

NATIONAL ASSEMBLY

FIRST SESSION

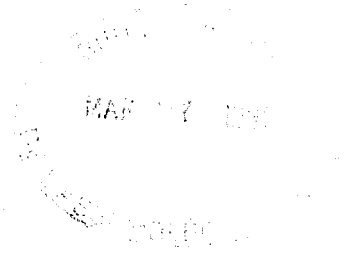
THIRTY-FOURTH LEGISLATURE

Bill 117

An Act to amend the Cinema Act

Introduction

**Introduced by
Madam Liza Frulla-Hébert
Minister of Cultural Affairs**



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EXPLANATORY NOTES

This bill proposes various amendments to the Cinema Act.

It provides that, in the future, the Minister will be responsible for establishing, in cooperation with the Société générale des industries culturelles, a three-year plan of financial support for the private sector of the cinema industry setting out among other things the objectives to be pursued during that period. Before a three-year plan is drawn up, the Minister will seek the advice of the Institut québécois du cinéma.

The bill changes the composition of the Institut québécois du cinéma by increasing the number of its members from 11 to 13 in order to include a representative proposed by the recognized association of video material retail dealers and a representative of the consumers.

With respect to the classification of films, the bill establishes the new restrictive classes "13 and over" and "16 and over". Persons under 13 years of age will not be permitted to view films classified "13 and over" unless they are accompanied by an adult and persons under 16 years of age will not be permitted to view films classified "16 and over". The scope of the provisions respecting classification is extended to the retailing of video material and henceforth certain films will be exempt from classification.

The rules currently in force with respect to the issue of stamps for the exhibition to the public of films in a language other than French are modified in order to authorize the Government to regulate the number and duration of stamps that may be issued by the Régie in cases where no version with French dubbing exists and no dubbing contract is under way in Québec. It will remain possible, however, to obtain a stamp for any print of a film with French subtitles.

In addition, the bill modifies the rules governing exhibitor's licences and establishes three categories of licences: theatre licences, outdoor theatre licences and multiple-purpose premises licences.

Finally, the bill proposes amendments to certain provisions relating to the regulatory power of the Régie and the Government and to the penal provisions and establishes the required concordance with other provisions of the Act.

Bill 117

An Act to amend the Cinema Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Chapter I of the Cinema Act (R.S.Q., chapter C-18.1) is replaced by the following chapter:

“CHAPTER I

“SCOPE

“1. This Act applies to all fields of film activity relating, in particular, to the production, distribution and exhibition of films and the retailing of video material.

“2. For the purposes of this Act, a film is a work produced by a technical means that results in a cinematographic production.

Any reproduction of a film, regardless of the medium on which it is recorded, is a print of a film.

Any print of a film recorded on a video cassette, video disc or any other similar medium constitutes video material.

“2.1 This Act binds the Government, its departments and agencies.”

2. The said Act is amended by inserting, after the heading of Division III of Chapter II, the following sections:

“8.1 The Minister shall establish a three-year plan of financial support for the private sector of the cinema industry. The plan shall include the objectives to be pursued during the three-year period.

He shall prepare the three-year plan in collaboration with the Société générale des industries culturelles, established by the Act respecting the Société générale des industries culturelles (R.S.Q., chapter S-17.01). Before the three-year plan is drawn up, the Minister shall obtain the advice of the Institut québécois du cinéma.

“3.2 Each year, the Société shall prepare programs of financial assistance for the following fiscal year, in accordance with the three-year plan, and submit them to the Minister for approval.

Before approving the programs, the Minister shall obtain the advice of the Institut.”

3. Section 9 of the said Act is amended

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

“9. The Société may grant financial assistance to the private sector of the cinema industry in accordance with the three-year plan established and the programs approved by the Minister.”;

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

“Financial assistance must be granted in accordance with the allocation criteria determined by the Government on a proposal made by the Minister, after obtaining the advice of the Société.”

4. Section 9.1 of the said Act is replaced by the following section:

“9.1 The financial assistance shall be granted out of the funds allocated annually by the Government to the private sector of the cinema industry and transmitted to the Société by the Minister, following approval of the financial assistance programs.”

