

NATIONAL ASSEMBLY
Thirty-third Legislature, first session

1987, chapter 12 TOURIST ESTABLISHMENTS ACT

Bill 152

Introduced by Mr Yvon Picotte, Minister of Recreation, Fish and Game

Introduced 13 November 1986

Passage in principle 4 December 1986

Passage 26 March 1987

Assented to 26 March 1987

Coming into force: on the date fixed by the Government

Acts amended:

Cities and Towns Act (R.S.Q., chapter C-19)

Municipal Code of Québec (R.S.Q., chapter C-27.1)

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

Act respecting the Ministère du Loisir, de la Chasse et de la Pêche (R.S.Q., chapter M-30.1)

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

Meals and Hotels Tax Act (R.S.Q., chapter T-3)



CHAPTER 12

Tourist Establishments Act

[Assented to 26 March 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

SCOPE

Scope

1. This Act applies to tourist establishments designed to offer to the public, in return for payment, sleeping accommodations, restaurant service or camping sites.

Tourist
establish-
ment

For the purposes of this Act, a tourist information office whose main activity is to offer information to the public on sleeping accommodations, restaurants, camping sites or tourist attractions in Québec is deemed a tourist establishment.

Outfitting
operation

2. Only subparagraphs 9, 13 and 15 of section 36, paragraphs 1, 2 and 6 of section 37 and sections 39 to 42 of this Act apply to an outfitting operation within the meaning of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) and the Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., chapter D-13.1).

Binding
effect

3. This Act is binding on the Government and government departments and agencies.

DIVISION II

PERMITS

§ 1.—*Application for and issue of permits*

Compulsory permit **4.** No person may operate a tourist establishment or lead to believe that he operates such an establishment unless he holds a permit to that effect.

Tourist information office **5.** Only a non-profit corporation, an intermunicipal board, an urban or regional community empowered to promote tourism or a municipality other than a regional county municipality may hold a permit to operate a tourist information office.

Application **6.** A person wishing to obtain or renew a permit is required to make a written application to the Minister according to the rules prescribed by regulation.

Legal person If the application is made by a legal person, it shall be submitted by a duly mandated director or officer.

Statement The person shall also produce with his application for a permit a statement of rents for sleeping accommodations or camping sites, as the case may be.

Amendment The person may amend the statement provided he notifies the Minister in writing and pays the duties prescribed by regulation.

Sworn statement **7.** Every person applying for a permit or for renewal of a permit is required to file a sworn statement and furnish the attestations prescribed by regulation.

Duties **8.** The Minister shall issue or renew a permit if the duties prescribed by regulation are paid and if the other conditions prescribed by this Act and the regulations are fulfilled.

Term **9.** The term of a permit is twelve months. The Minister may, nevertheless, fix a shorter term in the cases prescribed by regulation.

Untransferability **10.** Rights conferred by a permit cannot be validly transferred to another person.

§ 2.—*Suspension, refusal or cancellation of permit*

Refusal **11.** The Minister may refuse to issue a permit or suspend, cancel or refuse to renew a permit if

(1) the person applying for the permit does not meet the conditions prescribed by this Act and the regulations;

(2) the person applying for the permit has, in the last three years, been convicted of or pleaded guilty to an offence in contravention of this Act, the Public Buildings Safety Act (R.S.Q., chapter S-3), the Environment Quality Act (R.S.Q., chapter Q-2), the Consumer Protection Act (R.S.Q., chapter P-40.1), the Agricultural Products, Marine Products and Food Act (R.S.Q., chapter P-29) or the Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30), unless he has been pardoned;

(3) the permit holder no longer meets the conditions prescribed by this Act and the regulations for obtaining or renewing a permit.

Hearing

12. The Minister, before refusing to issue a permit or suspending, cancelling or refusing to renew a permit, shall give the applicant or permit holder, as the case may be, the opportunity to be heard.

