

1986, chapter 53

AN ACT TO AMEND THE ANIMAL HEALTH PROTECTION ACT

Bill 69

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

Introduced 15 May 1986

Passage in principle 3 June 1986

Passage 19 June 1986

Assented to 19 June 1986

Coming into force: by order of the Government

— 3 September 1986: ss. 1 to 20

G.O., 1986, Part 2, p. 2415

Act amended:

Animal Health Protection Act (R.S.Q., chapter P-42)





CHAPTER 53

An Act to amend the Animal Health Protection Act

[Assented to 19 June 1986]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

1. Section 2 of the Animal Health Protection Act (R.S.Q., chapter P-42) is amended

(1) by replacing paragraph 1 by the following paragraph:

“animal”

“(1) “animal” means any breeding animal and its fertilized eggs and ova;”;

(2) by adding, at the end of paragraph 2, the words “and is designated by regulation”;

(3) by adding, at the end of paragraph 3, the words “and designated by regulation”.

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

2. Section 3 of the said Act is amended

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

“(1.1) determine the symptoms of a contagious or parasitic disease for the purposes of section 3.1;”;

(2) by replacing paragraph 2 by the following paragraph:

“(2) prohibit the sale, offering for sale, exhibition, keeping and transportation for the purpose of sale or exchange of animals affected or suspected of being affected with a contagious or parasitic disease

or of being carriers of the agent of such a disease or to prescribe the conditions and modalities thereof;”;

(3) by replacing paragraph 5 by the following paragraph:

“(5) order the segregation, treatment, marking, disposal or slaughtering of animals affected or suspected of being affected with a contagious or parasitic disease or of being carriers of the agent of such a disease, to prescribe the conditions and modalities thereof and to determine the measures to be taken in order to check the propagation of such a disease;”;

(4) by striking out paragraph 7.

c. P-42, s.
3.1, added

3. The said Act is amended by inserting, after section 3, the following section:

Obligation
to report

“3.1 The owner or possessor of an animal shall report forthwith to the officer designated by the Minister or to a veterinary surgeon the presence of any symptom of a contagious or parasitic disease determined by regulation and observed in the animal.

Obligation
to report

Every veterinary surgeon shall, without delay, report to the officer designated by the Minister any contagious or parasitic disease which he has diagnosed, which he suspects, on serious grounds, of affecting an animal or a symptom of which has been reported to him under the first paragraph.”

c. P-42, s.
5, repealed

4. Section 5 of the said Act is repealed.

c. P-42, s.
7, repealed

5. Section 7 of the said Act is repealed.

c. P-42, s.
11, repealed

6. Section 11 of the said Act is repealed.

c. P-42, s.
13, replaced

7. Section 13 of the said Act is replaced by the following section:

Inspection
committee

“13. The inspectors appointed for the purposes of this division shall act under the direction of the inspection committee.”

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

8. Section 21 of the said Act is amended by adding the following paragraph:

Contraven-
tion

“The inspection committee may, in the same manner, determine, among the provisions of a regulation referred to in the first paragraph, the provisions the contravention of which is punishable under section 55.44.”

c. P-42, s.
22, repealed

9. Section 22 of the said Act is repealed.

c. P-42, s. 23, am. **10.** Section 23 of the said Act is amended by replacing the figure “26” in paragraph *d* by the figure “28”.

c. P-42, s. 24, am. **11.** Section 24 of the said Act is amended by striking out the second paragraph.

c. P-42, s. 25, am. **12.** Section 25 of the said Act is amended by striking out the words “or of a breeder who, in the cases contemplated in the regulations, artificially inseminates one of his animals” in the fourth, fifth and sixth lines.

c. P-42, ss. 26-29, replaced **13.** Sections 26 to 29 of the said Act are replaced by the following sections:

Artificial insemination **“26.** No person may, for the purposes of the artificial insemination of an animal, collect, keep in his possession, prepare, use, purchase, exchange or give, offer for sale, store, sell in any place, transport, or cause to be transported animal semen that is not fit for insemination or does not meet the standards of sanitation and quality or the collection, conditioning and labelling requirements prescribed by regulation.

