



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-FOURTH LEGISLATURE

Bill 178

**An Act to amend the Automobile
Insurance Act and the Act to amend
the Automobile Insurance Act and
other legislation**

Introduction

**Introduced by
Mr Sam L. Elkas
Minister of Transport**

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EXPLANATORY NOTES

This bill amends the automobile insurance scheme, in particular, with respect to the definition of damage caused by an automobile. Damage that occurs by reason of work performed on a motor vehicle to modify or improve the vehicle excluded from the scheme. The exclusion, however, extends only to the person who performs the work and not to third parties.

Provisions are made to give all categories of victims the right to an indemnity for loss of unemployment insurance benefits or training allowances.

In addition, the various types of personal assistance provided to accident victims are classified in relation to the degree of assistance needed, up to the continuous presence of a person with the victim.

The bill also includes transitional provisions and consequential and technical amendments to facilitate the administration of the automobile insurance scheme.

Bill 178

An Act to amend the Automobile Insurance Act and the Act to amend the Automobile Insurance Act and other legislation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing the words “or as a result of maintenance or repair work to” in the fifth and sixth lines of the definition of the phrase “damage caused by an automobile” by the words “and injury or damage caused to a person or property by reason of an action performed by that person in connection with the maintenance, repair, alteration or improvement of”.

2. Section 15 of the said Act is amended by adding, at the end, the following paragraph:

“A victim who, by reason of the accident, is deprived of unemployment insurance benefits or of allowances paid under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19) to which he was entitled at the time of the accident is entitled to receive an additional indemnity computed on the basis of the benefits or allowances that would have been paid to him. These benefits or allowances are deemed to form part of his gross income.”

3. Section 20 of the said Act is amended by replacing the second paragraph by the following paragraph:

“A victim who, by reason of the accident, is deprived of unemployment insurance benefits or of allowances paid under the National Training Act to which he was entitled at the time of the accident is entitled to receive an additional indemnity computed on

the basis of the benefits or allowances that would have been paid to him. These benefits or allowances are deemed to form part of his gross income."

4. Section 24 of the said Act is amended by inserting the words "or of allowances paid under the National Training Act" after the word "benefits" in the second line of subparagraph 2 of the first paragraph.

5. Section 25 of the said Act is amended

(1) by replacing the words "unemployment insurance benefits" in the third line of the second paragraph by the words "benefits or allowances";

(2) by replacing the words "unemployment insurance benefits" in the first and second lines of the third paragraph by the words "benefits or allowances".

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

"29.1 A victim who, by reason of the accident, is deprived of unemployment insurance benefits or of allowances paid under the National Training Act to which he was entitled at the time of the accident is entitled to an income replacement indemnity for such time as he is deprived of benefits or allowances by reason of the accident.

The indemnity to which the victim is entitled is computed on the basis of the benefits or allowances that would have been paid to him had the accident not occurred.

For the purposes of this section, the benefits or allowances to which the victim would have been entitled are deemed to be his gross income."

7. Section 33 of the said Act is amended by replacing the second paragraph by the following paragraph:

"If his studies end before the scheduled date therefor at the time of the accident, the victim is entitled

(1) until the date scheduled, at the time of the accident, as the date of the end of his studies, to an indemnity of

(a) \$5 500 for every school year not completed at the secondary level;

(b) \$5 500 for every term of studies not completed at the post-secondary level, up to \$11 000 per year;

(2) from the date scheduled as the date of the end of his studies, to the income replacement indemnity provided for in the third paragraph."

8. The said Act is amended by inserting, after section 36, the following section:

"36.1 A victim who, by reason of the accident, is deprived of unemployment insurance benefits to which he was entitled at the time of the accident is entitled to an income replacement indemnity for such time as he is deprived of benefits by reason of the accident.

The indemnity to which the victim is entitled is computed on the basis of the unemployment insurance benefits that would have been paid to him had the accident not occurred.

For the purposes of this section, the unemployment insurance benefits to which the victim would have been entitled are deemed to be his gross income."

9. Section 39 of the said Act is amended by replacing the second paragraph by the following paragraph:

"If his studies end before the scheduled date therefor at the time of the accident, the victim is entitled

(1) until the date scheduled as the date of the end of his studies, to an indemnity of

(a) \$3 000 for every school year not completed at the elementary level;

(b) \$5 500 for every school year not completed at the secondary level;

(2) from the date scheduled as the date of the end of his studies, to the income replacement indemnity provided for in the third paragraph."

10. Section 42 of the said Act is replaced by the following sections:

"42. Notwithstanding section 41, a victim 65 years of age or over is entitled to an income replacement indemnity during the first 180 days following the accident if

(1) by reason of the accident, he is unable to hold an employment that he would have held during that period had the accident not occurred;

(2) by reason of the accident, he is deprived of unemployment insurance benefits or of allowances paid under the National Training Act to which he was entitled at the time of the accident.

