



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 151

**An Act to amend the Environment
Quality Act and other legislative
provisions**

Introduction

Introduced by
Mr Pierre Paradis
Minister of the Environment

Québec Official Publisher
1993

EXPLANATORY NOTES

This bill amends the Environment Quality Act to provide for the reform of the field of waste management in Québec and the application of the National Packaging Protocol. Under the bill, the Government will have new regulatory powers, enabling it to promote and have more control over the reduction and valorization of waste materials or objects, in particular by giving more responsibility to establishments with respect to the containers and packaging they use or market.

The bill also contains new rules applicable to the field of waste elimination. First, it lays down the principle that the establishment and alteration of any waste elimination facility must be authorized either pursuant to Division IV.1 of Chapter I concerning environmental impact assessment or as required by section 22. Under the bill, the operators of waste elimination facilities are required to set up a trust fund to contain the monies needed to cover the cost of compliance with legal standards at the time the facilities are closed and thereafter, and the cost of any intervention that becomes necessary in the case of non-compliance with the standards or in the case of an accident.

The bill removes the tariffs charged by operators for waste elimination services from the control of the Commission municipale du Québec and clarifies the Government's regulatory powers with respect to waste elimination, in particular as concerns the conditions applicable at the time facilities are closed and thereafter.

Finally, the bill contains a number of transitional provisions intended to clarify the conditions of application over time of the new measures it enacts.

ACTS AMENDED BY THIS BILL:

– Act respecting beer and soft drink distributors' permits (R.S.Q., chapter P-9.2);

- Environment Quality Act (R.S.Q., chapter Q-2);
- Act respecting the Société québécoise de récupération et de recyclage (R.S.Q., chapter S-22.01).

Bill 151

An Act to amend the Environment Quality Act and other legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended by striking out paragraphs 11 and 12.

2. The said Act is amended by inserting, after section 29, the following section:

“29.1 No one may, as part of a commercial operation, offer for sale, sell, distribute or otherwise place at the disposal of users

(1) any containers, packaging, packaging materials or products that do not satisfy the regulatory standards prescribed under paragraph *n.4* of section 31;

(2) any products that are in containers or packaging not in conformity with the abovementioned standards.”

3. Section 31 of the said Act, amended by section 11 of chapter 56 of the statutes of 1992, is again amended

(1) by inserting the word “, materials” after the word “soil” in the second line of paragraph *h.1*;

(2) by striking out the figure “59,” in the fifth line of paragraph *n*;

(3) by adding, after paragraph *n*, the following paragraphs:

“(n.1) require, as a condition for the operation of a facility where a regulation contains provisions to apply at the time a facility is closed

or thereafter, the setting up of financial guarantees in the form provided for in section 57 for waste elimination facilities, and section 57 shall then apply, adapted as required;

“(n.2) regulate, on all or part of the territory of Québec, the valorization of materials or objects that are obsolete, are discarded or are otherwise disposed of. The regulations may, in particular,

- i. classify the materials or objects;
- ii. prescribe or prohibit, in relation to one or more classes, any mode of valorization;
- iii. require any person or municipality to valorize, on the conditions fixed, the designated classes of materials or objects, or to ensure they are valorized;
- iv. determine the conditions or prohibitions applicable to the establishment, operation and closure of any valorization facility for the materials or objects, in particular, recovery, recycling, composting and storage facilities, including facilities in which sorting or transfer operations are carried out;
- v. determine the conditions or prohibitions applicable to the use, sale, storage and treatment of the materials or objects to be valorized or resulting from valorization. For that purpose, the regulations may make mandatory any standards of quality fixed by a certification or standards body and, in such a case, provide that the references to the standards include any subsequent amendments made to them;

“(n.3) require every class of industrial or commercial establishment designated by it to keep registers and to provide the Minister, on the conditions fixed, with information concerning the origin, nature, characteristics, quantities, destination and conditions of valorization of the residues they produce, give to a third party or take charge of. The regulations may define the term “residues” for the purposes of this paragraph;

“(n.4) determine the conditions or prohibitions applicable to the manufacture and use of the containers, packaging, packaging materials or products designated by it with a view to reducing the quantity of waste to be eliminated or to facilitate its valorization. The regulations may, in particular,

