

1990, chapter 30

AN ACT RESPECTING HOURS AND DAYS OF ADMISSION TO COMMERCIAL ESTABLISHMENTS

Bill 75

Introduced by Mr Gérard Tremblay, Minister of Industry, Trade and Technology

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Assented to 22 June 1990

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Acts amended:

Act respecting collective agreement decrees (R.S.Q., chapter D-2)

Act respecting liquor permits (R.S.Q., chapter P-9.1)

Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13)

Act replaced:

Act respecting commercial establishments business hours (R.S.Q., chapter H-2)





CHAPTER 30

An Act respecting hours and days of admission to commercial establishments

[Assented to 22 June 1990]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

APPLICATION

Application **1.** This Act applies to commercial establishments where products are offered for sale by retail to any member of the public, including a member of a club or cooperative or of another group of consumers.

Presumption Any space or stall in markets, particularly in covered markets and flea markets, is considered to be a commercial establishment.

DIVISION II

HOURS AND DAYS OF ADMISSION

Hours and days of admission **2.** Subject to sections 4 to 14, the public may be admitted to a commercial establishment only between the hours of

(1) 8:00 a.m. and 7:00 p.m. on Mondays and Tuesdays;

(2) 8:00 a.m. and 9:00 p.m. on Wednesdays, Thursdays and Fridays;

(3) 8:00 a.m. and 5:00 p.m. on Saturdays;

(4) 8:00 a.m. and 9:00 p.m. on Mondays and Tuesdays in December before 25 December;

(5) 8:00 a.m. and 5:00 p.m. on Sundays in December before 25 December;

(6) 8:00 a.m. and 5:00 p.m. on 24 and 31 December where they fall on any day other than Sunday;

(7) 1:00 p.m. and 7:00 p.m. on 26 December where it falls on a Monday or a Tuesday, 1:00 p.m. and 9:00 p.m. where it falls on a Wednesday, a Thursday or a Friday, and 1:00 p.m. and 5:00 p.m. where it falls on a Saturday.

Days on
which
admission
is prohibited

3. Subject to sections 5 to 14, the public may not be admitted to a commercial establishment on

(1) 1 January;

(2) 2 January;

(3) Easter Monday;

(4) 24 June, or 25 June where the 24th falls on a Sunday;

(5) 1 July, or 2 July where the 1st falls on a Sunday;

(6) the first Monday in September;

(7) 25 December;

(8) any other day the Government may determine.

Exceptions

4. The public may also be admitted to a commercial establishment until 9:00 p.m. on Mondays and Tuesdays provided that the establishment principally offers for sale, at all times,

(1) only road vehicles, trailers, boats and farm machinery, or any of these products;

(2) only swimming pools and the equipment necessary for the operation of swimming pools;

(3) only school supplies, provided the establishment is a school cooperative.

Exceptions

5. The public may also be admitted to a commercial establishment outside the hours set out in section 2 and on Sundays and on the days listed in section 3, provided that the establishment principally offers for sale, at all times, only the following food products or some of the following food products: meals, foodstuffs or alcoholic beverages to be consumed on the premises or prepared meals or dishes

to be consumed at a place other than on the premises of the establishment.

Secondary
lines

Any other products offered for sale as secondary lines by an establishment to which the public may be admitted in accordance with the first paragraph shall be limited at all times to some or all of the following: inedible products with a retail price of less than \$50, pharmaceutical, hygienic or sanitary products, newspapers, periodicals, books, tobacco, articles required for the use of tobacco, motor oil, fuel, flowers or foodstuffs to be consumed at a place other than on the premises of the establishment.

Exceptions

6. The public may also be admitted to a commercial establishment outside the hours set out in section 2 and on Sundays and on the days listed in section 3, provided that the establishment principally offers for sale, at all times, only the following products or some of the following products: foodstuffs or alcoholic beverages to be consumed at a place other than on the premises of the establishment, or other grocery products, and provided that not more than 4 persons attend to the operation of the establishment outside the hours set out in section 2 and on Sundays and on the days listed in section 3.

Secondary
lines

Any other products offered for sale as secondary lines by an establishment to which the public may be admitted in accordance with the first paragraph shall be limited at all times to some or all of the following: inedible products with a retail price of less than \$50, pharmaceutical, hygienic or sanitary products, newspapers, periodicals, books, tobacco, articles required for the use of tobacco, motor oil, fuel, flowers or foodstuffs to be consumed on the premises.