5. Sections 11 and 14 of the said Act are repealed.

6. Section 17 of the said Act is amended by replacing the word “eleven” in the second line by the word “thirteen”.

7. Section 18 of the said Act is amended by inserting, at the end of the first paragraph, the following subparagraph:

“(9) video material retail dealers.”

8. Section 20 of the said Act is replaced by the following section:

“20. The Minister shall propose to the Government the appointment of four other members who do not belong to an

association recognized under section 18. One of these members shall be appointed to represent the interests of consumers and the other three to represent fields of prior interest to the Institut.”

9. Section 30 of the said Act is amended by replacing the word “Six” in the first line by the word “Seven”.

10. Section 36 of the said Act is amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

“(1) the orientations, the three-year plan of financial support and the financial assistance programs in matters relating to the cinema;”.

11. The heading of Division I of Chapter III of the said Act, the heading of subdivision 1 of that division and sections 76 to 78 are replaced by the following:

“DIVISION I

“CLASSIFICATION

“76. No person may exhibit a film to the public, or possess, on premises where films are exhibited to the public, a print of a film unless a stamp showing the class of the film has been issued by the Régie in accordance with this Act and affixed to the print in the manner prescribed by regulation of the Régie, except in the case of a film exempt from classification under section 77.

“76.1 No person may sell, lease, lend or exchange on a commercial basis, or possess, in a video material retail outlet, a print of a film unless a stamp showing the class of the film has been issued by the Régie in accordance with this Act and affixed to the print in the manner prescribed by regulation of the Régie, except in the case of a film exempt from classification under section 77.

“76.2 No person may exhibit to the public a film that has been altered after a stamp showing the class thereof has been issued or possess a print of it on premises where films are exhibited to the public or in a video material retail outlet, or sell, lease, lend or exchange such a print on a commercial basis unless a new stamp showing the class of the film has been issued by the Régie in accordance with this Act and affixed to the print in the manner prescribed by regulation of the Régie.

“77. The following films are exempt from classification:

(1) films made for industrial or commercial promotion, with the exception of trailers for films not exempt from classification;

(2) films made for educational or pedagogical purposes, provided that they are used in an educational, health care, social services or scientific research institution, in a public library or in a museum;

(3) films made for vocational training purposes provided that they are used within the scope of a course, a conference or other activity of a similar nature;

(4) films on technical skill instruction;

(5) films on sporting events;

(6) films exhibited at a diplomatic event, a film festival or any other similar event recognized by the Régie.

“78. Applications for a stamp shall be made to the Régie in accordance with the procedure it determines by regulation.

Every person applying for a stamp shall furnish the Régie with the information it determines by regulation and pay the amount of duty fixed by Government regulation.”

12. Section 79 of the said Act is amended by replacing the words “to have a film classified” in the first line by the words “for a stamp”.

13. Section 80 of the said Act is replaced by the following section:

“80. The Régie may refuse or cease to examine an application for a stamp if the print of the film in question does not reproduce the film in its complete form, with no alterations but those expressly authorized in writing by the person empowered to give authorization.

The same applies if the print does not meet the standards of integrity, technical quality or any other eligibility standards determined by regulation of the Régie.”

14. Sections 81 to 83 of the said Act are replaced by the following sections:

“81. On receiving an application for a stamp in respect of a film not previously classified or of a film eligible for reclassification under section 84, the Régie, within 20 days from the date on which the application was presented, and if of the opinion that the content of the film does not interfere with public order or good morals, in particular, that it does not promote or condone sexual violence, shall, for the protection of youth, classify the film under one or other of the following classes:

(1) "For all", if it considers that the film may be viewed by persons of all ages;

(2) "13 and over", if it considers that the film may be viewed only by persons 13 years of age or older;

(3) "16 and over", if it considers that the film may be viewed only by persons 16 years of age or older;

(4) "18 and over", if it considers that the film may be viewed only by persons 18 years of age or older.

In assigning a class to a film, the Régie may, if applicable, indicate the type to which the film belongs. In such case, the stamp shall bear the indication prescribed by regulation of the Régie.

