

1991, chapter 15
AN ACT TO AMEND THE FUEL TAX ACT

Bill 134

Introduced by Mr Raymond Savoie, Minister of Revenue

Introduced 30 April 1991

Passage in principle 16 May 1991

Passage 6 June 1991

Assented to 6 June 1991

Coming into force: on the date or dates fixed by the Government

— 1 September 1991: paragraphs 3, 4 and 6 to the extent that section 23 of the Fuel Tax Act (R.S.Q., chapter T-1), as enacted by section 10, applies to an importer, paragraphs 7 and 8 to the extent that the abovementioned section 23, as enacted by section 10, applies to a refiner, paragraph 9 to the extent that paragraph 10 uses the word "vehicle", and paragraph 10 of section 1 except, with respect to paragraph 10, to the extent that the abovementioned section 23, as enacted by section 10, applies to a motor vehicle, paragraphs 1, 2 and 4 of section 8, section 10 to the extent that it enacts section 23, section 23.1, section 25, section 28 excluding the words "or to a wholesale dealer who does not hold a collection officer's permit required by section 27", section 30 excluding: in that part preceding subparagraph *a* of the first paragraph, the words "or a permit, or refuse to renew the permit"; in subparagraph *c* of the first paragraph, the words "or a permit"; subparagraph *g* of the first paragraph; in subparagraph *h* of the first paragraph, the words "a permit or"; in subparagraph *i* of the first paragraph, the words "permit or"; in the second paragraph, the words "or the permit"; section 31.1 excluding, in the first paragraph, the words "or of a permit"; section 31.2 excluding: in the first paragraph, the words "or permit"; in the fifth paragraph, the words "or permit"; section 31.3, section 31.4 excluding the words "or permit" and section 31.5 excluding, in the first paragraph, the words "or permit" of the Fuel Tax Act (R.S.Q., chapter T-1), and section 20 to the extent that it enacts section 43.2 of the Fuel Tax Act (R.S.Q., chapter T-1)
G.O., 1991, Part 2, p. 3517

Act amended:

Fuel Tax Act (R.S.Q., chapter T-1)





CHAPTER 15

An Act to amend the Fuel Tax Act

[Assented to 6 June 1991]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. T-1,
s. 1, am.

1. Section 1 of the Fuel Tax Act (R.S.Q., chapter T-1) is amended, in the first paragraph,

(1) by inserting the following definition before the definition of the word “farming”:

“collection
officer”

“(a) “collection officer”: any person, other than a retail dealer, who, in Québec, sells or delivers fuel or causes it to be delivered;”;

(2) by replacing the letter “(a)” before the definition of the word “farming” by the letter and figure “(a.1)”;

(3) by inserting, after subparagraph *b*, the following subparagraph:

“bulk fuel”

“(b.1) “bulk fuel”: any fuel contained in a receptacle having a capacity of over 200 litres other than fuel contained in the fuel tank installed as standard equipment for supplying the engine of a vehicle;”;

(4) by inserting, after subparagraph *d*, the following subparagraph:

“storer”

“(d.1) “storer”: any person who takes or grants a lease on an establishment for the storage of bulk fuel or who, at the expense of a third person, uses such an establishment or causes it to be used;”;

(5) by inserting, after subparagraph *e*, the following subparagraph:

“establishment” “(e.1) “establishment”: any place where fuel is manufactured, refined, stored, distributed, sold or traded, except a fuel reservoir used exclusively for supplying the heating system of an immovable;”;

(6) by replacing subparagraph *f* by the following subparagraph:

“importer” “(f) “importer”: any person who brings or causes to be brought into Québec bulk fuel acquired outside Québec;”;

(7) by inserting, after subparagraph *f*, the following subparagraph:

“offence against a fiscal law” “(f.1) “offence against a fiscal law”: any offence against this Act, the Retail Sales Tax Act (R.S.Q., chapter I-1), the Tobacco Tax Act (R.S.Q., chapter I-2), the Taxation Act (R.S.Q., chapter I-3) or the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);”;

(8) by replacing subparagraph *p* by the following subparagraph:

“refiner” “(p) “refiner”: any person who refines, manufactures, prepares or distils fuel petroleum products in Québec;”;

(9) by inserting, after subparagraph *s*, the following subparagraph:

“vehicle” “(s.1) “vehicle”: any property propelled, pushed or pulled otherwise than by human muscular power, including a vessel, an aircraft and a railway locomotive;”;