“persons”

For the purposes of this section, the word “persons”

(1) excludes those assigned exclusively to the production of bread or bakery products or the security service of the establishment;

(2) also excludes those assigned exclusively to service at tables or counters where foodstuffs to be consumed on the premises are offered for sale in accordance with the second paragraph;

(3) also excludes one other person who, as the person operating the commercial establishment or his mandatary, is usually responsible for managing the establishment during the hours set out in section 2.

Exceptions

7. The public may also be admitted to a commercial establishment outside the hours set out in section 2 and on Sundays and on the days listed in section 3, provided that

(1) the establishment principally offers for sale, at all times, only the following products or some of the following products: pharmaceutical, hygienic or sanitary products, newspapers, periodicals, books, tobacco or articles required for the use of tobacco;

(2) the establishment principally offers for sale, at all times, only the following products or some of the following products: motor oil, fuel, newspapers, periodicals, books, tobacco or articles required for the use of tobacco.

Secondary lines

Any other products offered for sale as secondary lines by an establishment to which subparagraph 1 or 2 of the first paragraph applies and to which the public may be admitted in accordance with the first paragraph, shall be limited at all times to some or all of the following: inedible products with a retail price of less than \$50, flowers, foodstuffs or other grocery products.

Restriction

However, the public may be admitted in accordance with the first paragraph to an establishment offering foodstuffs for sale in accordance with the second paragraph only if, outside the hours set out in section 2 and on Sundays and on the days listed in section 3, not more than 4 persons attend to the operation of the establishment or of the separate and partitioned area thereof where such foods are offered for sale.

Interpretation

For the purposes of the third paragraph,

"persons"

(1) the word "persons"

(a) excludes those assigned exclusively to the production of bread or bakery products or the security service of the establishment;

(b) also, in the case of an establishment offering pharmaceutical products for sale in accordance with subparagraph 1 of the first paragraph, excludes professionals governed by the Pharmacy Act (R.S.Q., chapter P-10) and persons assigned exclusively to the preparation of medicaments;

(c) also excludes those assigned exclusively to service at tables or counters where foodstuffs to be consumed on the premises are offered for sale;

(d) also excludes one other person who, as the person operating the commercial establishment or his mandatary, is usually responsible

for managing the establishment during the hours set out in section 2;

"separate and partitioned area of the establishment"

(2) the expression "separate and partitioned area of the establishment" means an area of the establishment laid out in such a way that it is impossible at all times for any person whatsoever to have access, at the same time, to the products principally offered for sale in the other part of the establishment and to the foodstuffs.

Restriction

The third paragraph does not apply where the foodstuffs offered for sale are limited to candies, potato chips or other foods of the same nature, or beverages.

Exceptions

8. The public may also be admitted to a commercial establishment outside the hours set out in section 2 and on Sundays and on the days listed in section 3, provided that the only articles offered for sale at all times are

- (1) works of art or handicrafts or both;
- (2) flowers or inedible horticultural products or both;
- (3) antiques or secondhand merchandise or both.

Precision

The provisions of the first paragraph apply to any establishment that offers for sale, in accordance with subparagraph 1, 2 or 3 of the first paragraph the articles mentioned therein, even where inedible products with a retail price of less than \$50 are also offered for sale.

Exception

9. The public may also be admitted to a commercial establishment outside the hours set out in section 2 and on Sundays and on the days listed in section 3, provided that only foodstuffs or other products are offered for sale at all times as accessories to services rendered for the performance of a leasing contract for goods or services.

Precision

The provisions of the first paragraph apply even if the establishment also offers for sale inedible products with a retail price of less than \$50, candies, potato chips or other foods of the same nature, or beverages, newspapers, periodicals, books, tobacco or articles required for the use of tobacco.

Exception for location

10. The public may also be admitted to a commercial establishment outside the hours set out in section 2 and on Sundays and on the days listed in section 3, provided that the establishment is situated in one of the following places:

(1) a place where sports activities are held or a cultural centre, provided that the only products offered for sale at all times are some or all of the following: products connected with the activity being carried out, inedible products with a retail price of less than \$50 or meals, foodstuffs or alcoholic beverages to be consumed on the premises;

(2) a hospital centre within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5);

(3) an air terminal.