- i. fix the minimum proportion of recovered materials or elements to be used in the manufacture of the designated containers, packaging, packaging materials or products;

ii. prohibit certain mixtures or associations with other materials or elements in the manufacture of the designated containers, packaging, packaging materials or products;

iii. regulate the composition, form, volume, size and weight of the designated containers or packaging, among other things for their standardization;

iv. regulate the labelling or the marking of the designated containers, packaging or products, among other things to prescribe or prohibit the use on them of terms, logos, symbols or other representations intended to inform users of the advantages or disadvantages that the container, packaging or product entails for the environment;

“(n.5) require any class of establishment, in particular industrial or commercial establishments, which use or put on the market containers, packaging or packaging materials, which market products in containers or packaging acquired for that purpose, or which use products marketed in containers or packaging,

i. to carry out, on the conditions fixed, studies on the quantity and composition of the containers, packaging or packaging materials, on their environmental impacts and on measures capable of mitigating or eliminating those impacts;

ii. to develop and implement, on the conditions fixed, programs or measures to reduce and valorize the containers, packaging or packaging materials;

iii. to keep registers and furnish to the Minister, on the conditions fixed, reports on the composition and quantity of the containers, packaging or packaging materials it uses or puts on the market, or which are a product of its activities, and on the results obtained in terms of reduction and valorization;

“(n.6) exempt from all or some of the requirements prescribed under paragraphs n.2, n.3, n.4 and n.5 any person that is a member of an organization

i. the function or one of the functions of which is to contribute financially to the creation of systems to valorize or collect the materials or objects referred to in those paragraphs;

ii. the name of which appears on a list drawn up by the Minister and published in the *Gazette officielle du Québec*”;

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

“For the purposes of subparagraphs *n.2* to *n.9* of the first paragraph, valorization of the materials or objects mentioned therein means any operation the purpose of which is to obtain useful elements or products from the materials or objects by recovery, re-use, recycling, composting, regeneration or by any other action.”

4. Section 31.12 of the said Act, amended by section 3 of chapter 30 of the statutes of 1991, is again amended by inserting the word “, material” after the word “soil” in the third line of paragraph 6.

5. Section 31.34 of the said Act is amended by replacing the words and figures “, subparagraphs *a*, *c*, and *k* of the first paragraph of” in the third line of paragraph 4 by the word “and”.

6. The heading of Division VII of Chapter I of the said Act is replaced by the following heading:

“WASTE ELIMINATION”.

7. Sections 54 to 59 of the said Act are replaced by the following sections:

“54. For the purposes of this division, waste elimination means any operation entailing the final deposit or discharge of waste in the environment, in particular, by incineration, dumping or storage, including operations involving the treatment or transfer of waste with a view to its elimination.

The provisions of this division do not apply to gaseous matter, hazardous materials or tailings.

“55. Except where authorization is required pursuant to Division IV.1 of Chapter I concerning environmental impact assessment, the authorization prescribed in section 22 must be obtained prior to the establishment or alteration of any waste elimination facility.

“56. A permit issued by the Minister must be obtained prior to the operation of any waste elimination facility. The conditions for the issue and renewal of the permit shall be determined by a regulation of the Government.

The permit is valid initially for five years. On its expiry, it is renewable for a term fixed by the Minister, which, however, may not exceed five years.

A permit may not be transferred except with the written authorization of the Minister.

“57. To operate a waste elimination facility, an operator shall also set up financial guarantees in the form of a trust, on the conditions prescribed by regulation of the Government, for the purpose of covering, at the time the facility is closed and thereafter, the costs incurred by

(1) the application of the regulatory standards and any conditions established in the certificate of authorization;

(2) an intervention authorized by the Minister to rectify the situation in the case of non-compliance with the standards or conditions or in the case of an accident.

A regulation of the Government shall fix the sums to be paid into the trust patrimony by the operator, or the method of calculating such sums, and the conditions for their payment. In addition, the regulation shall determine the categories of persons qualified to act as trustee and may prescribe any other rules relating to the setting up and administration of the trust, its modification, control and termination, in particular with respect to the allocation of any sum remaining on termination of the trust. The regulations may vary according to the classes of elimination facilities, the time for which such facilities are operated and the classes or quantities of waste.

No sum may be paid under the trust without the authorization of the Minister.

“58. Where the Minister ascertains that a waste elimination facility has not been established or is not being operated in compliance with the provisions of this Act, the regulations or the certificate of authorization, or that the provisions applicable at the time the facility is closed or thereafter are not being complied with, he may order the operator or any other person or municipality required to ensure that the provisions are applied to take any remedial measures he may indicate.”