Substantiated decision

13. The decision of the Minister must give reasons. The person in respect of whom the decision is made shall be informed thereof in writing.

Effect

14. The suspension or cancellation of a permit has effect from the date of receipt of the decision of the Minister by the holder.

§ 3.—*Appeal*

Appeal to the Provincial Court

15. An appeal lies from the decision of the Minister to the Provincial Court, on any question of law, by

(1) any person whose permit application has been refused;

(2) any person whose permit has been suspended, cancelled or not renewed.

Petition

16. An appeal is brought by filing a motion in the office of the Provincial Court in the judicial district where the appellant is domiciled or has its head office or his or its establishment, within thirty days of the date of receipt of the decision of the Minister by the appellant.

Service

The motion must be served on the Minister before it is filed.

Transmission of record

17. Upon service of the motion, the Minister shall transmit the record respecting the decision appealed from to the Provincial Court.

Decision

18. Subject to any additional proof it may require, the court shall render its decision on the record transmitted to it by the Minister, after having given the parties an opportunity to be heard.

- Execution **19.** An appeal does not suspend the execution of the decision of the Minister unless the court decides otherwise.
- Final decision **20.** The decision of the Provincial Court is without appeal.
- Rules of practice **21.** The Provincial Court may, in the manner prescribed in article 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), adopt any rules of practice considered necessary for the carrying out of this division.

DIVISION III

CLASSIFICATION AND POSTING

- Classes of establishments **22.** The Minister may determine classes and subclasses of tourist establishments according to the rules prescribed by regulation.
- Classification **23.** In each class and subclass of tourist establishments, the Minister may classify tourist establishments according to the rules prescribed by regulation.
- Posting of classification **24.** Every permit holder whose tourist establishment has been classified under this Act shall post the classification, according to the rules prescribed by regulation, in a conspicuous place outside the establishment.
- Condition **The permit holder, when using or posting the classification, shall use or post it without any alteration.**
- Review **25.** Every permit holder whose tourist establishment has been classified under this Act and who is dissatisfied with the classification may apply to the Minister for review of the decision.
- Time limit **26.** The application for review of the classification of a tourist establishment must be presented to the Minister within 30 days of the date of classification.
- Representations **27.** Before deciding the application, the Minister shall allow the interested person to make representations.
- Confirmation or amendment **28.** When reviewing a decision, the Minister may confirm or amend it.
- Final decision **29.** Decisions of the Minister made under sections 27 and 28 are final and without appeal.

Posting of
permit

30. Every person holding a permit to operate a tourist establishment shall post the permit permanently in a conspicuous place in the establishment.

Posting of
rents

The permit holder shall also post the rents for sleeping accommodations or camping sites, the exchange rates on foreign currency offered by the tourist establishment and the price of meals offered to customers, according to the rules prescribed by regulation.

Restriction

31. No person may demand a higher price from a customer than the posted price.

Reserved
expression

32. No person other than the holder of a permit to operate a tourist information office may display a sign or poster bearing the expression "tourist information" or any other expression or pictogram prescribed by regulation indicating or suggesting that the office is a tourist information office.

DIVISION IV

INSPECTION

Powers of
inspector

33. Every person authorized by the Minister to act as an inspector for the purposes of this Act may, in performing his duties,

(1) enter a tourist establishment at any reasonable time and inspect it;

(2) take photographs of the premises and equipment;

(3) require that extracts from any book, account, register, record or document be communicated to him for examination or reproduction where there is reasonable cause to believe that it includes information relating to the enforcement of this Act or the regulations thereunder.

Assistance

34. The owner or the person in charge of a tourist establishment that is being inspected and any person present shall assist the inspector in the performance of his duties.

Identifica-
tion

On request, the inspector shall identify himself and produce the certificate, signed by the Minister, attesting his capacity.

Interference

35. No person may in any manner hinder an inspector in the performance of his duties, mislead him by false declarations or refuse to provide him with information he is entitled to obtain under this Act.