(10) by replacing subparagraph *t* by the following subparagraph:

“motor vehicle” “(t) “motor vehicle”: any vehicle, excluding an aircraft, a vessel, a railway car or a railway locomotive;”.

c. T-1,
s. 10.1,
French
text,
am. **2.** The French text of section 10.1 of the said Act is amended by replacing the words “la formule prescrite” in the third line of the first paragraph by the words “le formulaire prescrit”.

c. T-1,
s. 10.2,
French
text, am. **3.** The French text of section 10.2 of the said Act is amended by replacing the words “la formule prescrite” in the second line of the first paragraph by the words “le formulaire prescrit”.

c. T-1,
s. 12, am. **4.** Section 12 of the said Act is amended by inserting, after the second paragraph, the following paragraph:

Tax “The tax shall, for each type of fuel, be indicated separately from the sale price on any document recording the sale, on any invoice and

in the accounting books of the retail dealer, except in the cases prescribed by regulation.”

c. T-1,
s. 13, am.

5. Section 13 of the said Act is amended

(1) by replacing the words “la formule prescrite” in the second and third lines of the first paragraph of the French text by the words “le formulaire prescrit”;

(2) by replacing the word “il” in the first line of the third paragraph of the French text by the words “le vendeur en détail”;

(3) by replacing the words “collection officer holding a registration certificate” in the fourth line of the third paragraph by the words “holder of a collection officer’s permit”;

(4) by replacing the words “to a collection officer holding a registration certificate, the Minister may require that the difference be remitted to him” in the second, third and fourth lines of the fourth paragraph by the words “to a person holding a collection officer’s permit, the difference shall be remitted to the Minister on the terms and conditions provided in the first paragraph”.

c. T-1,
s. 14, am.

6. Section 14 of the said Act is amended

(1) by replacing the words “using the form prescribed by him,” in the second and third lines of the first paragraph by the words “by filling out the form prescribed by him, on”;

(2) by replacing the words “or delivered” in the third line of the first paragraph by the words “, delivered or handled”;

(3) by replacing the second paragraph by the following paragraph:

Report

“The report shall be made and sent to the Minister even if no fuel was sold, delivered or handled during the month.”

c. T-1,
s. 15,
French
text,
am.

7. The French text of section 15 of the said Act is amended by replacing the words “la formule prescrite” in the third line of the first paragraph by the words “le formulaire prescrit”.

c. T-1,
s. 16, am.

8. Section 16 of the said Act is amended

(1) by replacing the word “consumer” in the first line of that part which precedes subparagraph *a* of the first paragraph by the words “person contemplated in section 3”;

(2) by replacing the figure “2” in subparagraph *b* of the first paragraph by the figure “3”;

(3) by replacing subparagraph *c* of the first paragraph by the following subparagraph:

“(c) not later than the twenty-fifth day of the month following each quarter ending on 31 March, 30 June, 30 September and 31 December in a year, in the case of the holder of a registration certificate described in section 23, file with the Minister, using the form prescribed by the Minister, a statement showing the quantity in litres of fuel used in Québec during the preceding quarter, and any other information prescribed by regulation.”;

(4) by replacing the second paragraph by the following paragraph:

Certificate
of exemp-
tion

“However, a person contemplated in section 3 who only occasionally brings fuel into Québec in the manner described in the first paragraph may, before each trip, obtain from the Minister or any person authorized by the Minister, a certificate exempting him from the obligations provided in subparagraphs *b* and *c* of the first paragraph. The Government may, by regulation, define the word “occasionally” and determine the duties to be paid and the terms and conditions governing the issue of the certificate.”

c. T-1,
s. 17,
French
text, am.

9. The French text of section 17 of the said Act is amended by replacing the words “la forme prescrite” in the first and second lines of paragraph *a* by the words “le formulaire prescrit”.

c. T-1,
ss. 23-31,
replaced

10. The said Act is amended by replacing Division VI by the following division:

“DIVISION VI

“REGISTRATION CERTIFICATES AND PERMITS

“§ 1.—*Registration certificates*

Registra-
tion certi-
ficate

“23. No person may sell, deliver or transport fuel in Québec unless a registration certificate has been issued to him under this Act and is in force at that time.

Registra-
tion certi-
ficate
Registra-
tion certi-
ficate

Every storer, importer or refiner has the same obligation.

