



NATIONAL ASSEMBLY

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Bill 112

Roads Act and amendments to various legislation

Introduction

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Introduced by
Mr Marc-Yvan Côté
Minister of Transport

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EXPLANATORY NOTES

The object of this bill is to effect a thorough revision of the Roads Act (R.S.Q., chapter V-8). The bill entrusts the management of highways in the public domain of the State to the Minister of Transport. To that end, the Minister assumes their construction and maintenance. The bill provides that highways belonging to municipalities but maintained by the Minister will be transferred to the public domain of the State on the date of assent.

The bill also provides machinery for agreements between the Minister of Transport and municipalities, particularly with regard to the construction and maintenance of highways in the public domain of the State and that of the municipalities, and for the transfer of ownership of such highways.

In addition, it continues certain provisions of the existing Act, namely, those respecting the powers of the Minister to acquire and dispose of property, road construction and maintenance, and the rights and obligations of bordering proprietors, certain clauses of relief from civil liability, and certain subsidies granted to municipalities.

The provisions respecting dumps have also been continued, and powers of inspection have been added.

Furthermore, the provisions respecting highway rest areas and respecting rights of storage contained in the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) have been incorporated into this bill.

Lastly, the bill provides for concordance with existing legislation and repeals various legislative provisions whose scope coincides with that of this bill.

Bill 112

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

PRELIMINARY PROVISIONS

1. This Act applies to highways in the public domain of the State and under the administration of the Minister of Transport, except mining roads.

2. For the purposes of this Act, a highway includes its infrastructure and all the works and installations required for its maintenance and management.

3. The provisions of this Act which apply to highways also apply to lookouts, rest areas, service areas, control stations and parking zones located within the right of way of a highway, except the provisions of section 41.

They also apply to port, airport and railway infrastructures in the public domain of the State, except the provisions of sections 30, 37 and 41.

4. Urban or regional communities and the Kativik Regional Government are regarded as municipalities.

CHAPTER II

MANAGEMENT OF ROADS

DIVISION I

GENERAL PROVISIONS

5. The Minister shall exercise, in respect of a highway, the rights and powers inherent in the right of ownership of the State.

6. On or before 30 June each year, the Minister shall submit to the Government his development program with respect to highway construction.

7. The Minister shall make the survey and course delimitation work for the construction or alteration of any highway. He shall determine the right of way of the highway and prepare the plans and specifications thereof.

DIVISION II

ACQUISITION, ALIENATION AND LEASING

8. For the purposes of this Act, the Minister may lease, exchange or acquire by agreement or expropriation any property in favour of the public domain of the State.

He may, in particular, acquire by agreement or expropriation any property required to give access to isolated properties, restore divided parcels of land, allow constructions to be moved or reduce the cost of the right of way of a highway.

9. The Minister may, in the manner and on the conditions he considers appropriate, alienate any property no longer required for the purposes for which it was intended, or lease such property.

DIVISION III

ROAD WORK

10. The Minister is responsible for the management of highways. For the purposes of such management, he shall carry out highway construction, repair and maintenance work.

11. For the purposes of section 10, the Minister may, in contracts to which he is a party, stipulate that the contractor shall

retain the services of holders of bulk trucking permits issued under the Transport Act (R.S.Q., chapter T-12) for the performance of the contract to the extent and on the conditions he determines.

The Minister may also require a municipality to include a similar stipulation for the benefit of such permit holders in any contract it awards for the carrying out of road works following an agreement entered into with him; the municipality may include such a stipulation even in contracts which include works which differ from those contemplated by the agreement.

12. The Minister may place snow fences on and project snow onto land contiguous to a highway right of way, in such a manner, nonetheless, as to avoid causing damage to the owner or the occupant of such land.

13. The Minister may, when taking possession of land contiguous to a highway right of way, deliver to the owner of the residual part of the land of which he takes possession, a notice in writing ordering him to remove a fence on such land, move such fence or, if need be, erect a fence within the time he fixes and according to his specifications.

The Minister shall reimburse the owner for the expenses occasioned by such work.

If the owner fails to comply with the notice of the Minister, the latter shall carry out the necessary work or cause it to be carried out.

14. The Minister cannot be held responsible for damage resulting from the absence of a fence between the highway right of way and the contiguous land of a bordering proprietor.