Religious
beliefs

11. The Minister may, upon a written application from a person who closes all his commercial establishments weekly on a day other than Sunday by reason of obligations imposed by his religious beliefs, authorize that the public be admitted on Sundays between 8:00 a.m. and 5:00 p.m. to any such commercial establishments to which they may not be admitted on Sundays under this Act, provided that

(1) the person makes the application in respect of all the establishments to which he wishes the public to be admitted on Sundays;

(2) the application indicates the civic address and the location of each establishment;

(3) the application is supported by a declaration signed by the person, attesting that his religious beliefs oblige him to close all his establishments on a day other than Sunday and that he closes them on that day;

(4) between 8:00 a.m. and 5:00 p.m. on Sundays, not more than 4 persons attend to the operation of each establishment covered by the application.

Transfer
prohibited

No such authorization may be transferred. It may not be granted in respect of a space or stall in a market.

Revocation
of authoriza-
tion

The Minister may revoke any authorization granted under this section. A notice of every authorization or revocation, as the case may be, shall be published by the Minister in the *Gazette officielle du Québec*.

Municipali-
ties
near provin-
cial
limits

12. The Minister may, upon a written application from a local municipality whose territory is situated near the territorial limits of Québec and for the period he determines, authorize that the public also be admitted to the commercial establishments situated in that

territory outside the hours set out in section 2 and on Sundays and on the days listed in section 3.

Criteria The Minister shall, before giving his authorization, take into account the hours and days of admission of the public to commercial establishments situated in areas adjacent to that territory.

Revocation of authorization The Minister may revoke any authorization granted under this section, and shall give notice of every authorization or revocation, as the case may be, in the *Gazette officielle du Québec*.

Tourist area **13.** The Minister may, upon a written application from a local municipality and for the period and area he determines, authorize that the public also be admitted to the commercial establishments situated in a tourist area in the territory of that municipality outside the hours set out in section 2 and on Sundays and on the days listed in section 3.

Opinion Before granting such authorization, the Minister shall seek the opinion of the Minister of Tourism concerning the touristic nature of the area and the period requested in the application.

Notice The Minister shall give notice of the authorization in the *Gazette officielle du Québec*.

Special events **14.** The Minister may, upon a written application, authorize that the public also be admitted to commercial establishments outside the hours set out in section 2 and on Sundays and on the days listed in section 3, on the occasion of a special event such as a festival, fair, show or exhibition.

Precedence **15.** Sections 12, 13 and 14 shall take precedence over any other provision of this division.

DIVISION III

INSPECTION

Inspector **16.** The Minister or a local municipality may authorize any person to act as an inspector for the purpose of ascertaining compliance with this Act.

Powers of inspector Any person so authorized to act as an inspector, or any peace officer, may, in the performance of his duties,

(1) enter, at any reasonable time, any commercial establishment and carry out an inspection;

(2) examine and make copies of the books, registers, accounts, files or other documents relating to the activities of the establishment ;

(3) require any information relating to the application of this Act and the production of any document in connection therewith.

Access to
documents

Any person who has custody, possession or control of the books, registers, accounts, files or other documents must, on request, make them available to the person carrying out the inspection.

Identification

17. Any person carrying out an inspection must, on request, identify himself and produce a certificate of his capacity or, where applicable, his insignia.

Hindering
prohibited

18. No person may hinder any person carrying out an inspection, mislead him by concealment or false declarations, refuse to provide him with any information or document he is entitled to require or examine under this Act, or conceal or destroy any such information or document.

DIVISION IV

PENAL PROVISIONS

Interpreta-
tion

19. In this division, the expression “person operating a commercial establishment” includes any mandatary thereof who is responsible for the management of the establishment, and “person employed by him” includes any person employed by the person operating the commercial establishment or by his mandatary, regardless of the method of remuneration.

Admission
outside
permitted
times

20. No person operating a commercial establishment, or any person employed by him, may admit any member of the public to the establishment outside the hours during which or the days on which the public may be admitted.

Presence
after
closing
time

21. No person operating a commercial establishment, or any person employed by him, may permit the presence of any member of the public in the establishment more than 30 minutes after the time at which the public may no longer be admitted.

Advertizing

22. No person operating a commercial establishment may advertize or cause to be advertized that the public may be admitted to that establishment at a time or on a day when the public may not be admitted.