Standards **“27.** No person may, for the production, conditioning or preservation of animal semen or for its introduction into the genital canal of a female animal, use premises or equipment that do not meet the standards prescribed by regulation.

Standards No person may use, for the production of semen, a donor animal that does not meet the standards prescribed by regulation.

Regulations **“28.** The Government may make regulations to

(1) prescribe the conditions under which a person may trade in animal semen or keep animal semen in his possession or to restrict those activities and the artificial insemination of animals to categories of persons specified therein;

(2) prescribe classes of permits and the rights, conditions and restrictions relating to each class;

(3) prescribe conditions for the issue and renewal of permits, the form of permits and the fees therefor;

(4) determine the qualifications required of a person applying for a permit and of an employee assigned to activities for which a permit is required;

(5) prescribe standards applicable to the organization, management, direction and operation of any establishment operated for the purposes contemplated in section 24;

(6) prescribe standards respecting the breed, source and other characteristics of the animals which may be artificially inseminated and of those from which semen may be collected and the crossbreeding which may be effected by the artificial insemination of an animal;

(7) prescribe methods to be followed by permit holders for the artificial insemination of animals and for the collection, preservation, distribution and transportation of semen to be used for the artificial insemination of animals;

(8) prescribe standards of sanitation and quality regarding semen to be used for the artificial insemination of animals and the conditions under which it may be collected, conditioned and labelled;

(9) determine the nature, number and frequency of tests to which donor animals may be subjected so as to establish their state of health, genetic value and fecundity;

(10) remove from the application of this Division any category of animals which it determines;

(11) prescribe modalities respecting inspection, seizure or confiscation;

(12) prescribe methods, conditions and modalities respecting the taking and analysis of specimens of animal semen or any other substance and to determine where specimens must be analyzed;

(13) prescribe the books, accounts and registers to be kept by a permit holder and the place where he must keep them, the reports he must make to the Minister, the information such reports must contain and the time when they must be filed;

(14) determine the place where a breeder must store animal semen;

(15) determine, among the provisions of a regulation passed under this section, the provisions the contravention of which is punishable under section 55.44.

Publication
of draft
regulation

The Government shall publish a draft regulation in the *Gazette officielle du Québec* with a notice to the effect that at the expiry of a period of at least forty-five days after the publication, the regulation may be made with or without amendments. The regulation comes into force fifteen days after its publication in the *Gazette officielle du Québec* or on any later date fixed therein."

c. P-42, ss. 32-34, 36, 37, repealed **14.** Sections 32 to 34 and sections 36 and 37 of the said Act are repealed.

c. P-42, s. 45, am. **15.** Section 45 of the said Act is amended

(1) by inserting, after subparagraph *n* of the first paragraph, the following subparagraph:

“(o) determine, among the provisions of a regulation passed under this section, the provisions the contravention of which is punishable under section 55.44.”;

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

Publication
of draft
regulation

“The Government shall publish a draft regulation in the *Gazette officielle du Québec* with a notice to the effect that at the expiry of a period of at least forty-five days after the publication, the regulation may be made with or without amendments. The regulation comes into force fifteen days after its publication in the *Gazette officielle du Québec* or on any later date fixed therein.”

c. P-42, ss. 46-53, repealed **16.** Sections 46 to 53 of the said Act are repealed.

c. P-42, ss. 55.1-55.50, added **17.** The said Act is amended by inserting, after section 55, the following:

“DIVISION IV.1

“VETERINARY MEDICATIONS

Interpreta-
tion

“55.1 In this division, unless the context requires a different meaning,

“medicinal
premix”

“medicinal premix” means a mixture of substances containing a nutriment and a medication and intended for use in the preparation of a medicinal food;

“medicinal
food”

“medicinal food” means a mixture of substances intended for use without processing for the feeding of animals and containing a medicinal premix or a nutriment and a medication, as the case may be.

Permit

“55.2 No person may sell or supply a medication unless he is the holder of a permit issued for that purpose by the Minister and unless it is in the form of a medicinal premix or of a medicinal food.