"82. Subject to sections 80, 81 and 83, the Régie shall issue a stamp for each print of a film in respect of which an application is made.

"82.1 The person to whom a stamp is issued shall affix the stamp or see to it that it is affixed to the film print in the manner prescribed by regulation of the Régie.

"83. No stamp may be issued by the Régie for the exhibition to the public of a film in a version other than a French-language version except in accordance with the following rules:

(1) the maximum number of stamps that may be issued for prints of such a version cannot exceed the number of stamps applied for for prints of the French-dubbed version of the film, and the latter versions must be available to operators of premises where films are exhibited to the public at the same time as the former;

(2) a stamp may be issued for every print with French subtitles;

(3) a stamp may be issued for as many prints as requested, provided that the applicant files with the Régie, together with the application, a contract providing for the French dubbing of the film in Québec within such time as the Régie considers reasonable, with proof of the delivery of the elements required for the performance of such a contract to the person responsible therefor;

(4) if, at the time the application is filed, no French-dubbed version exists, a provisional stamp may be issued for the period and the number of prints determined by regulation of the Government.

After the expiration of a provisional stamp issued under subparagraph 4 of the first paragraph, a stamp may be issued for only one print of the film."

15. Sections 85 and 86 of the said Act are replaced by the following sections:

“85. The Régie may, after giving the person concerned the opportunity to be heard, suspend or revoke a stamp if,

- (1) the stamp was obtained on the basis of erroneous information;
- (2) the print of the film was altered after classification of the film and no new stamp was issued;
- (3) the print of the film no longer meets the standards of integrity and technical quality or the other standards of eligibility for obtaining a stamp which are prescribed by regulation of the Régie.

“86. No person may admit to the public exhibition of a film,

- (1) a person under 13 years of age who is not accompanied by a person of full age, if the film is classified “13 and over”;
- (2) a person under 16 years of age, if the film is classified “16 and over”;
- (3) a person under 18 years of age, if the film is classified “18 and over”.

“86.1 Where films of different classes are exhibited to the public at the same presentation, no person may admit a person who does not satisfy the requirements of the most restrictive class.

“86.2 No person may, in a video material retail outlet, sell, lease or lend video material to, or exchange such material with, a person

- (1) who is under 13 years of age, if the film is classified “13 and over”;
- (2) who is under 16 years of age, if the film is classified “16 and over”;
- (3) who is under 18 years of age, if the film is classified “18 years and over”.

16. The heading of subdivision 2 of Division I of Chapter III of the said Act is repealed.

17. Section 87 of the said Act is replaced by the following section:

“87. A trailer is deemed to be a film for the application of the provisions of this chapter, except those of section 83.”

18. Sections 88 to 90 of the said Act are repealed.

19. Section 92 of the said Act is replaced by the following sections:

“92. No person may exhibit a film to the public elsewhere than on a screen for which an exhibitor’s licence has been issued, unless

(1) the film is exempt from classification;

(2) the screen is situated in a room in a pub, tavern, restaurant, bar or club operating under a permit issued pursuant to the Act respecting liquor permits (R.S.Q., chapter P-9.1).

“92.1 An exhibitor’s licence shall be issued by the Régie to an operator of premises where films are exhibited to the public if such premises meet the technical standards for the exhibition of films to the public established by regulation of the Régie and fulfil the other conditions that are prescribed by the Régie.”

20. Section 94 of the said Act is replaced by the following section:

“94. The Régie may issue licences to operate theatres, outdoor theatres or multiple-purpose halls.

A theatre licence authorizes the operation of a theatre whose principal vocation is the exhibition of films to the public.

An outdoor theatre licence authorizes the operation of outdoor premises whose principal vocation is the exhibition of films to the public.

A multiple-purpose hall licence authorizes the operation, for the exhibition of films to the public, of premises whose principal vocation is not the exhibition of films to the public.”

21. Section 96 of the said Act is amended by replacing the word “Régie” in the first line of the first paragraph by the word “Government”.

