, an advance on future expenses for the animal's keep in accordance with the terms and conditions fixed by him.

Confiscation

The judge may order that the animal be confiscated if the applicant fails to comply with the terms and conditions of payment of the advance, and he shall return the animal to the seizer for disposal.

- Application** **"55.9.12** The owner of an animal seized while in the custody of another person may, by application to a judge of the Court of Québec or of the municipal court, request that the animal be returned to him.
- Prior notice** Prior notice of the application of at least three clear days shall be served on the seizer.
- Application granted** The judge shall grant the application if he is of the opinion that the safety and welfare of the animal will not be jeopardized, and on payment of the expenses incurred for the animal's keep. However, if no proceedings are instituted, the expenses incurred for the animal's keep are reimbursed to the owner.
- Conviction** **"55.9.13** In the event of conviction for an offence under section 55.9.2 or section 55.9.3, a judge of the Court of Québec or of a municipal court may, on an application by the prosecuting party, issue an order prohibiting the person found guilty from keeping animals, or limiting the number of animals he may keep, for a period not exceeding two years.
- Confiscation** When issuing the order, the judge shall confiscate any animals held in contravention thereof and shall determine the procedures for disposing of them.
- Expenses** **"55.9.14** Expenses incurred under this division for an animal's keep, slaughter or disposal shall be paid by the owner or custodian of the animal, except where no proceedings are instituted. They shall bear interest at the rate fixed by regulation under the first paragraph of section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).
- Exceptions** **"55.9.15** Notwithstanding the provisions of this division, the following activities and practices continue to be permitted:
- (1) agricultural, teaching or scientific research activities involving animals, provided they are practised in accordance with generally recognized rules;
- (2) ritual practices involving animals prescribed by the laws of a religion.
- Precedence** **"55.9.16** The provisions of this division have precedence over incompatible provisions of the Cities and Towns Act (R.S.Q., chapter C-19), the Municipal Code of Québec (R.S.Q., chapter C-27.1) and municipal charters, and over the provisions of their regulatory instruments."

c. P-42,
s. 55.43.1,
added

7. The said Act is amended by inserting, after section 55.43, the following section:

Offences
and penal-
ties

“55.43.1 Every owner or custodian of an animal, other than an owner or custodian keeping animals for the purpose of sale or breeding, who contravenes section 55.9.2 is liable to a fine of not less than \$200 and not more than \$600 and, in the case of any subsequent offence within two years, to a fine of not less than \$600 and not more than \$1 800.

Offences
and penal-
ties

Every owner or custodian keeping animals for the purpose of sale or breeding who contravenes section 55.9.2 or section 55.9.3 is liable to a fine of not less than \$400 and not more than \$1 200 and, in the case of any subsequent offence within two years, to a fine of not less than \$1 200 and not more than \$3 600.”

c. P-42,
s. 55.45.1,
added

8. The said Act is amended by inserting, after section 55.45, the following section:

Penal
proceedings

“55.45.1 Penal proceedings for an offence under section 55.43.1 may be instituted before the municipal court by the local municipality in whose territory the offence is committed.

Fines and
expenses

In such a case, the fines and expenses relating to the offence belong to the municipality.”

Coming into
force

9. This Act will come into force on the date fixed by the Government, except sections 2 to 5, which come into force on 15 June 1993.