Permit

In no case may the holder of the permit referred to in the first paragraph sell or supply a medicinal premix to a person who is not the holder of such a permit or of the permit referred to in section 55.3.

Preparation of premix	The holder of the permit referred to in the first paragraph may prepare a medicinal premix or a medicinal food.
Applicability	This section does not apply to a person empowered to prepare, sell or supply medications under the Pharmacy Act (R.S.Q., chapter P-10) or under the Veterinary Surgeons Act (R.S.Q., chapter M-8), as the case may be.
Permit	"55.3 No person may prepare a medicinal food for his own animals or for animals in his custody unless he is the holder of a permit issued for that purpose by the Minister.
Exception	A person may prepare medicinal food for such animals without the permit referred to in the first paragraph where he prepares no more than one kilogram or one litre.
Applicability	This section does not apply to <ol style="list-style-type: none">(1) a person empowered to prepare medications under the Pharmacy Act;(2) a person holding a permit under section 55.2;(3) a person exempted by a regulation passed under paragraph 2 of section 55.9 from holding a permit;(4) a person preparing a medicinal food for an animal which is not and whose products are not intended for human consumption, unless the animal is bred for its fur.
Prescription	"55.4 No person may administer to his own animals or to animals in his custody a medication appearing on the list referred to in section 9 of the Veterinary Surgeons Act which he obtained without a prescription or feed them a medicinal food containing such a medication except on the prescription of a veterinary surgeon.
Register	"55.5 The holder of a permit referred to in section 55.2 shall keep, in accordance with the regulations, a register of the medications, medicinal premixes and medicinal foods that he acquires, uses or disposes of in carrying on his activities.
Waiting period	"55.6 The owner or the person having custody of an animal which has been administered a medication or has consumed a medicinal food who sells the animal or causes it to be sold before the expiry of the waiting period indicated in the prescription of the veterinary surgeon or, in other cases, on the packaging of, or in a document provided with the medication or medicinal food, shall notify the buyer thereof in writing.

Human
consumption

“55.7 No person may, so long as the waiting period indicated in the prescription of a veterinary surgeon or on the packaging of, or in a document provided with a medication or medicinal food has not expired, deliver or send to a slaughterhouse, for the purposes of human consumption, an animal which, to his knowledge, has been administered such a product.

Health
programs

“55.8 Notwithstanding section 17 of the Pharmacy Act and sections 9, 21 and 24 of the Veterinary Surgeons Act, the Minister may, in an emergency, in the public interest or to facilitate the administering of a medication, develop health programs authorizing the sale and administering of medications intended for certain categories of animals.

Committee

Except in an emergency, the Minister shall set up a committee to advise him in developing a program. The committee shall be composed of not less than four members, including a representative of the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation, a representative of the Ordre des pharmaciens du Québec, a representative of the Corporation professionnelle des médecins vétérinaires du Québec and a representative of farm producers.

Content

Every program shall, in particular, specify the nature of the medications, the category of animals concerned, the persons authorized to sell or administer the medications and whether or not the prescription of a veterinary surgeon is required.

Approval

Every program shall be submitted to the Government for approval and possible amendment.

Regulations

“55.9 The Government may make regulations to

(1) prescribe conditions for the issue and renewal of permits, the form of permits and the fees therefor;

(2) exempt a class of persons from holding a permit for the preparation of a medicinal food for his own animals;

(3) prescribe the books, accounts and registers to be kept by a permit holder and the place where he must keep them, the reports he must make to the Minister, the information the reports must contain and the time when they must be filed;

(4) prescribe standards applicable to the organization, management and operation of any establishment operated under a permit;

(5) determine the qualifications required of a person applying for a permit and of an employee assigned to activities for which a permit is required;

(6) prescribe procedures for the storage and preservation of medications, medicinal premixes and medicinal foods in the possession of a permit holder;

(7) prohibit or restrict the administering of certain medications to categories of animals;

(8) prescribe standards respecting advertising by a permit holder;

(9) prescribe modalities of inspection, seizure or confiscation;

(10) prescribe methods, conditions and modalities respecting the taking and analysis of samples of a medication, medicinal premix or medicinal food or of any substance taken from an animal and determine where the sample or specimen must be sent for analysis;

(11) determine, among the provisions of a regulation passed under this section, those provisions the contravention of which is punishable under section 55.43.