22. Section 97 of the said Act is amended

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

"97. A holder of an exhibitor's licence must transmit to the Régie a report on the films exhibited to the public on the screen for which the licence was issued during the period determined by regulation of the Régie. The report must include any information prescribed by the Régie and must be transmitted at the intervals it fixes by regulation.";

(2) by striking out subparagraph 6 of the second paragraph;

(3) by replacing the word "Government" in the second line of subparagraph 7 of the second paragraph by the word "Régie";

(4) by replacing the word "monthly," in the first line of the third paragraph by the words " , at the intervals it determines by regulation and".

23. Section 98 of the said Act is replaced by the following section:

"98. In no case may the holder of a theatre licence or outdoor theatre licence exhibit to the public films that have not been furnished by a holder of a distributor's licence."

24. Section 100 of the said Act is amended by replacing the words "a licence to operate an outdoor theatre" in the first line by the words "an outdoor theatre licence".

25. Section 101 of the said Act, amended by section 166 of chapter 4 of the statutes of 1990, is again amended by replacing paragraph 1 by the following paragraphs:

"(1) if he, or in the case of a company or partnership, any senior executive, director, partner or any stockholder holding more than 10 % of the capital stock, has been convicted of an offence under this Act or a regulatory provision referred to in paragraph 12 of section 168 within the preceding two years, and for which he has not been pardoned;

"(1.1) if he, or in the case of a company or partnership, any senior executive, director, partner or any stockholder holding more than 10 % of the capital stock, has been convicted, within the two years preceding the application for a licence or the renewal of a licence, of an offence or indictable offence under the Copyright Act or the Criminal Code relating to the operation of premises where films are exhibited to the public, and for which he has not been pardoned;"

26. Section 102 of the said Act is replaced by the following section:

"102. No person may, on a commercial basis, possess, sell, lease, lend or exchange prints of films, unless he is the holder of a distributor's licence.

The first paragraph does not apply to a dealer in respect of prints of films he has purchased, leased or borrowed from or exchanged with a person who is the holder of a distributor's licence."

27. Section 105.1 of the said Act is amended by adding, at the end, the following paragraph:

"An agreement entered into before 1 January 1987 and renewed, with or without amendment, between the same parties has the same effect as an agreement referred to in the first paragraph. It must be tabled before the National Assembly in the same manner."

28. The said Act is amended by inserting, after section 105.2, the following section:

"105.3 The Minister may enter, according to law, into an agreement with the government of a Canadian province where the distribution of films is governed by rules similar to those in force in Québec, or with a department or agency of such a government, in order to render distributors in such province who meet the requirements set out in the agreement eligible for special permits, on the conditions provided for in the second paragraph of section 105.1.

The Minister must table a copy of the agreement in the National Assembly."

29. Section 107 of the said Act is amended by replacing the word "Régie" in the first line of the second paragraph by the word "Government".

30. Section 108 of the said Act is amended by replacing the word "Government" in the second line of the first and third paragraphs by the word "Régie".

31. Section 109 of the said Act is repealed.

32. Section 110 of the said Act, amended by section 167 of chapter 4 of the statutes of 1990, is again amended

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

“(1) if he, or in the case of a company or partnership, any senior executive, director, partner or any stockholder holding more than 10 % of the capital stock, has been convicted of an offence under this Act or a regulatory provision referred to in paragraph 12 of section 168 within the preceding two years, and for which he has not been pardoned;

“(1.1) if he, or in the case of a company or partnership, any senior executive, director, partner or any stockholder holding more than 10 % of the capital stock, has been convicted, within the two years preceding the application for a licence or the renewal of a licence, of an offence or indictable offence under the Copyright Act or the Criminal Code relating to the utilization of films, and for which he has not been pardoned;”;

(2) by replacing the word and figures “108, 109 or 115” in the third and fourth lines of paragraph 2 by the figure “108”.

33. Subdivision 3 of Division II and Division III of Chapter III of the said Act are repealed.

34. Sections 119 and 120 of the said Act are replaced by the following sections:

“119. The Régie shall issue to the holder of a distributor’s licence who meets the requirements set out in section 118, on payment of the duties prescribed by regulation of the Government, a filing certificate for each film title and an attestation of the certificate for each print of video material intended to be sold, lent, leased or exchanged.