15. The Minister may deliver to the owner of a ditch or a watercourse which is contiguous to a highway right of way and which is susceptible of causing damage to such highway or is poorly maintained, a notice in writing ordering him to proceed with the work required within the time he fixes and according to his specifications.

16. The Minister may deliver to the owner of a tree or any other object located on land contiguous to a highway right of way and which interferes with traffic by reducing visibility, or which threatens to fall onto the highway, a notice ordering him to proceed with the corrective work within the time he fixes and according to his specifications.

17. The Minister, for reasons of highway safety, may prohibit or limit access to a highway at the places he determines.

18. The Minister shall grant access to a highway upon an application in writing by a bordering proprietor. He shall determine the location of the access and the construction requirements.

The access shall be constructed at the expense of the proprietor, who shall also be responsible for its maintenance.

19. The Minister may deliver a notice to a bordering proprietor who, contrary to section 18, has erected works enabling him to have access to a highway, ordering him to demolish such works within the time he fixes and according to his specifications.

20. If the proprietor fails to comply with a notice under section 15, 16 or 19, the Minister shall perform the necessary work or cause it to be performed at the expense of the proprietor.

21. All the construction, repair, maintenance or ditch-filling work susceptible of changing the flow of drainage waters from a highway must be authorized by the Minister and performed on the conditions he determines.

22. The Expropriation Division of the Court of Québec has competence to decide the location or width of any access to a highway where the bordering proprietor contests that determined by the Minister under the first paragraph of section 18.

It also has competence to decide any claim following damage, pursuant to this division, where such damage is related to an immovable or an immovable real right.

CHAPTER III

RELIEF FROM LIABILITY

23. The Minister shall not be liable for damage caused by the fault of a builder or a contractor to whom construction or repair work has been entrusted, throughout the period of such work.

Nor shall he be liable for any loss or lessening of trade, depreciation in the value of property or other damage or inconvenience caused, in particular, by the removal of a level crossing, the construction or repair of a highway or any deviation, unless the deviation is necessary during the period of the work.

24. The Minister shall not be liable for damage suffered during the winter maintenance period or the thaw period determined under section 419 of the Highway Safety Code (R.S.Q., chapter C-24.2).

Nor shall he be liable for damage caused to tires or rims or the suspension or exhaust systems of a vehicle.

25. The Minister shall not be liable for damage caused by the presence of an object on the roadway, whether or not the object originates from a vehicle or is projected by the tires of a vehicle.

CHAPTER IV

MUNICIPAL AGREEMENTS AND SPECIAL AUTHORIZATIONS

DIVISION I

AGREEMENTS

26. The Minister may, by gratuitous title, acquire the ownership of a highway forming part of the municipal public domain, after agreement with the municipality concerned.

Failing such agreement, the Government may acquire ownership of the highway.

The highway so acquired becomes part of the public domain of the State from the date indicated in the order of the Minister or, as the case may be, in the order of the Government published in the *Gazette officielle du Québec*.

27. The Minister may, by gratuitous title, transfer to a municipality the ownership of a highway and any works located within its right of way, after agreement with the municipality.

Failing such agreement, the Government may transfer the ownership of the highway to the municipality.

The highway so transferred becomes part of the municipal public domain from the date indicated in the order of the Minister or, as the case may be, in the order of the Government published in the *Gazette officielle du Québec*.

28. The Minister may enter into an agreement with a municipality concerning the management, construction, repair or maintenance of a highway in the public domain of the State or in the municipal public domain.

29. The works constructed by a municipality within the right of way of a highway in the public domain of the State belong to the

municipality unless otherwise provided by agreement with the Minister.

30. The Minister may enter into an agreement with a municipality concerning the maintenance of certain highways in the public domain of the State during the winter maintenance period or the thaw period fixed under section 419 of the Highway Safety Code.

DIVISION II

SPECIAL AUTHORIZATIONS

31. No municipality may, except in the case of irresistible force or unless it has obtained authorization from the Minister, close or divert a highway forming part of the municipal public domain when such a highway extends or is connected to a highway in the public domain of the State.

Nor may it alter or limit the traffic on such a highway.

32. No municipality may deliver a permit authorizing construction on land contiguous to the right of way of a highway in the public domain of the State when the use of such land necessitates access to the highway, unless the applicant has obtained prior authorization from the Minister.

