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AN ACT TO AMEND THE TRANSPORT ACT

Bill 179

Introduced by Mr Sam L. Elkas, Minister of Transport

Introduced 6 November 1991

Passage in principle 19 November 1991

Passage 6 December 1991

Assented to 12 December 1991

Coming into force: 12 December 1991, except section 4, which will come into force on the date fixed by the Government

Act amended:

Transport Act (R.S.Q., chapter T-12)





CHAPTER 59

An Act to amend the Transport Act

[Assented to 12 December 1991]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. T-12,
s. 2, am.

1. Section 2 of the Transport Act (R.S.Q., chapter T-12) is amended by replacing the word and figures “3 to 7” in the fourth line of the third paragraph by the figures “3, 4, 6, 7”.

c. T-12,
s. 5, am.

2. Section 5 of the said Act is amended by adding, at the end of paragraph *i*, the words “, and specify the information contained in a contract which, despite compulsory filing, is not accessible except in the manner and to the extent provided for in the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).”

c. T-12,
s. 36.2, am.

3. Section 36.2 of the said Act is amended by adding, at the end, the following paragraph:

Exception

“This section does not apply to a holder of three or more permits who causes a bulk material to be transported for the purpose of supplying a plant, providing the following three conditions are met:

(1) the transport is effected by a subcontractor using a road vehicle which appears on a list previously transmitted to the Commission by the holder of the permits;

(2) the number of vehicles used for subcontracting is equal to or less than the number of permits held by the carrier; and

(3) the bulk materials transported are not used for construction or renovation work at the plant.”

c. T-12,
s. 36.3, am. **4.** Section 36.3 of the said Act is amended by striking out the words “or for any part of the territory of such a region not delimited as a brokerage zone” in the third and fourth lines.

c. T-12,
s. 37.1, am. **5.** Section 37.1 of the said Act is amended by replacing paragraph 1 by the following paragraph:

“(1) the permit holder has paid to the Société de l’assurance automobile du Québec the duties and fees payable pursuant to section 31.1 of the Highway Safety Code in order to preserve the right to drive the road vehicle used to provide the transport service authorized by the permit;”.

c. T-12,
s. 40, am. **6.** Section 40 of the said Act is amended by replacing the word “; or” in the second line of subparagraph *d* of the first paragraph by the words “or the contribution prescribed by section 48.6;”.

c. T-12,
ss. 47.1 to
47.8, added **7.** The said Act is amended by inserting, after section 47, the following sections:

“§ 4.1.—*Bulk material transport contracts*

Contract **“47.1** The holder of a bulk material transport permit shall, where prescribed by regulation and where the route includes a public highway to which the Highway Safety Code applies, enter into a contract with a consignor in accordance with the minimal stipulations prescribed by regulation.

Filing Before it is executed, the contract must be filed with the Commission by the consignor.

Access to information **“47.2** The information contained in a contract entered into under section 47.1 that is identified by regulation is not accessible except in the manner and to the extent provided for in the Act respecting Access to documents held by public bodies and the Protection of personal information.

Bulk material **“47.3** No person may entrust to the holder of a bulk material transport permit, for transport purposes, any bulk material the transport of which must be the subject of a contract under section 47.1, until such a contract has been filed with the Commission.

Bulk material **“47.4** No holder of a bulk material transport permit may accept for transport purposes or transport any bulk material the transport of which must be the subject of a contract under section 47.1, until such a contract has been filed with the Commission.

Attestation During transportation, the permit holder must keep in the truck a copy of the attestation from the Commission that the contract has been filed.

Dispute “**47.5** Where a dispute arises with respect to the price or conditions of transport, either party to the contract may request the intervention of the Commission so that it may attempt to settle it.

Designation of member If he considers that the interest of the parties requires it, the president of the Commission shall designate a member for that purpose.

Confidentiality “**47.6** Unless an agreement to the contrary is reached by the parties, anything relating to the attempt at settling the dispute shall remain confidential.

Settlement of dispute “**47.7** Unless the parties agree otherwise, no attempt at settling the dispute may continue for more than 30 days after the date on which it was referred to the Commission.