8. Section 60 of the said Act is amended by replacing the words “require, on the conditions he determines, a municipality to establish, alter, extend or terminate a waste management system or part of it” in the first, second and third lines by the words “require a municipality, on the conditions he determines, to establish or alter a waste elimination facility or to close it”.

9. Section 61 of the said Act is amended

(1) by replacing the words “system of waste management or part of it” in the third and fourth lines of the first paragraph by the words “waste elimination facility”;

(2) by replacing the words “included in a waste management system” in the sixth line of that paragraph by the words “necessary for the elimination of waste”.

10. Section 64 of the said Act is repealed.

11. Sections 64.1 to 64.13 of the said Act are replaced by the following section:

“64.1 In the cases prescribed by regulation of the Government, an operator of a waste elimination facility shall cause to be published, in a newspaper circulated in the territory served by the facility, a notice of the tariff to be applied for services and the date set for the coming into force of the tariff; the notice must be published at least 90 days before that date. On publication of the notice, the operator shall also send a copy of the notice to the Minister, to the regional county municipality or urban community on whose territory the facility is situated, to every municipality within that territory and to every person or municipality bound by contract to use the operator’s services.

The requirements set out in the first paragraph also apply to any change in tariff. However, such change may not come into force before 1 January of the year following the year during which the 90-day time limit for publication expires.

The prices charged by an operator for services may not exceed the prices set in the tariff published in accordance with this section. The prices shall be posted at the entrance to the facility, in full view of the public.”

12. Section 66 of the said Act is replaced by the following section:

“66. No one may deposit or discharge waste in a place other than a site on which it may be eliminated in accordance with the provisions of this Act and the regulations.

The Government may, however, by regulation, determine in which cases and on which conditions the waste may be deposited or discharged on other sites.”

13. Section 68.1 of the said Act is replaced by the following section:

“68.1 Every person or municipality shall, on the conditions fixed by the Minister, provide him with the information he requests concerning the origin, nature, characteristics, quantities, destination, and manner of elimination of the waste the person or municipality generates, gives to a third party or takes charge of.”

14. Section 69 of the said Act is repealed.

15. Subparagraphs *j*, *j.0.1* and *j.1* of the first paragraph and the second paragraph of section 70 of the said Act, as amended below, become respectively subparagraphs *n.7*, *n.8* and *n.9* of section 31:

“(*n.7*) prescribe, in the cases and on the conditions it determines, any consignment system applicable to containers, packaging, materials or products;

“(*n.8*) fix the deposits payable on the purchase of any container, packaging, material or product capable of being valorized, and determine the nonrefundable portion of the deposit;

For the purposes of this subparagraph, “deposit” means the amount payable on the purchase of any container, packaging, material or product capable of being valorized, a portion of which is refunded on return and a portion of which constitutes the charge payable towards the management, promotion or development of valorization;

“(*n.9*) designate the categories of persons required to collect and refund, in the cases and on the conditions it determines, the deposits prescribed under subparagraph *n.7*.”

16. Section 70 of the said Act, amended by section 5 of chapter 80 of the statutes of 1991, is replaced by the following section:

“70. The Government may make regulations to regulate waste elimination on all or part of the territory of Québec. The regulations may, in particular,

(1) classify waste elimination facilities and waste, and exempt certain classes from the application of all or certain of the provisions of this Act and the regulations;

(2) prescribe or prohibit, in respect of one or more classes of waste, any mode of elimination;

(3) determine the conditions or prohibitions applicable to the establishment, operation and closure of any waste elimination facility, in particular incinerators, landfills and treatment, storage and transfer facilities;

(4) fix the maximum number of waste elimination facilities that may be established on any part of the territory of Québec;

(5) prohibit the establishment, on any part of the territory of Québec, of waste elimination facilities or certain waste elimination facilities;

(6) prescribe the conditions or prohibitions applicable to waste elimination facilities after they are closed, including the conditions and prohibitions relating to maintenance and supervision, prescribe the period of time for which the conditions and prohibitions are to be applied and determine who will be required to ensure that they are applied;

(7) determine the conditions or prohibitions applicable to the transportation of designated classes of waste.”

17. Section 96 of the said Act is amended by replacing the figures “57, 59” in the third line of the first paragraph by the figure “58”.