CHAPTER V

PROHIBITIONS

33. No person may construct a sidewalk, a waterworks or sewer system, or any other works within a highway right of way without the authorization of the Minister.

34. No person may encroach upon the right of way of a highway or install telecommunications equipment, or electric power transmission or distribution equipment, without the authorization of the Minister.

35. The Minister may deliver a notice in writing to any person who contravenes either of sections 33 and 34, enjoining the person to remove, within the time he fixes, the works erected or the equipment installed without his authorization.

If the offender fails to comply with the notice of the Minister, the latter may proceed, at the expense of the offender, to remove the works or equipment and to restore the highway right of way.

36. No person may carry on a commercial activity on the right of way of a highway without the authorization of the Minister.

37. No person may carry on a commercial activity in a rest area or service area unless he has entered into a contract with the Minister.

CHAPTER VI

OTHER POWERS OF THE MINISTER

38. The Minister may establish a classification of highways and publish it in the *Gazette officielle du Québec*.

39. The Minister shall prepare and keep up to date a register containing a list of the highways in the public domain of the State.

The Minister shall deposit a copy of the register in the registry office of each registration division.

40. The Minister may close all or part of a highway.

The closing becomes effective on the date indicated in the order published in the *Gazette officielle du Québec*.

41. The Government may establish tollgates on the highways it designates.

42. The Minister may, with the permission of the bordering proprietor, plant and maintain trees on land contiguous to the right of way of a highway.

43. The Minister may cause any property left on a highway to be removed and stored at the expense of its owner.

44. The Minister may dispose of stored property at the expiry of a period of 30 days from the date of its storage, if its owner has not claimed it or if he refuses to pay the cost of removal and storage.

The Minister is not liable for any property of which he has disposed unless he has sold it, in which case he is liable only for the proceeds of the sale, less the cost of removal and storage.

CHAPTER VII

DUMPS

DIVISION I

GENERAL PROVISIONS

45. For the purposes of this chapter, a dump consists of land used to deposit scrapped objects, whether or not they are intended to be sold or recycled, including a used car dump.

46. No person may use land along a highway as a dump if the land is located at less than the distance from the highway established by regulation of the Government.

47. The owner, lessee or occupant of a dump visible from a highway must surround it with a fence which meets the standards prescribed by regulation of the Government.

DIVISION II

INSPECTION

48. Any person authorized by the Minister to act as an inspector or any peace officer may,

(1) at any reasonable time, accompanied by any person of his choice, enter upon a dump for the purpose of inspecting it;

(2) examine and make copies of books, registers, accounts, records and other documents related to the activities of the owner, lessee or occupant of the dump;

(3) require any information related to the carrying out of this chapter and the production of any relevant document.

49. Any person who, on the premises occupied by the dump, has custody, control or possession of the books, registers, accounts, records and other documents shall, on request, communicate them to the inspector or to the peace officer and facilitate his examination of them.

50. No person may hinder the work of an inspector or peace officer, mislead him by concealment or false declarations, withhold information or any document he is entitled to require or examine, or conceal or destroy any document or property relevant to the inspection.

51. The inspector shall identify himself and produce a certificate of his capacity.

CHAPTER VIII

REGULATIONS

52. The Government may, by regulation,

(1) establish the minimum distance at which land along a highway used as a dump must be from the highway, according to the classification of the highway;

(2) prescribe construction and installation standards for fences surrounding a dump according to the classification of the highway along which the dump is located;

(3) fix toll rates, which may vary according to the classification of the highway or the categories of vehicles it determines or the number of passengers in a vehicle;

(4) exempt a category of vehicles, certain vehicles of a category or vehicles carrying a fixed number of passengers from the application of toll rates;

(5) prescribe the amount of the costs exigible for a prior notice and of the duties payable under sections 34 and 36 and, where applicable, the terms and conditions of payment.

53. The Government may, by regulation, in respect of a lookout, rest area, service area, control station or parking zone or any works forming part of a port, airport and railway infrastructure,

(1) prohibit or regulate access thereto or the use thereof;

(2) determine the norms to be complied with by persons stopping or staying in such places;

(3) subject to sections 36 and 37, prohibit or regulate all activities in such places;

(4) prescribe fees for the use of the works and facilities;

(5) determine the provisions of any regulation made under this section the contravention of which constitutes an offence.