Every person contemplated in section 3 who brings into Québec fuel acquired outside Québec and contained in the tank supplying the

engine of a motor vehicle other than a pleasure vehicle has the same obligation, unless he holds a certificate contemplated in the second paragraph of section 16.

Restricted
certificate

“23.1 Every person who fails to obtain the certificate required under the second paragraph of section 16 or the third paragraph of section 23 shall, if the failure is ascertained by a person authorized by the Minister, obtain a restricted certificate without delay.

Restricted
certificate

The certificate exempts its holder from the obligations provided in the first paragraph of section 16 and is valid for only the time prescribed. It shall be issued, by the authorized person, on payment of the fee and duties prescribed by regulation.

Require-
ments

“24. To obtain a registration certificate, a person shall

(a) apply therefor to the Minister on the form prescribed by the Minister, and provide the information prescribed by regulation;

(b) attach to his application, using the form prescribed for that purpose by the Minister, a declaration containing the address of each establishment he intends to operate or to cause to be operated by a third person, and provide any other information prescribed by regulation;

(c) furnish such security as the Minister may require under section 31.4 or 31.5;

(d) fulfil such other conditions and produce such other documents as may be required by this Act or by regulation.

Issue of
registration
certificate

“25. The registration certificate shall be issued by the Minister or by any other person authorized by him. It shall be posted at the principal place of business of its holder in Québec and is not transferable.

Proof of
registration

Where a registration certificate is issued under the third paragraph of section 23, the holder shall, in the manner and on the terms and conditions prescribed by regulation, post proof of the registration in each vehicle used.

Operation of
establish-
ment

“26. The holder of a registration certificate shall inform the Minister by registered or certified mail before commencing the operation of an establishment not listed in the declaration filed under section 24.

Changes The holder shall also immediately inform the Minister of any change causing the information provided under section 24 or this section to be inaccurate or incomplete.

Acquisition of establishment In the case of acquisition of an establishment, the transferee shall provide the Minister with his name and address, the address of the establishment and the name and address of the transferor. In the case of transfer of an establishment, the transferor shall provide the Minister with his name and address, the address of the establishment and the name and address of the transferee.

“§ 2.—Permits

Permit **“27.** Every person who, in Québec,

(a) is a collection officer,

(b) is an importer,

(c) is a refiner,

(d) is a storer,

(e) transports bulk fuel,

(f) colours fuel oil, or

(g) blends taxable fuel with another non-taxable petroleum product for the purpose of resale, except a person holding a refiner’s permit,

shall hold a permit issued for that purpose under this Act, unless he is exempt from this requirement by regulation.

Requirements **“27.1** To obtain a permit, a person shall

(a) apply therefor to the Minister on the form prescribed by the Minister, and provide the information prescribed by regulation;

(b) hold a registration certificate issued under this Act;

(c) transmit the declaration required by section 24 and comply with the provisions of section 26, where applicable;

(d) designate an agent in accordance with section 31.3 if he has no residence or place of business in Québec;

(e) furnish such security as the Minister may require pursuant to section 31.4 or 31.5;

(f) have the equipment and installations required for using the permit applied for;

(g) provide, where applicable, the address of the establishment where he intends to use the permit;

(h) fulfil such other conditions and furnish such other documents as may be required by law or by regulation.

Issue of permit

“27.2 The permit shall be issued by the Minister or by any other person authorized by him. It shall be kept at the principal place of business of its holder in Québec and a copy of the permit shall be posted in each establishment operated under it.

Copy

Where a permit is issued for the transportation of bulk fuel, its holder shall keep a copy of it in each vehicle used for that purpose.

Copy

Every person transporting bulk fuel in Québec and having no establishment in Québec shall keep in each vehicle a copy of each permit he holds under this Act.

Validity

“27.3 The period of validity of the permit is two years. On the expiry of the permit, the Minister or any other person authorized by him shall renew it for the same period, subject to section 30.

Temporary permit

“27.4 Notwithstanding section 27.3, the Minister or any other person authorized by him may issue a temporary permit valid for a period of six months to any person having no residence, establishment or place of business in Québec.

Renewal

The permit may be renewed for the same period provided its holder applies therefor, on the terms and conditions set forth in paragraph *a* of section 27.1, between the sixtieth and thirtieth days preceding the date of expiry of the permit and provided he fulfils the other conditions set forth in that section.

Transferability

“27.5 The permit is not transferable and shall not be used except by its holder and for the activity mentioned therein.