Publication
of draft
regulation

The Government shall publish a draft regulation in the *Gazette officielle du Québec* with a notice to the effect that at the expiry of a period of at least forty-five days after the publication, the regulation may be made with or without amendments. The regulation comes into force fifteen days after its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

“DIVISION IV.2

“INSPECTION, SEIZURE AND CONFISCATION

“§ 1.—*Inspection*

Inspection

“**55.10** Every person authorized by the Minister to act as an inspector or analyst for the purposes of this Act who believes on reasonable grounds that there is an animal, a product or equipment to which this Act applies in a vehicle or in premises referred to in paragraph 3 of section 3 or paragraph *c* of section 30 or in premises used for the purposes contemplated in section 24, 55.2 or 55.3 may, in the performance of his duties,

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

(2) inspect any vehicle in which a product, an animal or equipment to which this Act applies is transported or stop any such vehicle to inspect it;

(3) examine any animal, product or equipment, open any receptacle found in the premises or vehicle and take samples or specimens therefrom free of charge;

(4) take photographs of the vehicle, premises, animal, product or equipment;

(5) require the communication, for purposes of examination, reproduction or for making extracts, of any book, account, register, record or document if he believes on reasonable grounds that they contain information relating to the application of this Act or the regulations.

Assistance “**55.11** The owner or the person in charge of a vehicle or of premises being inspected and any person in such vehicle or premises are required to assist an inspector or analyst in the performance of his duties.

Identifica- An inspector or analyst shall, upon request, identify himself and
tion show a certificate signed by the Minister and attesting his quality.

Obstruction “**55.12** No person may, in any manner, hinder the action of an
prohibited inspector or analyst in the performance of his duties, mislead him by
false statements or refuse to give him information he is entitled to obtain
under this Act.

Immunity “**55.13** No inspector or analyst may be prosecuted for acts done
in good faith in the performance of his duties.

“§ 2.—*Seizure and confiscation*

Seizure “**55.14** An inspector may seize any animal, product or equipment
to which this Act applies 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 such animal, product or equipment.

Report “**55.15** The inspector who makes a seizure under section 55.14
shall make a report indicating, in particular,

- (1) the date, time and place of the seizure;
- (2) the circumstances of and grounds for the seizure;
- (3) the description of the animal, product or equipment seized;

(4) the name of the person from whom the animal, product or equipment was seized;

(5) any information by which the owner or possessor of the animal, product or equipment seized may be identified;

(6) the identity and quality of the seizor.

Copy of
report

“55.16 A copy of the report and, if samples or specimens are taken, a sealed sample or specimen shall be given to the person from whom the animal, product or equipment was seized.

Report to
Minister

“55.17 The inspector shall, without delay, send a report in writing to the Minister of every seizure made by him.

Custody

“55.18 The owner or possessor of what has been seized shall have custody of it. The inspector may, if he considers it advisable, transfer it to other premises to be kept there.

Decision

Custody of what has been seized is maintained until a decision in its respect is made in accordance with sections 55.20, 55.21, 55.22, 55.24 and 55.25 or, where proceedings are instituted, until a decision is made by the court.

Prohibition

“55.19 No person may use or remove what has been seized or allow it to be removed.

Return of
seized
animal or
product

“55.20 Every seized animal, product or equipment shall be returned to its owner or possessor on the occurrence of either of the following situations:

(1) if a period of 90 days has expired from the date of seizure and no proceedings have been instituted; or

(2) if the inspector is satisfied, after verification within that time, that no offence against this Act or the regulations has been committed or that the owner or possessor of what has been seized has since complied with the provisions of this Act or the regulations.

Release

“55.21 The owner or possessor of what has been seized may apply to a justice of the peace to obtain the release of it.