“120. No person may possess, sell, lease, lend or exchange, on a commercial basis, video material not bearing an attestation issued by the Régie under section 119.”

35. Section 121 of the said Act is repealed.

36. Section 122 of the said Act is replaced by the following section:

“122. No person may, in a video material retail outlet, possess video material not bearing an attestation issued by the Régie under section 119.”

37. Section 122.2 of the said Act is amended by replacing the word “Government” in the third line by the word “Régie”.

38. Section 122.3 of the said Act is replaced by the following section:

“122.3 A video material retail dealer’s licence is valid for the period determined by the Régie. The period may not exceed five years.”

39. Section 122.4 of the said Act is amended by replacing the word “Régie” in the second line by the word “Government”.

40. Section 122.5 of the said Act is amended by replacing paragraph 1 by the following paragraphs:

“(1) if he, or in the case of a company or partnership, any senior executive, director, partner or any stockholder holding more than 10 % of the capital stock, has been convicted of an offence under this Act or a regulatory provision referred to in paragraph 12 of section 168 within the preceding two years, and for which he has not been pardoned;

“(1.1) if he, or in the case of a company or partnership, any senior executive, director, partner or any stockholder holding more than 10 % of the capital stock, has been convicted, within the two years preceding the application for a licence or the renewal of a licence, of an offence or indictable offence under the Copyright Act or the Criminal Code relating to the utilization of video material or the operation of a video material retail outlet, and for which he has not been pardoned;”.

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

42. Section 135 of the said Act is amended

(1) by replacing subparagraph 1 of the first paragraph by the following subparagraph:

“(1) to classify films;”;

(2) by inserting, after subparagraph 2 of the first paragraph, the following subparagraph:

“(2.1) to periodically hold consultations on the classification of films;”;

(3) by striking out subparagraphs 4 and 6 of the first paragraph.

43. Section 136 of the said Act is amended by striking out the words “and trailers” at the end of the first paragraph.

44. Section 141 of the said Act is amended by inserting the words “or of its own motion” after the word “request” in the first line.

45. Section 143 of the said Act is amended by striking out the words “and trailers” in the second line.

46. Section 149 of the said Act is amended

(1) by striking out the words “or a trailer” in the first line;

(2) by replacing the word “Régie” in the fourth line by the word “Government”.

47. Sections 167 and 168 of the said Act are replaced by the following sections:

“167. The Régie may, by regulation,

(1) prescribe the standards of integrity and technical quality and the other standards of eligibility that a print of a film must meet to obtain a stamp;

(2) prescribe the information that must be furnished by a person applying for a stamp;

(3) determine methods for affixing stamps to prints of films;

(4) determine the information, qualifications and indications which may appear on stamps in addition to the classifications;

(5) determine the standards governing the posting and presentation of film classifications, including the information, qualifications and indications that must appear on posters;

(6) establish the conditions which must be fulfilled to obtain or renew a distributor’s licence, a licence to operate premises where films are exhibited to the public or a video material retail dealer’s licence;

(7) determine the rights and obligations that each category of licence confers on its holder;

(8) establish technical standards for the exhibition of films to the public;

(9) establish standards fitting out or redeveloping outdoor theatres;

(10) establish standards for the layout of video material retail outlets, particularly with respect to the display of video material classified in classes established in subparagraphs 2 to 4 of the first paragraph of section 81;

(11) determine the form and tenor of the reports required under sections 97 and 107 and the intervals at which they must be produced;

(12) determine the standards for affixing an attestation issued under section 119;

(13) determine the rules of proof and procedure relating to any matter coming under its authority, the applicable time limits and the required documents and vouchers.