Offence
and
penalty

23. Any person operating a commercial establishment who contravenes a provision of section 20 is guilty of an offence and is liable to a fine of not less than \$1 500 and, in the case of a second or subsequent conviction, to a fine of not less than \$3 000.

Amount
of fine

In determining the amount of the fine, the court shall take into account the advantages gained and revenue derived from the operation of the commercial establishment.

Offence
and
penalty

24. Any person operating a commercial establishment who contravenes a provision of section 18, 21 or 22, and any person employed by him who contravenes a provision of section 18, 20 or 21, is guilty of an offence and is liable to a fine of \$500 to \$1 500 or, in the case of a second or subsequent conviction, to a fine of \$1 500 to \$3 000.

Offence
and
penalty

25. In the case of an act which contravenes any provision of section 18 or section 20, any person operating a commercial establishment who ordered, authorized or recommended such an act, or who consented thereto, is guilty of an offence and is liable, in the case of an act contravening a provision of section 18, to the fine provided for in section 24, and in the case of an act contravening a provision of section 20, to the fine provided for in section 23.

Offence
and
penalty

26. In the case of an act which contravenes any provision of section 20 or section 22 where the person operating the commercial establishment is not the owner of the immovable in which the establishment is situated, the owner of that immovable, if he ordered, authorized or recommended the act or consented to it, is guilty of an offence and is liable, in the case of an act contravening a provision of section 20, to the fine provided for in section 23, and in the case of an act contravening a provision of section 22, to the fine provided for in section 24.

Penal
proceedings

27. Penal proceedings for an offence under a provision of this Act may be brought before a municipal court.

Fine and
costs

The fine and costs imposed by the municipal court as punishment for an offence under a provision of this Act belong to the municipality and form part of its general fund, with the exception of the portion of the costs remitted by the collector to another prosecutor who assumed expenses relating to the prosecution.

DIVISION V

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Inoperative
clauses

28. Any clause of a lease or other agreement by which a person operating a commercial establishment undertakes to admit the public to his commercial establishment

- (1) before 8:30 a.m. from Monday to Saturday;
 - (2) after 6:00 p.m. on Mondays, Tuesdays and Wednesdays;
 - (3) after 9:00 p.m. on Thursdays and Fridays;
 - (4) after 5:00 p.m. on Saturdays;
 - (5) on Sundays,
- is inoperative.

Existing
authoriza-
tions

29. Every authorization granted by the Minister under section 5.3 of the Act respecting commercial establishments business hours (R.S.Q., chapter H-2) remains in force for the period mentioned in it.

Time
limit for
compliance

30. Every person operating a commercial establishment who, under the Act respecting commercial establishments business hours, was governed by standards less restrictive than the standards provided for under this Act, has until 1 January 1991 to comply with this Act.

c. H-2,
replaced

31. This Act replaces the Act respecting commercial establishments business hours.

c. D-2,
s. 9, am.

32. Section 9 of the Act respecting collective agreement decrees (R.S.Q., chapter D-2) is amended by replacing the words "Act respecting commercial establishments business hours (chapter H-2)" in the second and third lines of the third paragraph by the words "Act respecting hours and days of admission to commercial establishments (1990, chapter 30)".

c. P-9.1,
s. 60, am.

33. Section 60 of the Act respecting liquor permits (R.S.Q., chapter P-9.1) is amended by replacing the words "Act respecting commercial establishments business hours (chapter H-2)" in the fourth and fifth lines by the words "Act respecting hours and days of admission to commercial establishments (1990, chapter 30)".

c. S-13,
s. 21,
replaced

34. Section 21 of the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13) is replaced by the following section:

Applicable
Act

“21. The Act respecting hours and days of admission to commercial establishments (1990, chapter 30) applies to the Corporation.”

Concordance

35. In any special Act respecting a municipality and in any regulation, order in council, order, contract or other document, any reference to the Act respecting commercial establishments business hours shall, taking into account the context, constitute a reference to this Act.

Restriction

36. Notwithstanding the provisions of this Act, a permit issued under the Act respecting liquor permits (R.S.Q., chapter P-9.1) may be used only in accordance with the said Act.

Precedence

37. The provisions of this Act shall take precedence over the provisions of any other general law or special Act concerning municipal matters and over any municipal by-law.

Minister
responsible

38. The Minister of Industry, Trade and Technology is responsible for the application of this Act.

Coming
into force

39. This Act comes into force on 22 June 1990.