DIVISION V

REGULATIONS

Regulations

36. The Government may, by regulation,

(1) prescribe the standards of classification and subclassification of tourist establishments, and designations of classes and subclasses;

(2) prescribe classes and subclasses of tourist establishments that are not subject to this Act or to some of its provisions;

(3) prescribe rules for classifying tourist establishments, and determine cases in which a classification may be changed or withdrawn;

(4) prescribe the qualifications of applicants for a permit or for the renewal of a permit;

(5) prescribe the form and tenor of the declaration under oath to be produced by an applicant for a permit or for the renewal of a permit, according to the classes and subclasses of tourist establishments;

(6) determine, as the case may be, attestations to be produced by a person applying for a permit or for the renewal of a permit and the circumstances under which they may be exigible, according to the classes and subclasses of tourist establishments;

(7) prescribe the form and tenor of the statement of rents for sleeping accommodations or camping sites to be produced by an applicant for a permit or the renewal of a permit and determine the duties payable for any amendment to the statement of rents;

(8) determine the form, tenor and exigible duties of a permit and the cases in which a permit may be issued for a period of less than twelve months;

(9) prescribe accommodation standards relating to safety, hygiene, lodging and food for each class and subclass of tourist establishment;

(10) prescribe the minimum services to be offered to customers for each class and subclass of tourist establishment;

(11) prescribe the form and tenor of the registers to be kept in each class and subclass of tourist establishment and determine the period for which the registers are to be kept;

(12) prescribe rules on the posting of permits, classification, exchange rates on foreign currency and prices charged to customers for meals or for renting sleeping accommodations or camping sites, as the case may be, for each class and subclass of tourist establishment;

(13) prescribe, for each class and subclass of tourist establishment, the maximum deposit, based on the duration of stay and the price of services offered, a tourist establishment operator may require from a customer, and determine the conditions on which the operator may retain that deposit;

(14) prescribe the form and tenor of the signs and pictograms posted outside a tourist information office and determine rules on the posting of the signs and pictograms;

(15) prescribe which regulations under this section carry a penalty under paragraphs 5 and 6 of section 37 for any contravention.

Accommodation
standards

The accommodation standards adopted under subparagraph 9 of the first paragraph which apply to an outfitting operation shall be prepared in cooperation with the Minister responsible for the administration of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1).

DIVISION VI

PENALTIES

Offences

37. Every person who

(1) makes a false declaration in a document prescribed by this Act and the regulations;

(2) produces an attestation required by this Act and the regulations thereunder that is inaccurate or which he ought to have known was inaccurate;

(3) destroys, removes, hides, alters or obliterates a permit issued under this Act or a sign or poster required by this Act;

(4) uses any name other than the name written on the permit;

(5) contravenes any provision of section 10, 24, 30 or 31, of the first paragraph of section 34, of section 35 or of any regulation prescribed under section 36 of this Act; or,

(6) carries on an outfitting operation and contravenes any regulation prescribed under subparagraphs 9 and 15 of section 36 of this Act,

is guilty of an offence.

Offences
and penalty

38. Every person who contravenes sections 4 and 32 is guilty of an offence and liable, in addition to costs, to a fine of not less than

\$500 nor more than \$2 000 for each day or part of a day during which the offence continues and, for any subsequent offence within two years of conviction for the same offence, to a fine of not less than \$2 000 nor more than \$4 000.

Penalty **39.** Every person who contravenes section 37 is liable, in addition to costs, to a fine of not less than \$200 nor more than \$500.

Party to an offence **40.** Every person who allows, abets, counsels or commands another to commit an offence under this Act and the regulations thereunder is guilty of the offence as if he had himself committed the offence, and of any other offence committed by the other as a result of the consent, abetment, counsel or command, if he knew or should have known that his action would probably result in the commission of the offences.