CHAPTER IX

PENAL PROVISIONS

54. Every person who contravenes section 36, 37 or 47 is guilty of an offence and liable, in addition to costs, to a fine of \$200 to \$1 000.

55. Every person who contravenes section 46 is guilty of an offence and liable, in addition to costs, to a fine of \$5 000 to \$10 000.

56. Every person who contravenes a prescription of any regulation to which a contravention is an offence under paragraph 5 of section 53 is guilty of an offence and liable, in addition to costs, to a fine of \$50 to \$300.

57. Proceedings may be instituted by the Attorney General or any person he authorizes generally or specially for that purpose.

58. Any director, executive officer or representative of a legal person who has authorized or allowed the commission of an offence against this Act or any regulation thereunder or who has consented or otherwise participated therein is deemed to be a party to the offence.

He is liable to the same penalty as the penalty prescribed for the offence.

59. The prosecutor may, by registered mail, serve prior notice on the offender. Such notice shall indicate, in particular, the nature of the offence, the minimum fine prescribed for the offence, the amount of the costs fixed by regulation of the Government and the place where the fine and costs may be paid.

The fine and costs are payable within ten days of service of the notice.

Payment suspends the proceedings against the person, who is considered to have been found guilty of the offence.

60. Every person found guilty of an offence under section 46 shall, within 30 days of service of the judgment, or, as the case may be, of receipt of the payment referred to in section 59, remove or destroy the scrapped objects.

Every offender who, in contravention of the first paragraph, fails to remove or destroy the scrapped objects is guilty of an offence and

liable, in addition to costs, to a fine of \$1 000 to \$3 000, in the case of a natural person, or \$3 000 to \$6 000, in the case of a legal person.

61. A judge may, following an offence under section 46, authorize the Minister of Transport or a peace officer to enter, after the expiry of the period fixed in section 60, upon private property and remove, at the expense of the offender, the scrapped objects contemplated by the proceedings.

CHAPTER X

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

62. Every peace officer who, in the performance of his duties under this Act, has reasonable ground to believe that property is being used in contravention of section 36 or 37 or a regulation made under section 53 may, without the permission of the owner, take possession of the property, remove it and store it at the expense of the owner.

The peace officer shall notify the Minister without delay of the name and address of the person who was in possession of the property.

63. From (*insert here the date of assent to this Act*), all the highways forming part of the municipal public domain and maintained by the Minister of Transport and entered in the register of the Ministère des Transports become highways in the public domain of the State, without any indemnity, with the exception of works or installations constructed by a municipality on the right of way of such highways.

64. From (*insert here the date of assent to this Act*), all the colonization roads maintained by the Minister of Transport and entered in the register of the Ministère des Transports become highways in the public domain of the State, whereas those maintained on that date by a municipality in its territory become highways forming part of the municipal public domain.

65. From (*insert here the date of assent to this Act*), colonization roads which are maintained neither by the Minister nor by a municipality, or which are merely mapped out or planned, are no longer colonization roads within the meaning of the Colonization Roads Act (R.S.Q., chapter C-13).

In this case, the land set aside for such a road is by operation of law returned to the land from which it was detached, and the owner of such land is responsible therefor, from (*insert here the date of coming into force of this section*).

66. An area of 5% of land granted or derived from the public domain of the State continues to be reserved for the public domain of the State, for purposes of constructing a highway giving access to an enclosed agricultural property located in a township.

The Government may, at the request of a municipality, transfer such reserved land to the municipal public domain to permit the municipality to use it for the same purposes.

67. The Minister of Transport is responsible for the administration of this Act.

68. Section 466 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by striking out paragraph 3.

69. The Highway Safety Code (R.S.Q., chapter C-24.2) is amended by inserting, after section 417, the following section:

“417.1 In no case may the driver of a road vehicle subject to tolls pass through a tollgate without depositing the amount prescribed by regulation of the Government adopted under section 52 of the Roads Act (1988, chapter *insert here the chapter number of the said Act in the volume of statutes for 1988*).

70. Section 508 of the said code is amended by inserting the figure “, 417.1” after the figure “416” in the third line.

71. Section 2 of the Act respecting municipal contribution to the construction of roads (R.S.Q., chapter C-66) is repealed.