Cessation of activities

“27.6 A permit holder shall inform the Minister immediately upon ceasing his activities or upon any change causing the information provided with the application for or at the time of the renewal of his permit to be inaccurate or incomplete.

Amalgamation, sale, transfer

A permit holder shall also inform the Minister immediately of any amalgamation, sale or transfer of his firm and of any change in his firm name.

“§ 3.—*Miscellaneous provisions*”Registration
certificate

“**28.** No person may sell or deliver fuel in Québec to a retail dealer who does not hold a registration certificate required by section 23 or to a wholesale dealer who does not hold a collection officer’s permit required by section 27.

Collection
officer’s
permit

“**29.** No retail dealer or collection officer may purchase or take delivery of fuel in Québec from a person who does not hold a collection officer’s permit required by section 27, unless he has made an agreement with the Minister pursuant to section 51.

Suspension

“**30.** The Minister may suspend, revoke or refuse to issue a registration certificate or a permit, or refuse to renew the permit of any person who

(a) has been convicted of an offence against a fiscal law within the preceding five years;

(b) is controlled by a person who has been convicted of an offence against a fiscal law within the preceding five years or one of whose directors or officers has been convicted of such an offence within the same period;

(c) does not fulfil or ceases to fulfil the requirements of this Act and the regulations thereunder for obtaining or renewing a registration certificate or a permit;

(d) fails to pay an amount to the Minister that he is required to pay to him under section 1015 of the Taxation Act (R.S.Q., chapter I-3) or section 23 or 24 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

(e) fails to comply with the requirements of this Act or the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

(f) is unable, by reason of his financial situation, to assume the obligations arising out of his enterprise;

(g) has ceased his activities or the activity for which the permit was issued;

(h) has been the holder of a permit or a registration certificate that has been revoked within 24 months preceding the application;

(i) is a person one of whose directors or officers is or has been a director or officer of a corporation or a member of a partnership the permit or registration certificate of which has been revoked within 24 months preceding the application.

- Revocation However, in the case of subparagraphs *b*, *e* and *f*, the Minister cannot revoke the registration certificate or the permit without having first suspended it.
- Notice “**31.** A notice of non-renewal of a permit must be transmitted to its holder by registered or certified mail or personal service within 60 days preceding the date of expiry of the permit.
- Effect of suspension “**31.1** The suspension of a registration certificate or of a permit has effect from the date of service of the decision upon the holder. The decision shall be served by personal service or by registered or certified mail to the last known address of the holder.
- Service A judge of the Court of Québec may authorize a mode of service different from those provided for in the first paragraph.
- Effect “**31.2** The revocation of a registration certificate or permit has effect from the date of service of the decision upon the holder.
- Effect Notwithstanding the first paragraph, in the cases described in subparagraphs *b*, *e* and *f* of section 30, revocation has effect only upon the expiry of fifteen days from service upon the holder of the decision to suspend where the holder has not made representations within six days from receipt of the decision. Revocation is effected by operation of law.
- Service In all cases, the decision to revoke shall be served by personal service or by registered or certified mail to the last known address of the holder.
- Service A judge of the Court of Québec may authorize a mode of service different from those provided for in the third paragraph.
- Return of certificate The holder must return his certificate or permit to the Minister immediately after being served.
- Agent “**31.3** A person having no residence or place of business in Québec must designate an agent residing in Québec and provide the name and address of the agent to the Minister.
- Presumption Service upon the agent of any proceeding, application or notice is deemed made upon the person who designated him.
- Security “**31.4** The Minister may require, as a condition of issue or continuance in force of a registration certificate or permit, that a person having no residence or place of business in Québec give security in such amount as he fixes.

Security

“31.5 The Minister may require from any person, as a condition of issue or continuance in force of a registration certificate or permit, security in the amount he may fix, taking into account, where applicable, the amounts that the person is likely to collect, remit or pay under this Act within six months of the date on which the security is required, or the amounts he was required to remit or pay under this Act in respect of the six months preceding that date, if the person

(a) has been convicted of an offence against a fiscal law within the preceding five years;

(b) is controlled by a person who has been convicted of an offence against a fiscal law within the preceding five years or one of whose directors or officers has been convicted of such an offence within the same period;

(c) is unable, by reason of his financial situation, to assume the obligations arising out of his enterprise;

(d) fails to pay an amount to the Minister that he is required to pay to him under section 1015 of the Taxation Act (R.S.Q., chapter I-3) or section 23 or 24 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