Application

The application shall be served on the seizor or, where proceedings are instituted, on the prosecutor.

Require-
ments

The justice of the peace shall grant the application if he is of opinion that the applicant will suffer serious or irreparable prejudice if the seizure of the property is maintained, and that the release of the property will not hinder justice.

- Confiscation** “**55.22** Where the owner or possessor of any seized animal, product or equipment is unknown or cannot be found, the animal, product or equipment shall be confiscated 90 days after the date of seizure. It shall then be disposed of in accordance with the Minister’s instructions.
- Period of retention** “**55.23** On the application of the seizer, a justice of the peace may order that the period of retention be extended for not more than 90 days.
- Confiscation** “**55.24** The justice of the peace who imposes a penalty for an offence against this Act or the regulations may, on the application of any of the parties, where a seizure is made under section 55.14, order the confiscation of what has been seized.
- Disposal** The Minister shall prescribe the manner of disposing of anything seized under this section.
- Infirm or diseased animal** “**55.25** Where an inspector believes on reasonable grounds that there is in an establishment contemplated in section 30 an infirm animal or an animal affected with a contagious or parasitic disease, he may prohibit the sale of the animal and confiscate it to have it destroyed at the expense of the person having possession of it, as the Minister may direct.

“DIVISION IV.3

“PERMITS

- Application** “**55.26** Every application for a permit shall be submitted to the Minister, by the person who intends to use it, in the form and with the documents prescribed by regulation.
- Legal person** If the applicant is a legal person or a partnership, the application shall be submitted by a duly commissioned administrator or partner.
- Requirements** “**55.27** The Minister shall issue the permit if the applicant meets the requirements and pays the fee prescribed by regulation.
- Refusal** The Minister may, after giving the applicant an opportunity to be heard, refuse to deliver a permit for reasons of public interest.
- Conditions** “**55.28** The Minister may subject the issue of a permit to any condition, restriction or prohibition determined by him and indicated on the permit.
- Period of validity** “**55.29** The permit is valid for a period of twelve months, or for a lesser period if the Minister so prescribes.

Renewal	The permit may be renewed on the conditions prescribed by regulation.
Rights	"55.30 The rights conferred by a permit are not transferable.
Requirements	"55.31 After giving the holder an opportunity to present his views, the Minister may suspend, cancel or refuse to renew his permit (1) if the holder no longer meets the requirements prescribed by regulation for the issue or renewal of the permit, as the case may be; (2) if he fails to comply with any condition, restriction or prohibition indicated on the permit; (3) if he has been found guilty of an offence under this Act or the regulations.
Decision	"55.32 Every decision of the Minister shall be substantiated. The person contemplated by the decision shall be informed of it in writing.
Effect	"55.33 The revocation or suspension of a permit has effect from the date of its receipt by the holder.
Provisions not applicable	"55.34 This division does not apply to permits for the serving of mares prescribed under Division II.

"DIVISION IV.4**"APPEAL**

Appeal	"55.35 The decision of the Minister or of the Comité de surveillance des étalons, as the case may be, may be appealed from to the Provincial Court, on any question of law or jurisdiction, by (1) a person whose application for a permit is refused on grounds other than that of public interest; (2) a person whose permit is suspended, cancelled or not renewed.
Motion	"55.36 The appeal is brought by the deposit of a motion at the office of the Provincial Court of the judicial district in which the appellant's domicile, head office or establishment is situated, within thirty days after the receipt by the appellant of the Minister's decision or the decision of the Comité de surveillance des étalons, as the case may be.
Service	The motion shall previously be served upon the Minister or the committee. Service of the motion upon the committee shall be made at the Minister's office.

