



NATIONAL ASSEMBLY

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THIRTY-THIRD LEGISLATURE

Bill 76

An Act to amend the Transport Act

Introduction

1988

**Introduced by
Mr Marc-Yvan Côté
Minister of Transport**

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EXPLANATORY NOTES

This bill proposes various legislative measures concerning the organization and operation of bulk trucking brokerage.

Under the bill, bulk trucking brokerage permits are granted exclusively to non-profit trucking cooperatives and associations. Moreover, the bill extends the application of the rules to which bulk material trucking brokers are subject to any person acting on behalf of the holder of a bulk material transport permit and obliges a trucker who is unable to provide transport services that have been required to solicit the services of a broker.

In addition, the bill defines the regulatory powers of the Government in respect of the organization and operations of brokerage corporations and the standards of representativeness that will be applied in examining applications for permits.

Finally, the bill allows brokerage permit holders to claim and receive payment of accounts on behalf of the truckers they represent and permits them to act before the Commission in any matter respecting bulk trucking.

Bill 76

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Transport Act (R.S.Q., chapter T-12), amended by section 98 of chapter 97 of the statutes of 1987, is again amended by replacing the second paragraph by the following paragraph:

“For the purposes of this Act, the expression “transport brokerage” refers to the activities of a person acting as a broker for the transport of bulk material or acting on behalf of a permit holder in respect of such transport.”

2. Section 2 of the said Act, amended by section 99 of chapter 97 of the statutes of 1987, is again amended by replacing the third paragraph by the following paragraph:

“This Act does not apply to transportation governed by the Act respecting truck transportation (1987, chapter 97), except to the extent provided for by the said Act, or to the carriage of any goods excluded pursuant to subparagraphs 3 to 7 and 9 to 11 of the second paragraph of section 1 of the said Act.”

3. Section 5 of the said Act, amended by section 100 of chapter 97 of the statutes of 1987, is again amended

(1) by replacing the word “thereto” in the second line of paragraph *c* by the words “to the activities requiring a permit”;

(2) by replacing paragraph *o* by the following paragraphs:

“(o) determine the duties, powers, rights and obligations of holders of brokerage permits and of holders of bulk material transport permit in relation to brokerage service;

“(o.1) prescribe standards of representativeness applicable to holders of brokerage permits;

“(o.2) prescribe administrative, financing and management standards applicable to brokerage corporations, especially with respect to the compulsory content of their by-laws, the production of budget estimates and audited financial statements and the qualifications required to hold the office of director;”.

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

“36.1 No person may, subject to the exceptions prescribed by regulation, engage in transport brokerage unless he holds a brokerage permit issued by the Commission.

No permit is required, however, if no brokerage service can be obtained under a brokerage permit issued by the Commission, at the place of destination of the trip or at the place where road construction, repair or maintenance work is being carried out or on the site of excavation levelling or demolition work requiring transport services.

No permit is required for the employees of the holder of a bulk material transport permit with respect to services provided under the employer's permit. The same applies with respect to the officers of a corporation and the partners of a transport partnership with respect to services provided under the permit of the corporation or partnership.

“36.2 No holder of a bulk material transport permit may cause a third person to effect any transport of bulk material that his permit authorizes him to provide before soliciting the services of the holder of a brokerage permit where there is a broker authorized by regulation to engage in such transport.

“36.3 A brokerage permit shall be issued for a brokerage zone established by the Commission within a region defined by regulation or for any part of the territory of such a region not delimited as a brokerage zone.”

5. The said Act is amended by inserting, after section 39, the following section:

“39.1 A brokerage permit shall be issued only to a corporation incorporated as a non-profit corporation or as a cooperative composed of holders of bulk material transport permits.

To obtain a brokerage permit, the corporation must, in addition to meeting the conditions prescribed by regulation for the issue of the permit, satisfy the standards of representativeness prescribed by regulation, including the standard relating to the date on which the representative character of the corporation may be ascertained.”

6. Section 40 of the said Act is amended by inserting, after subparagraph *c* of the first paragraph, the following subparagraphs:

“(d) has not paid the transport brokerage fees approved by the Commission that are chargeable to him;

“(e) holds a brokerage permit and, without the prior authorization of the Commission, has a direct or indirect interest in an enterprise that might place his personal interest in conflict with that of the corporation, carries on an activity that might place him in a situation of conflict of interests or maintains in office a brokerage director who has such an interest or carries on such an activity.”

7. The said Act is amended by inserting, after section 42, the following section:

“42.1 The holder of a brokerage permit may claim and receive payment in the name of the holders of bulk material transport permits he represents for the transport services provided at their requests unless the transport contract or transport brokerage contract provides otherwise.

He shall deposit in a trust account the sums he receives under the first paragraph.

He may act before the Commission in any matter concerning transport brokerage or the transport of bulk material.”

8. Section 74.1 of the said Act is amended by inserting the words “, the first paragraph of section 36.1 or 36.2” after the figure “36” in the first line.

9. The publication of the draft regulation to amend the Regulation respecting bulk trucking in the *Gazette officielle du Québec* of (insert here the date of publication of the proposed regulation to amend the Regulation respecting bulk trucking in the *Gazette officielle du Québec*) shall be in lieu of the publication formalities

provided for in Division III of the Regulations Act (R.S.Q., chapter R-18.1).

10. This Act will come into force on the date or dates fixed by the Government.