Additional security

The Minister may, at any time, require additional security if, at that time, the amount of security furnished is less than the amount that could be fixed at that time according to the terms and conditions provided in the first paragraph.”

c. T-1,
s. 32,
replaced

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

Obligation to keep records

“32. Every person holding or required to hold a registration certificate or permit shall, in the manner prescribed by regulation, keep or prepare the registers, books of account, invoices, manifests, way-bills and other documents prescribed by regulation. He shall keep these documents in his principal place of business in Québec.”

c. T-1,
s. 32.1,
added

12. The said Act is amended by inserting, after section 32, the following section:

Manifest or way-bill

“32.1 Every person who transports bulk fuel in Québec shall, in respect of each load, draw up or cause to be drawn up, a manifest or way-bill complying with the requirements prescribed by regulation, for the fuel transported. He shall keep the manifest or way-bill or cause it to be kept in the vehicle used to transport the fuel.

Applicability

This section does not apply in respect of bulk transportation of coloured fuel oil in a tank having a capacity of 18 200 litres or less.”

c. T-1,
s. 35, am.

13. Section 35 of the said Act is amended by inserting the words “cause the meters to be sealed. He may also” after the word “may” in the second line and by replacing the word “equipment” in the third line by the word “meters”.

c. T-1,
s. 36, am.

14. Section 36 of the said Act is amended by striking out the words “seals to be affixed on” in the first line of the second paragraph and by inserting the words “to be sealed” after the word “fuel” at the end of the fourth line of the said paragraph.

c. T-1,
s. 38, am.

15. Section 38 of the said Act is amended by inserting the words “importer, carrier, storer,” after the word “refiner,” in the third line.

c. T-1,
s. 39,
replaced

16. Section 39 of the said Act, amended by section 845 of chapter 4 of the statutes of 1990, is replaced by the following section:

Inspection
of vehicle

39. Any officer of the Sûreté du Québec, any member of a municipal police force or any person authorized for such purposes by the Minister may, at any place and at any reasonable time, stop any vehicle, require the owner or driver or the person in charge of the vehicle to produce for examination, as the case may be, the copy of the permit provided for in section 27.2 and the manifest or way-bill provided for in section 32.1, measure the capacity of the fuel tanks, examine the fuel carried or to be used to supply the engine and take the necessary samples of it.

Immobilization
of vehicle

The person may also order that the vehicle not be moved where the owner, driver or the person in charge of it refuses to submit to any examination or inspection provided for in the first paragraph or does not hold the documents referred to in that paragraph or produces a manifest or way-bill containing inaccurate or incomplete information or where the person has reasonable grounds to believe that an offence is being or has been committed under paragraph *a* of section 42 where it refers to section 27.2, under paragraph *a* of section 42.1 where it refers to section 27, under paragraph *b* of section 42.1, under paragraph *b* of section 43 or under paragraph *b* of section 43.1. In any such case, the owner, driver or person in charge of the vehicle shall identify himself and produce the vehicle registration certificate for examination.

Authoriza-
tion

The vehicle shall not be moved without the authorization of the Minister until a judge rules on the application referred to in section 40.1, submitted by the Minister with reasonable dispatch, and until its seizure, where such is the case.

Warrant However, if a vehicle is left for the night elsewhere than in a public place and all activity related to its use has ceased, no examination or inspection provided for in the first paragraph may be carried out without a warrant between 10 p.m. and 7 a.m. by a person referred to in the first paragraph.”

c. T-1,
s. 40, am. **17.** Section 40 of the said Act, amended by section 846 of chapter 4 of the statutes of 1990, is again amended by replacing the first paragraph by the following paragraph:

Stopping of
vehicle **“40.** Any officer of the Sûreté du Québec, any member of a municipal police force or any person authorized by the Minister for such purposes may stop a vehicle used to transport bulk fuel in Québec where he has reasonable grounds to believe that the fuel transported therein is intended for sale for consumption in Québec and that the purchaser does not hold a registration certificate provided for in section 23 or a collection officer’s permit provided for in section 27.”

c. T-1,
s. 40.1,
replaced **18.** Section 40.1 of the said Act is replaced by the following sections:

Search and
seizure **“40.1** With the written authorization of a judge of the Court of Québec, which may be granted on an *ex parte* application following an information under oath from a person who has reasonable grounds to believe that an offence against this Act is being or has been committed in a place in Québec, the Minister may authorize in writing any public servant of the department or any other person he designates and any peace officer called upon by that public servant or person for assistance, to search in that place and to seize and remove therefrom any thing which may be used as evidence of the offence and, for those purposes, to enter any building, receptacle or premises in that place.