72. Section 1 of the Act respecting municipal and school debts and loans (R.S.Q., chapter D-7) is amended by replacing the words “Roads Act (chapter V-8)” in the second and third lines of the last paragraph by the words “Roads Act (1988, chapter *insert here the chapter number of the said Act in the volume of statutes for 1988*)”.

73. The Act respecting the Ministère des Approvisionnements et Services (R.S.Q., chapter M-23.01) is amended by inserting, after section 8, the following sections:

“8.1 Failing any provision to that effect in any other Act, the Minister may acquire, by agreement or expropriation, for and on behalf of the Government, its departments and the public bodies designated by the Government, any property considered necessary for the performance of duties assigned to them or for the carrying out of the objects for which they were established.

In no case may the Minister exercise the power referred to in the first paragraph without the authorization of the Government.

“8.2 To obtain total or partial payment of any obligation in favour of the Minister of Revenue, the Minister may, at the request of the latter, acquire immovables encumbered with a real right assigned to the payment of the obligation.”

74. Section 3 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) is amended

(1) by replacing paragraph *b* by the following paragraph:

“(b) implement measures to improve transportation services and, for shippers, enter into agreements for the transportation of persons or goods by water;”;

(2) by repealing paragraph *i*;

(3) by replacing paragraph *j* by the following paragraph:

“(j) see to it that the Roads Act (1988, chapter *insert here the chapter number of the said Act in the volume of statutes for 1988*) is complied with.”

75. The said Act is amended by inserting, after section 10, the following section:

“10.1 The Minister may, on the conditions he determines, grant a subsidy to a municipality for the purpose of constructing, repairing or maintaining a highway forming part of the public domain of such municipality.”

76. Sections 11.1 to 11.6 of the said Act are replaced by the following section:

“11.1 The Minister may, in accordance with the Financial Administration Act (R.S.Q., chapter A-6), dispose of immovables acquired by or on behalf of the Government, its other departments or the agencies that the Government designates when such immovables are no longer required.

The Minister may also dispose of property of which the Société immobilière du Québec has not acquired ownership in accordance with section 26 of the Act respecting the Société immobilière du Québec (R.S.Q., chapter S-17.1).”

77. Sections 12.1 to 12.9 of the said Act are repealed.

78. Section 3 of the Act respecting Forillon Park and its surroundings (R.S.Q., chapter P-8) is amended by replacing the words “Roads Act (chapter V-8)” in the third line by the words “Roads Act (1988, chapter *insert here the chapter number of the said Act in the volume of statutes for 1988*)”.

79. Section 1 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended by replacing paragraph 4 by the following paragraph:

“(4) “public road” means a public road opened in accordance with section 422 of the Cities and Towns Act (R.S.Q., chapter C-19), a street or road opened pursuant to a municipal by-law, resolution or *procès-verbal*, a highway in the public domain subject to the Roads Act (1988, chapter *insert here the chapter number of the said Act in the volume of statutes for 1988*) provided that the bordering proprietors have a right of access to that highway.”

80. The Public Works Act (R.S.Q., chapter T-15) is repealed.

81. Section 1 of the Roadside Advertising Act (1988, chapter 14) is amended by replacing the words “Roads Act (R.S.Q., chapter V-8)” in the second and third lines by the words “Roads Act (1988, chapter *insert here the chapter number of the said Act in the volume of statutes for 1988*)”.

82. This Act replaces the Colonization Roads Act (R.S.Q., chapter C-13), the Roads Act (R.S.Q., chapter V-8) and the Act respecting the Metropolitan Boulevard (1961, chapter 61), the Act to amend the Metropolitan Boulevard Act (1962, chapter 34) and the Act to amend the Metropolitan Boulevard Act (1964, chapter 41).

83. Every regulation made pursuant to section 12.1 of the Act respecting the Ministère des Transports (R.S.Q., chapter M-28) or the Roads Act (R.S.Q., chapter V-8) remains in force until it is replaced or repealed by a regulation made pursuant to this Act.

84. Every transaction or other business commenced pursuant to sections 11.1 and 11.2 of the Act respecting the Ministère des Transports in force on (*insert here the date preceding the date of assent to this Act*) shall be continued by the Minister of Transport.

85. This Act comes into force on (*insert here the date of assent to this Act*), except for section 65, which will come into force on any later date fixed by the Government.