



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 75

An Act respecting opening hours and days for commercial establishments

Introduction

**Introduced by
Mr Gérald Tremblay
Minister of Industry, Trade and Technology**



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EXPLANATORY NOTES

This bill replaces the present Act respecting commercial establishments business hours. It establishes that, as a general rule, commercial establishments may open to the public between 8:00 a.m. and 10:00 p.m. from Monday to Saturday and, in consequence, may not open on Sundays.

However, the bill provides for certain exceptions. It maintains the prohibition to open to the public on specified dates, such as 25 December and 1 January. Nevertheless, establishments will be permitted to open to the public between 8:00 a.m. and 5:00 p.m. on Sundays in December before 25 December. The bill also permits some establishments to open to the public at any time, provided they satisfy certain conditions, particularly with respect to the products offered for sale.

The bill also contains miscellaneous administrative and penal provisions intended to ensure that the Act is applied. Both the Minister of Industry, Trade and Technology and municipalities may authorize persons to act as inspectors in order to ensure that the provisions of the Act are being complied with. Penal proceedings may be brought before a municipal court, and in such cases the fines belong to the municipality. The amounts of minimum fines have been increased over those prescribed by the existing Act.

Finally, the bill contains various technical or transitional provisions, one of which invalidates any clause of a lease or agreement that would require anyone operating a commercial establishment to open that establishment to the public at times or on days other than those at or on which he would have been allowed to open it under the Act respecting commercial establishments business hours.

ACTS AMENDED OR REPLACED BY THIS BILL:

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

- Act respecting commercial establishments business hours (R.S.Q., chapter H-2);
- Act respecting liquor permits (R.S.Q., chapter P-9.1).



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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

DIVISION I

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.

It also applies to any space or stall in markets where products are offered for sale by retail, such spaces or stalls being considered to be commercial establishments.

DIVISION II

OPENING HOURS AND DAYS

2. Subject to sections 4 to 12, commercial establishments may open to the public only between the hours of

(1) 8:00 a.m. and 10:00 p.m. from Monday to Saturday;

(2) 8:00 a.m. and 5:00 p.m. on Sundays in December before 25 December;

(3) 8:00 a.m. and 5:00 p.m. on 24 and 31 December, and 1:00 p.m. and 10:00 p.m. on 26 December, where such dates fall on any day other than Sunday.

3. Subject to sections 4 to 12, no commercial establishment may open to the public 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.

4. A commercial establishment may also open to the public outside the hours set out in section 2 and on Sundays and on the days listed in section 3, provided that

(1) it principally offers for sale, at all times, only meals or foodstuffs 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;

(2) it principally offers for sale, at all times, only foodstuffs or other grocery products or alcoholic beverages and that, outside the hours set out in section 2, on Sundays and on the days listed in section 3, not more than 4 persons, with the exception of those assigned exclusively to the preparation of foods, the serving of meals at tables or the security service of the establishment, attend to the operation of the establishment.

Any other products offered for sale as secondary lines by an establishment to which subparagraph 1 or 2 of the first paragraph applies shall be limited at all times to sundries, pharmaceutical, hygienic or sanitary products, newspapers, periodicals, books, tobacco, articles required for the use of tobacco, motor oil, fuel or flowers.

5. A commercial establishment may also open to the public outside the hours set out in section 2 and on Sundays and on the days listed in section 3, provided that

(1) it 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) it 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.

Any other products offered for sale as secondary lines by an establishment to which subparagraph 1 or 2 of the first paragraph applies shall be limited at all times to sundries, flowers, foodstuffs or other grocery products. However, where such secondary lines are foodstuffs or other grocery products, with the exception of candies or beverages, the establishment may open to the public in accordance with the first paragraph only if, outside the hours set out in section 2, 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 the foodstuffs and other grocery products are offered for sale.

For the purposes of the second paragraph,

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

(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 the public and the persons attending to its operation 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 and other grocery products, with the exception of candies or beverages.

6. A commercial establishment may also open to the public 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 horticultural products or both; or
- (3) antiques or secondhand merchandise or both.

The provisions of the first paragraph apply to any establishment that offers for sale, in accordance with subparagraphs 1 and 2 of the first paragraph the articles mentioned therein, even where sundries are also offered for sale.