Authoriza-
tion **“40.2** For the purposes of section 40.1, the judge may grant his authorization on the conditions he indicates if he is convinced that there are reasonable grounds to believe that an offence against this Act is being or has been committed and that the things to be seized are in the place indicated in the information.

Seizure and
removal **“40.3** The public servant or designated person who carries out a search in accordance with section 40.1 may seize and remove, in addition to what is provided for in that section, any other thing which he believes, on reasonable grounds, constitutes evidence of the commission of the offence described in the information.

Report of seizure The person shall, with reasonable dispatch, report the seizure to the judge who gave his authorization in writing under section 40.1 or, in his absence, to a judge of the same court.

Evidence The judge may authorize the Minister to retain the things seized if he is convinced that they may constitute evidence of the commission of an offence against this Act and that they have been seized in accordance with this section.

Custody of thing seized “**40.4** Subject to a release of seizure by the Minister, any thing seized under sections 40.1 and 40.3 shall remain in the custody of a person designated by the Minister for that purpose until, in accordance with Division IX, it is confiscated or returned to its owner.

Order to sell fuel “**40.5** Notwithstanding sections 40.1 and 40.3, where fuel is seized, the Minister may apply to a judge of the Court of Québec for an order to sell the fuel on such terms and conditions as the judge may determine. Prior notice of not less than one clear day from the application must be served on the person from whom the thing was seized and on the persons who claim to have a right in the fuel. However, the judge may exempt the Minister from such service. The proceeds of the sale, after deduction of the costs, shall be kept by the person designated by the Minister until they are confiscated for the benefit of the Minister or are remitted to their owner.

Retention “**40.6** The thing seized or the proceeds of the sale shall not be retained more than one hundred eighty days from the date of seizure, unless proceedings have been instituted or an order of extension has been issued.

Extension “**40.7** The Minister may apply to a judge, before the expiry of the prescribed retention period, for an extension of not more than one hundred eighty days.

Notice Prior notice of the application for an extension shall be served on the person from whom the thing was seized or on the persons who claim to have a right in the thing seized or in the proceeds of the sale thereof.

Return of thing seized “**40.8** The Minister must return the thing seized or the proceeds of the sale of the thing to the person from whom it was seized as soon as retention is no longer necessary in the interests of justice.”

c. T-1, ss. 41, 42 and 43, replaced **19.** Sections 41, 42 and 43 of the said Act are replaced by the following sections:

Offence and penalty “**41.** Every person who

(a) does not furnish a report or other document or any information provided for by this Act or the regulations thereunder, in the manner and at the time provided in sections 13 to 17, 26, 27.6, 34, 51.2 and 52, or

(b) being a mandatary of the Minister, refuses or neglects to collect, account for, report or remit the tax provided for in section 2 or the amount provided for in section 51.1,

is guilty of an offence and liable to a fine of not less than \$200 for each day that the omission continues.

Offence and
penalty

“42. Every person who

(a) contravenes section 18, the first and second paragraphs of section 23, or section 27.2, 29 or 32,

(b) removes or alters a seal provided for in section 35 or 36 or otherwise contravenes such section,

(c) refuses to permit the audit or examination contemplated in section 38 or otherwise contravenes that section,

(d) neglects or omits to comply with stop signs set up by a person referred to in section 39 or 40, or to obey the signals or orders of such a person,

(e) contrary to section 39, refuses to produce the registration certificate of a vehicle other than a pleasure vehicle, the copy of the permit, the manifest or way-bill, or otherwise contravenes that section,

(f) furnishes a manifest or a way-bill provided for in section 32.1 containing inaccurate or incomplete information, or

(g) being the holder of a registration certificate or a permit, transfers or lends it or causes it to be used by another person,

is guilty of an offence and liable to a fine of not less than \$2 000 nor more than \$25 000.

Offence and
penalty

“42.1 Every person who

(a) contravenes section 27, 28 or 32.1,

(b) uses a registration certificate or a permit issued in the name of another person, or

(c) obtains or attempts to obtain, by means of false or misleading statements, a registration certificate or a permit issued under this Act,

is guilty of an offence and is liable to a fine of not less than \$2 000 nor more than \$25 000 or, notwithstanding article 231 of the Code of Penal Procedure (1987, chapter 96), to both the fine and imprisonment for not more than two years.