18. Section 104 of the said Act is amended

(1) by replacing the words “, water treatment or waste management system or any part of it” in the second and third lines of subparagraph *b* of the first paragraph by the words “or water treatment system and any waste elimination facility or facility for the valorization of the materials or objects referred to in subparagraphs *n.2* to *n.9* of the first paragraph of section 31”;

(2) by replacing the words “waste management or water treatment system” in the second and third lines of subparagraph *c* of the first paragraph by the words “water treatment system or waste elimination facility or facility for the valorization of the materials or objects referred to in subparagraphs *n.2* to *n.9* of the first paragraph of section 31”.

19. Section 122.3 of the said Act is amended by replacing the last sentence by the following sentence: “They also apply in the cases provided for in section 32.8, without, however, restricting the application of that section.”

20. Section 124 of the said Act is amended by striking out the third paragraph.

21. The said Act is amended by inserting, after section 124, the following section:

“124.01 Where, in a regulation made under this Act, reference is made to a method of sampling, measurement, preservation or analysis established in another text, the reference shall be considered to include all subsequent amendments to that text, unless provided otherwise.”

22. For the purposes of sections 23 to 33, the expressions “new section” and “former section” designate, respectively, the section as enacted by this Act and the section as it read before being replaced by this Act.

23. The new section 55 of the Environment Quality Act applies to any application for a certificate presented under former section 54 of the said Act that is pending on the date of coming into force of the new section 55.

24. The new section 56 of the Environment Quality Act and the regulatory standards made pursuant to that section apply to any application for a permit presented under former section 55 of the said Act that is pending on the date of coming into force of the new section 56.

25. Where a waste elimination facility existing on the date of coming into force of the new section 70 of the Environment Quality Act must be altered in order to comply with the regulatory standards made pursuant to that section and replacing the Regulation respecting solid waste (R.R.Q., 1981, chapter Q-2, r. 14), the Minister may, when issuing the certificate of authorization for the alteration, fix such conditions in the certificate as he may determine.

26. Permits issued pursuant to former section 55 of the Environment Quality Act for the operation of waste elimination facilities continue to have effect provided that the facilities are, within the periods fixed, brought into conformity with the provisions enacted by this Act and with the regulations made thereunder.

27. Every municipality which, on the date of coming into force of the new section 56 of the Environment Quality Act, operates a waste elimination facility is required to hold the permit prescribed in that section only from the date on which it becomes subject to the

regulatory standards made pursuant to paragraph 3 of the new section 70 of that Act.

28. Every operator of a waste elimination facility existing on the date of coming into force of the new section 57 of the Environment Quality Act has a period of three months from that date to comply with the requirements of that section.

29. Orders made under former sections 57 and 59 of the Environment Quality Act, and any decision made under those sections, continue to have effect.

30. The Act respecting beer and soft drink distributors' permits (R.S.Q., chapter P-9.2) is amended by replacing the figure "70" in the eighth line of section 3 and in the sixth line of section 4 by the figure "31".

31. Section 20 of the Act respecting the Société québécoise de récupération et de recyclage (R.S.Q., chapter S-22.01) is amended by replacing the figures and words "*i, j, j.0.1, j.1* or *j.2* of the first paragraph of section 70" in the fourth and fifth lines of the first paragraph by the figures and words "*n.2, n.4* and *n.5* to *n.9* of the first paragraph of section 31".

32. Except where it provides greater environmental protection, a standard established in a certificate of authorization pursuant to section 3 of the Act respecting the establishment and enlargement of certain waste elimination sites (1993, chapter 44) shall cease to have effect on the date on which the sanitary landfill site or dry materials disposal site to which the certificate applies becomes subject to a standard governing the same material made pursuant to the new section 70 of the Environment Quality Act.

33. In every statute and statutory instrument made thereunder, any reference to former sections 54, 55 or 69, or to subparagraphs *j, j.0.1* and *j.1* of the first paragraph of former section 70 of the Environment Quality Act becomes a reference, respectively, to the new sections 55, 56 and 30, and to the new subparagraphs *n.7, n.8* and *n.9* of the first paragraph of section 31 of the said Act.

Similarly, any reference to another subparagraph of the first paragraph of former section 70 becomes a reference to the corresponding subparagraph of the first paragraph of section 31 or the corresponding paragraph of the new section 70 of the said Act.

34. The provisions of this Act will come into force on the date or dates fixed by the Government.