Termination of contract “**47.8** Where the Commission has been unable to bring the parties to a settlement of the dispute, and where it concludes that the dispute is due to the unreasonable or unfair nature of the price or a condition of transport, the aggrieved party may terminate the contract, without indemnity, within five days after receiving the report of the Commission.”

c. T-12,
ss. 48.2 to
48.11, added **8.** The said Act is amended by inserting, after section 48.1, the following sections:

“DIVISION V.1

“REGIONAL CORPORATION OF TRUCKERS SUBSCRIBING TO A BROKERAGE SERVICE

Recognition “**48.2** A regional corporation of truckers that is constituted as a non-profit corporation may be recognized by the Commission where the corporation proves that it represents more than 50 % of the holders of bulk material transport permits in a region who subscribe to a brokerage service in one of the brokerage zones established in accordance with section 36.3, and that it can adequately represent the majority of such permit holders.

Functions “**48.3** The principal functions of a regional corporation recognized by the Commission are to represent the holders of bulk material transport permits who subscribe to a brokerage service, and to promote their interests, in particular by improving and promoting truck transportation of bulk materials, by establishing social benefits and by organizing administrative services for brokerage corporations.

- Powers For the purposes of the first paragraph, the corporation may
- (1) enter into contracts with consignors for the transport of bulk material, to the extent that such transport is apportioned between the truckers by the brokerage permit holders in accordance with the rules prescribed by regulation;
 - (2) refer any transport which exceeds the capacities of the subscribers of a brokerage permit holder to other brokerage permit holders;
 - (3) file rates and tariffs;
 - (4) act before the Commission with respect to any matter relating to transport brokerage or bulk material transport.
- Rights of subscribers **“48.4** Every subscriber to a brokerage service supplied under a brokerage permit is entitled to be a member of a regional corporation recognized by the Commission in his region, and may participate in its activities and administration.
- Annual contribution **“48.5** To finance its activities, a regional corporation recognized by the Commission may, by by-law approved by the majority of the members who vote at a special meeting held for such purpose, fix an annual contribution.
- Contribution **“48.6** Every member of the corporation is required to pay the contribution fixed by the special meeting for each permit he obtains or renews.
- Contribution The Government may, by regulation, order payment of the contribution by all subscribers to a brokerage service.
- Inquiry **“48.7** To ensure that members’ interests are protected, the Commission may designate a person to be responsible for inquiring into the management or activities of a regional corporation.
- Immunity and powers The person so designated is vested for the purposes of an inquiry with the immunity and powers of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.
- Suspension **“48.8** Following an inquiry report of the Commission which shows that protection of the interests of members of the regional corporation is not ensured, the Government may order that the powers of that corporation be suspended for such period as it may

determine, and appoint an administrator who shall exercise the powers of the board of directors. In urgent cases, however, the Government may act without waiting for the inquiry report.

Cancellation **“48.9** The administrator appointed by the Government may, in the interest of the members of the corporation and subject to the rights of third persons in good faith, cancel any decision made by the corporation.

Report **“48.10** The administrator shall present to the Government, as soon as practicable, a complete report of his findings together with his recommendations.

Powers and immunity The administrator has the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

Powers **“48.11** Following the report of the administrator, the Government may

(1) lift the suspension of the powers of the board of directors;

(2) order the holding of a special meeting of the members of the regional corporation in order to elect new directors.”

**c. T-12,
s. 53, am.** **9.** Section 53 of the said Act is amended

(1) by striking out the words “within thirty days after the date on which the decision of the Commission has taken effect,” in the second and third lines;

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

Service and filing **“The motion must be served on the adverse party and filed with the office of the court within 30 days from the date on which the decision of the Commission takes effect; it must be presented to a judge of the Court of Appeal as soon as possible.”**

**c. T-12,
s. 74.1, am.** **10.** Section 74.1 of the said Act, amended by section 872 of chapter 4 of the statutes of 1990 and by section 142 of chapter 33 of the statutes of 1991, is again amended by replacing the word and figure “or 43” in the second line by the word and figures “, 43, 47.3 or 47.4”.

Coming into force **11.** This Act comes into force on 12 December 1991, except section 4, which will come into force on the date fixed by the Government.