

NATIONAL ASSEMBLY
Thirty-third Legislature, first session

1987, chapter 61

**AN ACT TO AMEND THE DAIRY PRODUCTS
AND DAIRY PRODUCTS SUBSTITUTES ACT**

Bill 133

Introduced by Mr Michel Pagé, Minister of Agriculture, Fisheries and Food

Introduced 11 November 1986

Passage in principle 7 April 1987

Passage 23 June 1987

Assented to 23 June 1987

Coming into force: 23 June 1987

Act amended:

Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30)





CHAPTER 61

An Act to amend the Dairy Products and Dairy Products Substitutes Act

[Assented to 23 June 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. P-30,
s. 2.1,
added

1. The Dairy Products and Dairy Products Substitutes Act (R.S.Q., chapter P-30) is amended by inserting, after section 2, the following section:

Destruction
of dairy pro-
ducts

“2.1 Any operator of a plant, producer, milk dealer, distributor, manufacturer of substitutes, or seller or storer of dairy products or substitutes shall immediately destroy any dairy product or substitute that is unfit for human consumption or deteriorated so that it is unfit for human consumption.

Destruction
of equip-
ment

Any such person shall also immediately destroy any dirty or insalubrious equipment.”

c. P-30,
s. 23.1,
added

2. The said Act is amended by inserting, after section 23, the following section:

Prohibition

“23.1 No person shall manufacture, offer for sale, sell, deliver, convert, keep, exhibit or transport for sale any substitute not designated in the regulations.”

c. P-30,
s. 42, am.

3. Section 42 of the said Act is amended

(1) by inserting, after paragraph *f*, the following paragraph:

“(f.1) designate the substitutes that may be manufactured, offered for sale, sold, delivered, converted, kept, exhibited or transported for sale;”;

(2) by adding, at the end of paragraph *m*, the words “ and of any premises where animals used for the production of milk are housed”.

c. P-30,
s. 48,
replaced
Powers of
inspector

4. Section 48 of the said Act is replaced by the following sections:

“**48.** Every person authorized by the Minister to act as an inspector for the purposes of this Act who believes, on reasonable grounds, that there are products or other objects to which this Act applies in a vehicle, in an establishment where dairy products or substitutes are manufactured, and its dependancies, or in premises used for trading in or storing such products, for their direct delivery for consumption or for housing animals used for the production of milk may, in the performance of his duties,

(1) enter and inspect such establishment and dependancies or premises at any reasonable time;

(2) stop and inspect any vehicle used for the transportation of dairy products or substitutes;

(3) inspect any dairy product or substitute or other object to which this Act applies and take samples free of charge;

(4) take photographs of such dairy product, substitute, object, vehicle, establishment and dependancies or premises;

(5) require communication of any document relating to such products if he believes, on reasonable grounds, that it contains information relevant to the administration of this Act or the regulations, for examination or in order to obtain extracts therefrom.

Assistance

The owner or person in charge of the establishment, premises or vehicle is required to assist the inspector in the performance of his duties and to place at his disposal all the books, invoices and other relevant documents that he wishes to examine.

Seizure

“**48.1** The inspector may seize any dairy product or substitute and any object capable of being used for its manufacture if he believes, on reasonable grounds, that an offence against this Act or the regulations has been committed in relation to or by means of the dairy products, substitute or object.

Custody	<p>“48.2 The owner or the person who had possession of the thing seized under section 48.1 shall have custody of it. The inspector may, however, if he considers it advisable, remove the thing seized to other premises for safekeeping.</p>
Detention	<p>The thing seized shall be detained until a decision is made under section 48.3, 48.4, 48.5, 48.7, 48.8 or 48.9 or, if proceedings are instituted, until the court decides by judgment.</p>
Return to owner	<p>“48.3 The thing seized shall be returned to its owner or to the person who had possession of it</p> <p>(1) after the expiration of ninety days from the date of seizure unless proceedings have been instituted; or</p> <p>(2) when the inspector is of opinion, after verification during that time, that no offence against this Act or the regulations has been committed or that the owner or the person who had possession of the thing seized has, since the seizure, complied with the provisions of this Act or the regulations.</p>
Application for release	<p>“48.4 The owner or the person who had possession of the thing seized may, at any time, apply to a justice of the peace to obtain the release of the thing.</p>
Service	<p>The application shall be served on the seizer or, if proceedings have been instituted, on the prosecutor.</p>
Application granted	<p>The justice of the peace shall grant the application if he is satisfied that the applicant will suffer serious or irreparable damage if detention of the property is maintained and the release of the property will not hinder the course of justice.</p>
Confiscation	<p>“48.5 Every thing that has been seized shall be confiscated ninety days after the day it was seized if its owner or the person who had possession of it is unknown or cannot be found, and shall be disposed of as the Minister may direct.</p>
Prolongation	<p>“48.6 A justice of the peace may, on the application of the seizer, order that the period of detention be prolonged for a maximum of ninety days.</p>
Penalty	<p>“48.7 The judge who imposes a penalty for an offence against this Act or the regulations may, on the application of one of the parties, order that a thing seized under section 48.1 be confiscated.</p>
Disposition	<p>The Minister shall prescribe the manner of disposing of the thing confiscated under this section.</p>

Notice of
destruction

“48.8 Every inspector who believes, on reasonable grounds, that a dairy product or substitute is unfit for human consumption or deteriorated so that it is unfit for human consumption may, whether or not the dairy product or substitute has been seized, require that it be destroyed by the person having possession of it by giving that person notice to that effect by way of a writing given to him or to his representative or employee or sent to him by registered mail at his business address.

Supervision

The destruction shall be carried out under the supervision of an inspector.

Confiscation

Any dairy product or substitute unfit for human consumption or deteriorated so that it is unfit for human consumption which is not destroyed in accordance with this section shall be confiscated by an inspector and destroyed at the expense of the person having possession of it as the Minister may direct.

Destruction

“48.9 Every inspector who believes, on reasonable grounds, that a dairy product or substitute is otherwise not in conformity with this Act or the regulations may apply to a judge or court for an order requiring the person having custody of the dairy product or substitute to destroy it under the supervision of an inspector, whether the product has been seized or not.

Prohibition

“48.10 No person may, unless authorized by an inspector, sell or offer for sale a seized or confiscated dairy product or substitute, remove or allow the removal of the seizure or confiscation slip from such a dairy product or substitute or its container, or remove or break the seal affixed thereto by the inspector.

Order of
Minister

“48.11 The Minister may order the operator of a place contemplated in the first paragraph of section 48 to cease operations in the place, or to limit them as he determines, for fifteen days or less, where in his opinion they are an immediate source of danger to the life or health of consumers.

Content

The order shall state the grounds for the Minister's decision, refer to any minutes, analysis or survey report or other technical report on which his order is based and advise the operator that he may obtain a copy of any such document on request.

Effect

The order takes effect upon its service on the operator of the place.”

c. P-30,
s. 50.1, am.

5. Section 50.1 of the said Act, amended by section 84 of chapter 58 of the statutes of 1986, is again amended by replacing the word

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Dairy products

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and figure "section 49" in the second line by the words and figures "section 48.10 or 49".

c. P-30,
s. 58.1,
added

6. The said Act is amended by inserting, after section 58, the following section:

Presumption

"58.1 In the absence of any proof to the contrary, every person having possession of a quantity of a dairy product or substitute in excess of the needs of his own consumption is presumed to intend it for sale."

Coming into
force

7. This Act comes into force on 23 June 1987.