Offence and
penalty

“43. Every person who

(a) contrary to section 20, destroys or removes or attempts to destroy or remove, in any manner, the colouring or any other means of identifying coloured fuel oil under this Act, or

(b) knowingly stores, sells, uses or carries as uncoloured fuel oil any coloured fuel oil under this Act although its colouring or any other means of identifying it has been destroyed or removed or has been altered in any manner whatsoever,

is guilty of an offence and liable to a fine of not less than \$5 000 nor more than \$100 000 or, notwithstanding article 231 of the Code of Penal Procedure (1987, chapter 96), to both the fine and imprisonment for not more than two years.”

c. T-1,
s. 43.1,
replaced

20. Section 43.1 of the said Act is replaced by the following sections:

Offence and
penalty

“43.1 Every person who

(a) contrary to section 19, acquires or uses coloured fuel oil for any purpose other than those permitted therein,

(b) contrary to section 19.1, has in his possession coloured fuel oil stored in a tank supplying a propulsion engine, except in the cases permitted in section 19,

(c) contrary to section 21, sells coloured fuel oil in a filling station,

(d) contrary to section 21.1, stocks coloured fuel oil in a filling station, unless the coloured fuel oil is in a tank or cistern used exclusively and directly to supply a building’s heating system, or

(e) contrary to section 22, fills, with coloured fuel oil, the tank supplying a propulsion engine, except in the cases permitted in section 19,

is guilty of an offence and liable, in addition to any other penalty otherwise provided for, to a fine of not less than \$200 nor more than

\$1 000 and, in the case of a second offence within five years, to a fine of \$1 000 to \$5 000 and, for a subsequent offence within that time, to a fine of \$5 000 to \$10 000.

Imprisonment In addition to the fine of \$5 000 to \$10 000 prescribed in the first paragraph for any subsequent offence, the court may, notwithstanding article 231 of the Code of Penal Procedure (1987, chapter 96), sentence the offender to imprisonment for not more than six months.

Offence and penalty “**43.2** Every person who, in contravention of the second paragraph of section 16 or the third paragraph of section 23, does not hold a certificate is guilty of an offence and liable to a fine of not less than \$600 nor more than \$2 000.”

c. T-1, s. 44, replaced **21.** Section 44 of the said Act is replaced by the following section:

False or misleading statement “**44.** Every person who attempts to obtain or obtains a refund under this Act by means of false or misleading statements is guilty of an offence and liable to a fine equal to the amount that he so obtained or attempted to obtain.”

c. T-1, s. 45.4, am. **22.** Section 45.4 of the said Act is amended by replacing the letter “e” in the first line by the letter “d”.

c. T-1, s. 48, replaced **23.** Section 48 of the said Act is replaced by the following sections:

Confiscation “**48.** Where a person is convicted of an offence against this Act, the Minister may, on a motion to a judge of the Court of Québec within thirty days from the day on which the person was convicted, request the confiscation for his benefit of any thing seized pursuant to section 40.1 or 40.3 or the proceeds referred to in section 40.5.

Confiscation The judge must order the confiscation if the person does not establish that he is able to pay the amount of the fine, that of any assessment or re-assessment issued under this Act and any costs related to the seizure and preservation of the thing referred to in the motion.

Release Any person, other than the offender, who wishes to revendicate a thing seized and retained under section 40.1 or 40.3 or the proceeds referred to in section 40.5 may obtain the release thereof on presenting a motion to the Court of Québec stating his name and residence and setting out under oath the nature of his right in the thing seized or in the proceeds; the court may thereupon order, on the

conditions it determines, the release of the thing seized or the proceeds, as the case may be.

Fine and
costs

“48.1 Where the judge orders confiscation under section 48 and the defendant has not, within the granted time, paid the fine and costs to which he was sentenced, the Minister shall remit the proceeds of the sale to the collector of fines designated under article 322 of the Code of Penal Procedure (1987, chapter 96), after deducting the costs of seizure and preservation incurred by the Minister up to the amount of the fine and costs imposed on the defendant.”

c. T-1,
s. 50, am.

24. Section 50 of the said Act is amended

(1) by replacing the words “procès-verbal de l’infraction” in the second line of subsection 2 of the French text by the words “rapport d’infraction”;

(2) by replacing the words “declared therein” in the third line of subsection 2 by the words “ascertained by him”;

(3) by replacing the word “procès-verbal” in the fourth and fifth lines of subsection 2 of the French text by the word “rapport”.

c. T-1,
s. 50.1,
repealed

25. Section 50.1 of the said Act is repealed.

c. T-1,
s. 51.1, am.