“168. The Government may, by regulation,

(1) divide Québec into regions, delimit the regions and prescribe the maximum number of theatre licences or outdoor theatre licences other than renewals of licences that the Régie may issue to the same person or to persons related within the meaning of the Taxation Act (R.S.Q., chapter I-3), or that it may issue for each region;

(2) establish standards according to which a film is recognized as a Québec film and define classes of films eligible for, or excluded from, recognition as Québec films;

(3) prescribe the amount of the duty payable for obtaining a stamp and establish, for such purpose, categories of stamps;

(4) prescribe the amount of the fee for the examination of an application for the review of a classification;

(5) determine, for the purposes of section 83, the number of prints of a film to which a provisional stamp may be affixed by the Régie, the duration of such a stamp, the other conditions for its issue and the manner of affixing such a stamp;

(6) prescribe the fee for the examination of an application for a licence or the renewal of a licence;

(7) prescribe the amount of the duty payable annually by the holder of a theatre, outdoor theatre or multiple-purpose premises licence, which may vary according to the category of licence;

(8) prescribe the amount of the duty payable annually by the holder of a general distributor's licence or video material retail dealer's licence, which may vary according to the category of licence;

(9) prescribe the amount of the duty payable by the holder of a special distributor's licence;

(10) prescribe the filing of any other agreement for the purposes of section 118 and determine the conditions and procedure applicable to such filing;

(11) prescribe the amount of the duty fixed for the issue of a filing certificate under section 119;

(12) determine, for every regulation it makes under this section and for every regulation made by the Régie under section 167, the provisions of such regulations the contravention of which constitutes an offence.

A regulation made under subparagraph 2 of the first paragraph may, if it so provides, have effect from a date prior to the date on which it comes into force."

48. Section 170 of the said Act is amended by inserting, at the end, the following sentence: "In the cases provided for in paragraphs 8, 9 and 10 of the said section, the Régie must also consult the associations representing the licence holders concerned."

49. Section 172 of the said Act is repealed.

50. Section 173 of the said Act is amended

(1) by inserting the words ", leased, lent or exchanged" after the word "sold" in the third line;

(2) by inserting the words "prints of" after the word "where" in the fifth line;

(3) by inserting the words "print of a" after the word "a" in the sixth line;

(4) by replacing the words "by the Régie on a print of the film" in the seventh and eighth lines by the words "thereto by the Régie";

(5) by replacing the words "subparagraph 4 or 5 of the first paragraph of section 168" in the ninth and tenth lines by the words "paragraphs 3, 5, 8 and 10 of section 167".

51. Section 176 of the said Act, amended by section 168 of chapter 4 of the statutes of 1990, is again amended by replacing the first paragraph by the following paragraph:

“176. Where prints of films are seized under this Act, the court may order them confiscated upon proof of contravention of the Act.”

52. Section 178 of the said Act, amended by section 169 of chapter 4 of the statutes of 1990, is again amended by replacing the first three lines by the following:

“178. Any person who contravenes section 76, 76.1, 76.2, 82.1, 86, 86.1, 86.2, 87, 92, 97, 98, 99, 100, 102, 108, 118, 120, 122, 122.1 or 177 or a regulatory provision referred to in paragraph 12 of section 168 is guilty of an offence and is liable”.

53. The said Act is amended by inserting, after section 178, the following section:

“178.1 Any person who makes a false declaration to the Régie for the purpose of obtaining a licence, a stamp or an attestation is guilty of an offence and is liable to the fine prescribed in section 178.”

54. Section 182 of the said Act is amended

(1) by replacing the word “Government” in the third line of subparagraphs 1 and 2 of the first paragraph by the word “Régie”;

(2) by adding, after subparagraph 2 of the first paragraph, the following subparagraph:

“(3) any video material retail outlet which does not meet the standards prescribed by regulation made by the Régie under paragraph 10 of section 167.”

55. Sections 188 to 190, 198 and 199 of the said Act are repealed.

56. A regulation made by the Régie before the date of coming into force of section 47 under a provision of section 167 of the Cinema Act, as it read up to that date, is deemed to have been made by the Government under the new provisions of section 168 of the said Act to the extent that the regulation concerns a matter to which those provisions apply.

Similarly, a regulation made by the Government before the aforementioned date under a provision of section 168 of the said Act, as it read up to that date, is deemed to have been made by the Régie under the new provisions of section 167 of the said Act to the extent that the regulation concerns a matter to which those provisions apply.

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