During that period, the victim is entitled to the indemnity, in the case described in subparagraph 1 of the first paragraph, for such time as the employment would have been available and for such time as he is unable to hold it by reason of the accident and, in the case described in subparagraph 2 of the first paragraph, for such time as he is deprived of the benefits or allowances by reason of the accident.

However, if both subparagraphs 1 and 2 of the first paragraph apply, the victim cannot receive both indemnities but shall receive the greater indemnity for as long as the situation prevails.

From the 181st day following the accident, the victim is entitled to an income replacement indemnity computed in accordance with sections 21 and 22, subject to section 40.

“42.1 The indemnity to which the victim described in subparagraph 1 of the first paragraph of section 42 is entitled is computed on the basis of the gross income derived from the employment he would have held had the accident not occurred.

The indemnity to which the victim described in subparagraph 2 of the first paragraph of section 42 is entitled is computed on the basis of the benefits or allowances that would have been paid to him had the accident not occurred.

For the purposes of this section, the benefits or allowances to which the victim would have been entitled are deemed to be his gross income.”

11. Section 49 of the said Act is amended by inserting, after paragraph 4, the following paragraph:

“(4.1) when he holds an employment from which he derives a gross income equal to or greater than the gross income on the basis of which the Société has computed the income replacement indemnity;”.

12. Section 50 of the said Act is amended by inserting the words “paragraphs 1 to 3 of” after the word “Notwithstanding” in the first line of the first paragraph.

13. Section 51 of the said Act is amended by inserting the figure “, 55” after the figure “43” in the first line of the second paragraph.

14. Section 79 of the said Act is replaced by the following section:

“79. Where, by reason of the accident, a victim’s physical or mental condition warrants the continual attendance of another person or renders him unable to care for himself or perform, without assistance, the essential activities of everyday life, he is entitled to the reimbursement of expenses incurred for personal home assistance.

Expenses are reimbursed on presentation of vouchers and according to the standards, conditions and maximum amounts prescribed by regulation. They shall not, however, exceed \$524 per week.

In cases prescribed by regulation, the Société may replace the reimbursement of expenses by an equivalent weekly allowance.”

15. Section 80 of the said Act is amended

(1) by replacing the word “A” in the first line of the first paragraph by the words “Subject to section 80.1, a”;

(2) by replacing the words “who, on the date of the accident and for no remuneration, has the” in the second and third lines of the first paragraph by the words “whose main occupation consists, on the date of the accident and for no remuneration, in taking”.

16. The said Act is amended by inserting, after section 80, the following section:

“80.1 If, by reason of full-time or temporary employment the victim would have held, section 80 and subparagraph 1 of section 24 apply, the victim cannot receive both indemnities but shall receive the income replacement indemnity for as long as the situation prevails.

However, during that period, section 83 applies to the victim on the conditions set forth therein.”

17. Section 81 of the said Act is repealed.

18. Section 83 of the said Act is amended by inserting, after subparagraph 1 of the first paragraph, the following subparagraph:

“(1.1) holds more than one regular part-time employment for at least 28 hours a week;”.

19. Section 83.44 of the said Act is replaced by the following sections:

“83.44 The Société may, at any time, render a new decision if a change affecting the right of the person concerned to an indemnity or likely to have repercussions on the amount of an indemnity occurs.

“83.44.1 So long as a decision has not been inscribed for review or appeal, the Société may, on its own motion or at the request of an interested person, reconsider the decision

(1) if the decision was rendered before an essential fact became known, or was based on an error pertaining to an essential fact;

(2) where a substantive or procedural defect is likely to invalidate the decision;

(3) if the decision contains an error in writing, mistakes in calculation or any other clerical error.

The new decision replaces the initial decision which ceases to be effective and the provisions of Division II apply where expedient.”

20. Section 83.52 of the said Act is amended

(1) by striking out the words “or an officer” in the second line;

(2) by inserting the words “or because it contains a substantive or procedural defect which is likely to invalidate it,” after the word “fact,” in the fourth line.

21. Section 99 of the said Act is repealed.

22. Section 195 of the said Act is amended by replacing paragraph 19 by the following paragraph:

“(19) to prescribe the standards, conditions and maximum amounts according to which the reimbursement of expenses described in section 79 may be made and the cases in which the Société may replace reimbursements by an equivalent weekly allowance;”.

23. Section 25 of the Act to amend the Automobile Insurance Act and other legislation (1989, chapter 15) is amended by inserting

the words “, other than the indemnity referred to in the second paragraph of section 32 of the said Act,” after “1989” in the second line of the first paragraph.

24. Section 83.23 of the Automobile Insurance Act also applies to persons having suffered bodily injury before 1 January 1990.

25. This Act comes into force on (*insert here the date of assent to this Act*), except section 14 which will come into force on the date fixed by the Government.