- Record **“55.37** Upon the service of the motion, the Minister or the Comité de surveillance des étalons, as the case may be, shall transmit to the Provincial Court the record pertaining to the decision that is being appealed from.
- Hearing **“55.38** The appeal is heard and decided by preference.
- Adjudication **“55.39** Subject to any additional evidence it may require, the court shall adjudicate upon the record transmitted by the Minister or the Comité de surveillance des étalons, as the case may be, after allowing the parties to present their views.
- Restriction **“55.40** The appeal does not suspend the execution of the Minister’s decision or the decision of the Comité de surveillance des étalons, as the case may be, unless the court decides otherwise.
- Final deci-
sion **“55.41** The decision of the Provincial Court is final.
- Rules of
practice **“55.42** The Provincial Court may adopt, in the manner provided for in article 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), the rules of practice considered necessary for the administration of this division.

“DIVISION IV.5

“PENAL PROVISIONS

- Offences
and penal-
ties **“55.43** Every person who contravenes section 8, 9, 10, 55.2, 55.3, 55.4, 55.5, 55.6, 55.7, 55.11, 55.12, 55.18 or 55.19, any prescription of a regulation determined under section 3 or 55.9 or any provision of an order approving a program contemplated in section 55.8 is liable, in addition to costs, to a fine of \$200 to \$2 000 in the case of an individual and of \$500 to \$5 000 in the case of a legal person.
- Subsequent
offence For any subsequent conviction within two years for the same offence, the offender is liable, in addition to costs, to a fine of \$1 000 to \$10 000 in the case of an individual and of \$3 000 to \$30 000 in the case of a legal person.
- Offences
and penal-
ties **“55.44** Every person who contravenes section 14, 15, 16, 20, 24, 26, 27, 35, 38, 39, 40, 41, 42 or 43 or any prescription of a regulation determined under section 21, 28 or 45 is liable, in addition to costs, to a fine of \$100 to \$500 in the case of an individual and of \$200 to \$2 000 in the case of a legal person.
- Subsequent
offence For any subsequent conviction within two years for the same offence, the offender is liable, in addition to costs, to a fine of \$200

to \$2 000 in the case of an individual and of \$500 to \$5 000 in the case of a legal person.

Offence and penalties

"55.45 Every person who contravenes section 31 is liable, in addition to costs, to a fine of \$100 to \$1 000 in the case of an individual and of \$200 to \$2 000 in the case of a legal person.

Subsequent offence

For any subsequent conviction within two years for the same offence, the offender is liable, in addition to costs, to a fine of \$200 to \$2 000 in the case of an individual and of \$500 to \$5 000 in the case of a legal person.

Party to the offence

"55.46 Every person who, by his consent, encouragement, advice or order, induces another person to commit an offence is guilty of the offence as if he had committed it himself, and of every other offence committed by the other person as a result of the consent, encouragement, advice or order, if he knew or should have known that its probable consequence would be the commission of the offences.

Party to the offence

"55.47 Every person who, by his act or omission, aids another person to commit an offence is guilty of the offence as if he had committed it himself, if he knew or should have known that the probable consequence of his act or omission would be to aid in the commission of the offence.

Separate offences

"55.48 Notwithstanding subsection 2 of section 12 of the Summary Convictions Act (R.S.Q., chapter P-15), separate offences may be described in a single count.

Penal proceedings

"55.49 Penal proceedings under this Act are instituted according to the Summary Convictions Act.

Proof of contents

"55.50 In the case of proceedings instituted for an offence described in this division, the report of the inspection, analysis or specimen or sample taking and the minutes of the seizure or confiscation, signed by an inspector or analyst, are proof of their contents, unless there is evidence to the contrary, and no proof of the signature or of the quality of the signatory is required.

Additional costs

The defendant may require the presence of the inspector or analyst at the hearing but the judge may order him to pay additional costs in the amount he may fix if he finds him guilty and is of the opinion that the mere filing of the report would have been sufficient."

Regulation in force

18. Every regulation made under a provision replaced by this Act remains in force until it is amended, replaced or repealed by a regulation made under a provision of this Act.

Sums re-
quired

19. The sums required for the administration of this Act during the fiscal year 1986-87 are taken out of the consolidated revenue fund to the extent determined by the Government.

Coming into
force

20. This Act comes into force on the date fixed by order of the Government, except for provisions excluded by the order, which will come into force on later dates fixed by order of the Government.