26. Section 51.1 of the said Act is amended

(1) by replacing the words “Every collection officer holding a registration certificate” in the first line of the first paragraph by the words “The holder of a collection officer’s permit”;

(2) by inserting, after the third paragraph, the following paragraph:

Amount
collected

“The amount contemplated in the first paragraph shall, for each type of fuel, be indicated separately from the sale price on any document recording the sale, on any invoice and in the accounting books of the collection officer.”

c. T-1,
s. 51.2, am.

27. Section 51.2 of the said Act is amended

(1) by replacing the words “Every collection officer holding a registration certificate” in the first line of the first paragraph by the words “The holder of a collection officer’s permit”;

(2) by replacing the words “la formule prescrite” in the third line of the first paragraph of the French text by the words “le formulaire prescrit”;

(3) by replacing the words “a collection officer holding a registration certificate” in the first and second lines of the fourth paragraph by the words “the holder of a collection officer’s permit”;

(4) by replacing the words “collection officer holding a registration certificate” in the third and fourth lines of the fourth paragraph by the words “person holding a collection officer’s permit”;

(5) by replacing the word “officer” in the fifth line of the fourth paragraph by the word “person”;

(6) by replacing the words “collection officer holding a registration certificate, the Minister may require that the difference be remitted to him” in the third and fourth lines of the fifth paragraph by the words “person holding a collection officer’s permit, the difference shall be remitted to the Minister on the terms and conditions provided in the first paragraph”.

c. T-1,
s. 51.3, am.

28. Section 51.3 of the said Act is amended

(1) by replacing the words “Every collection officer holding a registration certificate” in the first line of the first paragraph by the words “Every holder of a collection officer’s permit”; by replacing the word “remits” in the fourth line of the first paragraph by the word “pays”; by replacing the words “registration certificate” in the fifth line of the first paragraph by the words “collection officer’s permit”;

(2) by replacing the words “registration certificate in force” in the first and second lines of the second paragraph by the words “collection officer’s permit” and the words “registration certificate” in the fifth line of the second paragraph by the words “collection officer’s permit”.

c. T-1,
s. 52.1,
added

29. The said Act is amended by inserting, after section 52, the following section:

Allowance

“52.1 The Minister may make an allowance determined by regulation to any holder of a registration certificate with whom he has made an agreement under section 51 for the collection and remittance of the tax or the amount equal to the tax provided for by this Act or for colouring fuel oil.”

c. T-1,
s. 54,
replaced

30. Section 54 of the said Act is replaced by the following section:

Presumption

“54. Where a person is transporting bulk fuel in Québec without having in his possession the manifest or way-bill provided for in

section 32.1, it is presumed, in the absence of proof to the contrary, that the fuel is intended for delivery in Québec.”

c. T-1,
s. 55,
French
text, am.

31. Section 55 of the said Act is amended

(1) by replacing the words “la formule” in the third line of subsection 1 of the French text by the words “le formulaire”;

(2) by replacing the word “déclarés” in the fourth line of subsection 2 of the French text by the word “constatés”.

Statement

32. Every person who, on (*insert here the date of coming into force of this Act*), holds a registration certificate issued under section 23 of the Fuel Tax Act, as it read before being amended by this Act, shall, before (*insert here the date of the sixty-first day following the date of coming into force of this Act*), transmit to the Minister the statement provided for in paragraph *b* of section 24, as enacted by section 10 of this Act.

Application
for permit

33. Every person who, on (*insert here the date of coming into force of this Act*), holds a registration certificate issued under section 23 of the Fuel Tax Act, as it read before being amended by this Act, shall, before (*insert here the date of the sixty-first day following the date of coming into force of this Act*), transmit to the Minister an application for a permit under the provisions of section 27.1, as enacted by section 10 of this Act. The person is deemed to hold the permit applied for until the date on which the Minister issues the permit or transmits his decision as regards his refusal to issue it.

Offence
against a
fiscal law

34. Any offence against the Meals and Hotels Tax Act (R.S.Q., chapter T-3) committed before 1 January 1991 is an offence against a fiscal law within the meaning of subparagraph *f.1* of section 1 of the Fuel Tax Act, as amended by section 1 of this Act.

Coming into
force

35. This Act will come into force on the date or dates fixed by the Government.