7. A commercial establishment may also open to the public 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.

The provisions of the first paragraph apply even if the establishment also offers for sale sundries, candies, beverages, newspapers, periodicals, books, tobacco or articles required for the use of tobacco.

8. A commercial establishment may also open to the public 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 products offered for sale in the establishment are connected with the activity being carried out or are sundry items;

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

(3) an airport.

9. 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 an obligation imposed by his religious beliefs, authorize him to open his establishments to the public on Sundays between 8:00 a.m. and 5:00 p.m., provided that

(1) the application is supported by a declaration, signed by the person, attesting the obligation to close all his establishments and the fact that he complies therewith;

(2) the person makes the application in respect of all his establishments;

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

No authorization under this section may be transferred.

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

10. The Minister may, upon a written application from a municipality situated near the territorial limits of Québec and for the period he determines, authorize commercial establishments situated in the territory of that municipality to also open to the public outside the hours set out in section 2 and on Sundays and on the days listed in section 3.

The Minister shall, before giving his authorization, take into account the hours during which and the days on which commercial establishments situated in areas adjacent to the territory of the municipality making the application may open to the public.

The Minister shall publish the authorization in the *Gazette officielle du Québec*. He may revoke any authorization granted under this section and shall give notice of every authorization or revocation under this section in the *Gazette officielle du Québec*.

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

“Tourist area” means an area designated by order of the Minister of Tourism upon an application by the municipality.

The application referred to in the first paragraph shall be accompanied by the order of the Minister.

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

12. The Minister may, upon a written application, authorize commercial establishments to also open to the public 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.

DIVISION III

INSPECTION

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

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.

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.

14. Any person carrying out an inspection must, on request, when exercising the powers conferred on him by this Act, identify himself and produce a certificate of his capacity or, where applicable, his insignia.

15. No person may hinder any person carrying out an inspection in the performance of his duties, 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

16. No person operating a commercial establishment, or any employee thereof, may admit any member of the public to the establishment outside the hours during which or the days on which it may open to the public.

17. No person operating a commercial establishment, or any employee thereof, may permit the presence of any member of the public in the establishment more than 30 minutes after the time at which it may no longer be open to the public.

18. No person operating a commercial establishment may advertize or cause to be advertized that the establishment is open to the public at a time or on a day when the establishment is not authorized to open to the public.

19. Any person operating a commercial establishment who contravenes a provision of section 16 is guilty of an offence and is liable to a fine of not less than \$1 500 and, in the case of a second offence, to a fine of not less than \$3 000.

In determining the amount of the fine, the court shall take into account the advantages gained and revenue derived by the person convicted of the offence.

20. Any person operating a commercial establishment who contravenes a provision of section 15, 17 or 18, and any employee who contravenes a provision of section 15, 16 or 17, is guilty of an offence and is liable to a fine of \$500 to \$1 500 or, in the case of a second offence, to a fine of \$1 500 to \$3 000.

21. Any person operating a commercial establishment who orders, authorizes or recommends any act which contravenes a provision of section 15 or 16, or who consents thereto or is informed thereof beforehand, is guilty of an offence and is liable, in the case of section 15, to the penalty provided for in section 20 and, in the case of section 16, to the penalty provided for in section 19.

22. In the case of a contravention under a provision of section 16 or section 18 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 which contravenes a provision, consented thereto or was informed thereof beforehand, is guilty of an offence and is liable, in the case of section 16, to the penalty provided for in section 19 and, in the case of section 18, to the penalty provided for in section 20.

23. In proceedings against a person operating a commercial establishment, proof that section 16 was contravened by one of his employees is proof, in the absence of evidence to the contrary, that the employee acted on the order, authorization or recommendation or with the consent of the person operating the establishment.

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

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

25. Any clause of a lease or other agreement by which a person operating a commercial establishment undertakes to open his establishment to the public at times or on days other than those during or on which he was allowed to do so under the Act respecting commercial establishments business hours (R.S.Q., chapter H-2) is inoperative.

26. Every authorization granted by the Minister under section 5.3 of the Act respecting commercial establishments business hours remains in force for the period mentioned in it.

27. 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.

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

29. 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 opening hours and days for commercial establishments (1990, chapter *insert here the chapter number of this Act*)".

30. 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 opening hours and days for commercial establishments (1990, chapter *insert here the chapter number of this Act*)".

31. 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.

32. 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.

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

34. This Act comes into force on *(insert here the date of assent to this Act)*.