Party to an offence **41.** Every person who, by act or omission, aids another in committing an offence under this Act and the regulations thereunder is guilty of the offence as if he had committed it himself, if he knew or should have known that his act or omission would probably result in aiding in the commission of the offence.

Prosecution **42.** Any prosecution under this Act shall be brought in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

DIVISION VII

TRANSITIONAL AND FINAL PROVISIONS

c. H-3, replaced **43.** This Act replaces the Hotels Act (R.S.Q., chapter H-3).

Regulations in force **44.** Regulations made under a provision replaced by this Act shall remain in force to the extent that they are consistent with this Act until they are amended, replaced or repealed by regulations made under this Act.

Valid permit **45.** Every permit issued under the Hotels Act and in force on (*insert here the date of coming into force of this Act*) shall remain valid until the date prescribed for its expiry.

CITIES AND TOWNS ACT

c. C-19, s. 29.11, added **46.** The Cities and Towns Act (R.S.Q., chapter C-19) is amended by inserting, after section 29.10 enacted by section 2 of chapter 31 of the statutes of 1986, the following section:

Tourist information office **“29.11** A corporation may, in accordance with the Act respecting tourist establishments (1987, chapter 12), operate a tourist information office.”

MUNICIPAL CODE OF QUÉBEC

c. C-27.1,
s. 14.9,
added

47. The Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by inserting, after section 14.8 enacted by section 1 of chapter 32 of the statutes of 1986, the following section:

Tourist
information
office

“14.9 A local corporation may, in accordance with the Act respecting tourist establishments (1987, chapter 12), operate a tourist information office.”

ACT RESPECTING THE CONSERVATION AND
DEVELOPMENT OF WILDLIFE

c. C-61.1,
s. 52, am.

48. Section 52 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is amended by inserting, after the first paragraph, the following paragraph:

Accommo-
dation
standards

“Notwithstanding the first paragraph, every outfitting operation shall comply with the accommodation standards adopted under subparagraph 9 of section 36 of the Act respecting tourist establishments (1987, chapter 12) which apply to outfitting operations.”

c. C-61.1,
s. 100, am.

49. Section 100 of the said Act is amended by inserting the words “, in cooperation with the Minister of Tourism,” in the first line after the word “may”.

ACT RESPECTING THE MINISTÈRE DU LOISIR,
DE LA CHASSE ET DE LA PÊCHE

c. M-30.1,
s. 14,
repealed

50. The Act respecting the Ministère du Loisir, de la Chasse et de la Pêche (R.S.Q., chapter M-30.1) is amended by repealing section 14.

ACT RESPECTING LIQUOR PERMITS

c. P-9.1,
s. 39, am.

51. Section 39 of the Act respecting liquor permits (R.S.Q., chapter P-9.1) is amended by replacing the words “Hotels Act (chapter H-3)” in paragraph 3 by the words “Act respecting tourist establishments (1987, chapter 12)”.

c. P-9.1,
s. 45, am.

52. Section 45 of the said Act is amended by replacing the words “Hotels Act” in subparagraph 3 by the words “Act respecting tourist establishments”.

c. P-9.1,
s. 76, am.

53. Section 76 of the said Act is amended

(1) by replacing the word “hotel” in the third line of the first paragraph by the word “tourist”;

(2) by replacing the words “Hotels Act” in the fourth line of the first paragraph by the words “Act respecting tourist establishments”;

(3) by replacing the word “hotel” in the third line of the second paragraph by the word “tourist”.

MEALS AND HOTELS TAX ACT

c. T-3,
s. 5, am.

54. Section 5 of the Meals and Hotels Tax Act (R.S.Q., chapter T-3) is amended by replacing the words “Hotels Act (chapter H-3)”, in subsection 4, by the words “Act respecting tourist establishments (1987, chapter 12)”.

Minister
responsible

55. The Minister of Tourism is responsible for the administration of this Act.

Coming into
force

56. This Act comes into force of the date fixed by the Government.